

## Committee Substitute for Senate Bill Nos. 312 and 2298

An act relating to water resource management; amending s. 373.016, F.S.; providing legislative policy relating to state and regional water resource management; encouraging use of water from sources nearest the area of need; providing an exception; amending s. 373.196, F.S.; clarifying legislative intent that water resource development is a function of the water management districts; amending s. 373.1962, F.S.; providing an exemption for water supply authorities under certain circumstances from certain factors for consumptive use permits; amending s. 373.223, F.S.; directing the Department of Environmental Protection or water management district governing board to consider certain factors when determining the public interest for the transport and use of water across county boundaries or outside the watershed; amending s. 373.229, F.S.; requiring additional information in permit applications for proposed transport and use of water pursuant to s. 373.223(2), F.S.; reenacting s. 373.536(5)(c), F.S.; clarifying intent with respect to language inadvertently omitted by legislative action; amending ss. 373.036, 373.209, 373.226, 373.421, F.S.; correcting cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (4) and (5) of section 373.016, Florida Statutes, are renumbered as subsections (5) and (6), respectively, and a new subsection (4) is added to said section to read:

373.016 Declaration of policy.—

(4)(a) Because water constitutes a public resource benefiting the entire state, it is the policy of the Legislature that the waters in the state be managed on a state and regional basis. Consistent with this directive, the Legislature recognizes the need to allocate water throughout the state so as to meet all reasonable-beneficial uses. However, the Legislature acknowledges that such allocations have in the past adversely affected the water resources of certain areas in this state. To protect such water resources and to meet the current and future needs of those areas with abundant water, the Legislature directs the department and the water management districts to encourage the use of water from sources nearest the area of use or application whenever practicable. Such sources shall include all naturally occurring water sources and all alternative water sources, including, but not limited to, desalination, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery. Reuse of potable reclaimed water and stormwater shall not be subject to the evaluation described in s. 373.223(3)(a)-(g). However, this directive to encourage the use of water, whenever practicable, from sources nearest the area of use or application shall not apply to the transport and direct and indirect use of water within the area encompassed by the Central and Southern Florida Flood Control

Project, nor shall it apply anywhere in the state to the transport and use of water supplied exclusively for bottled water as defined in s. 500.03(1)(d), nor shall it apply to the transport and use of reclaimed water for electrical power production by an electric utility as defined in section 366.02(2).

(b) In establishing the policy outlined in paragraph (a), the Legislature realizes that under certain circumstances the need to transport water from distant sources may be necessary for environmental, technical, or economic reasons.

Section 2. Subsection (2) of section 373.196, Florida Statutes, is amended to read:

373.196 Legislative findings.—

(2) Municipalities and counties are encouraged to create regional water supply authorities as authorized herein. It is further the intent that municipalities, counties, and regional water supply authorities are to have the primary responsibility for water supply, and water management districts and their basin boards are to engage only in those functions that are incidental to the exercise of their flood control and water management powers or that are related to water resource development pursuant to s. 373.0831.

Section 3. Subsection (9) is added to section 373.1962, Florida Statutes, to read:

373.1962 Regional water supply authorities.—

(9) Where a water supply authority exists pursuant to s. 373.1962 or s. 373.1963 under a voluntary interlocal agreement that is consistent with requirements in s. 373.1963(1)(b) and receives or maintains consumptive use permits under this voluntary agreement consistent with the water supply plan, if any, adopted by the governing board, such authority shall be exempt from consideration by the governing board or department of the factors specified in s. 373.223(3)(a)-(g) and the submissions required by s. 373.229(3). Such exemptions shall apply only to water sources within the jurisdictional areas of such voluntary water supply interlocal agreements.

Section 4. Subsection (1) of section 373.223, Florida Statutes, is amended, present subsection (3) of that section is redesignated as subsection (4), and a new subsection (3) is added to that section to read:

373.223 Conditions for a permit.—

(1) To obtain a permit pursuant to the provisions of this chapter, the applicant must establish that the proposed use of water:

- (a) Is a reasonable-beneficial use as defined in s. 373.019(4);
- (b) Will not interfere with any presently existing legal use of water; and
- (c) Is consistent with the public interest.

(3) Except for the transport and use of water supplied by the Central and Southern Florida Flood Control Project, and anywhere in the state when the

transport and use of water is supplied exclusively for bottled water as defined in s. 500.03(1)(d), any water use permit applications pending as of April 1, 1998, with the Northwest Florida Water Management District and self-suppliers of water for which the proposed water source and area of use or application are located on contiguous private properties, when evaluating whether a potential transport and use of ground or surface water across county boundaries is consistent with the public interest, pursuant to subsection (1)(c), the governing board or department shall consider:

(a) The proximity of the proposed water source to the area of use or application.

(b) All impoundments, streams, groundwater sources, or watercourses that are geographically closer to the area of use or application than the proposed source, and that are technically and economically feasible for the proposed transport and use.

(c) All economically and technically feasible alternatives to the proposed source, including, but not limited to, desalination, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery.

(d) The potential environmental impacts that may result from the transport and use of water from the proposed source, and the potential environmental impacts that may result from use of the other water sources identified in paragraphs (b) and (c).

(e) Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for existing legal uses and reasonably anticipated future needs of the water supply planning region in which the proposed water source is located.

(f) Consultations with local governments affected by the proposed transport and use.

(g) The value of the existing capital investment in water-related infrastructure made by the applicant.

Where districtwide water supply assessments and regional water supply plans have been prepared pursuant to ss. 373.036 and 373.0361, the governing board or the department shall use the applicable plans and assessments as the basis for its consideration of the applicable factors in s. 373.223(3).

Section 5. Subsection (3) of section 373.229, Florida Statutes, is renumbered as subsection (4), and a new subsection (3) is added to said section to read:

373.229 Application for permit.—

(3) In addition to the information required in subsection (1), all permit applications filed with the governing board or the department which propose the transport and use of water across county boundaries shall include infor-

mation pertaining to factors to be considered, pursuant to s. 373.223(3), unless exempt under s. 373.1962(9).

Section 6. Paragraph (c) of subsection (5) of section 373.536, Florida Statutes, is reenacted to read:

373.536 District budget and hearing thereon.—

(5)

(c) Each water management district shall, by August 1 of each year, submit for review a tentative budget to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over water management districts, the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district. The tentative budget must include, but is not limited to, the following information for the preceding fiscal year and the current fiscal year, and the proposed amounts for the upcoming fiscal year, in a standard format prescribed by the Executive Office of the Governor which is generally consistent with the format prescribed by legislative budget instructions for state agencies and the format requirements of s. 216.031:

1. The millage rates and the percentage increase above the rolled-back rate, together with a summary of the reasons the increase is required, and the percentage increase in taxable value resulting from new construction;

2. The salary and benefits, expenses, operating capital outlay, number of authorized positions, and other personal services for the following program areas, including a separate section for lobbying, intergovernmental relations, and advertising:

- a. District management and administration;
- b. Implementation through outreach activities;
- c. Implementation through regulation;
- d. Implementation through acquisition, restoration, and public works;
- e. Implementation through operations and maintenance of lands and works;
- f. Water resources planning and monitoring; and
- g. A full description and accounting of expenditures for lobbying activities relating to local, regional, state, and federal governmental affairs, whether incurred by district staff or through contractual services and all expenditures for public relations, including all expenditures for public service announcements and advertising in any media.

In addition to the program areas reported by all water management districts, the South Florida Water Management District shall include in its

budget document a separate section on all costs associated with the Everglades Construction Project.

3. The total amount in the district budget for each area of responsibility listed in paragraph (a) and for water resource development projects identified in the district's regional water supply plans.

4. A 5-year capital improvements plan.

5. A description of each new, expanded, reduced, or eliminated program.

6. A proposed 5-year water resource development work program, that describes the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised pursuant to s. 373.0361. The work program shall address all the elements of the water resource development component in the district's approved regional water supply plans. The office of the Governor, with the assistance of the department, shall review the proposed work program. The review shall include a written evaluation of its consistency with and furtherance of the district's approved regional water supply plans, and adequacy of proposed expenditures. As part of the review, the Executive Office of the Governor and the department shall afford to all interested parties the opportunity to provide written comments on each district's proposed work program. At least 7 days prior to the adoption of its final budget, the governing board shall state in writing to the Executive Office of the Governor which changes recommended in the evaluation it will incorporate into its work program, or specify the reasons for not incorporating the changes. The office of the Governor shall include the district's responses in the written evaluation and shall submit a copy of the evaluation to the Legislature; and

7. The funding sources, including, but not limited to, ad valorem taxes, Surface Water Improvement and Management Program funds, other state funds, federal funds, and user fees and permit fees for each program area.

Section 7. Paragraph (d) of subsection (1) of section 373.036, Florida Statutes, is amended to read:

373.036 Florida water plan; district water management plans.—

(1) FLORIDA WATER PLAN.—In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:

(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019~~(21)~~(20), shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be

adopted by the secretary of the department and be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Weekly. Amendments shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.

Section 8. Subsection (2) of section 373.209, Florida Statutes, is amended to read:

373.209 Artesian wells; penalties for violation.—

(2) A well is exempt from the provisions of this section unless the Department of Environmental Protection can show that the uncontrolled flow of water from the well does not have a reasonable-beneficial ~~reasonable and beneficial~~ use, as defined in s. 373.019(4).

Section 9. Subsection (2) of section 373.226, Florida Statutes, is amended to read:

373.226 Existing uses.—

(2) The governing board or the department shall issue an initial permit for the continuation of all uses in existence before the effective date of implementation of this part if the existing use is a reasonable-beneficial use as defined in s. 373.019(4) and is allowable under the common law of this state.

Section 10. Subsection (1) of section 373.421, Florida Statutes, is amended to read:

373.421 Delineation methods; formal determinations.—

(1) By January 1, 1994, the Environmental Regulation Commission shall adopt a unified statewide methodology for the delineation of the extent of wetlands as defined in s. 373.019(23)(17). This methodology shall consider regional differences in the types of soils and vegetation that may serve as indicators of the extent of wetlands. This methodology shall also include provisions for determining the extent of surface waters other than wetlands for the purposes of regulation under s. 373.414. This methodology shall not become effective until ratified by the Legislature. Subsequent to legislative ratification, the wetland definition in s. 373.019(23)(17) and the adopted wetland methodology shall be binding on the department, the water management districts, local governments, and any other governmental entities. Upon ratification of such wetland methodology, the Legislature preempts the authority of any water management district, state or regional agency, or local government to define wetlands or develop a delineation methodology to implement the definition and determines that the exclusive definition and delineation methodology for wetlands shall be that established pursuant to s. 373.019(23)(17) and this section. Upon such legislative ratification, any existing wetlands definition or wetland delineation methodology shall be superseded by the wetland definition and delineation methodology established pursuant to this chapter. Subsequent to legislative ratification, a delineation of the extent of a surface water or wetland by the department

or a water management district, pursuant to a formal determination under subsection (2), or pursuant to a permit issued under this part in which the delineation was field-verified by the permitting agency and specifically approved in the permit, shall be binding on all other governmental entities for the duration of the formal determination or permit. All existing rules and methodologies of the department, the water management districts, and local governments, regarding surface water or wetland definition and delineation shall remain in full force and effect until the common methodology rule becomes effective. However, this shall not be construed to limit any power of the department, the water management districts, and local governments to amend or adopt a surface water or wetland definition or delineation methodology until the common methodology rule becomes effective.

Section 11. This act shall take effect October 1, 1998.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.