CHAPTER 2010-205

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 550

An act relating to environmental protection; creating part VII of ch. 373, F.S., relating to water supply policy, planning, production, and funding; providing a declaration of policy; providing for the general powers and duties of water management district governing boards; requiring the Department of Environmental Protection to develop the Florida water supply plan; providing components of the plan; requiring water management district governing boards to develop water supply plans for their respective regions; providing components of district water supply plans; providing legislative findings and intent with respect to water resource development and water supply development; requiring water management districts to fund and implement water resource development; specifying water supply development projects that are eligible to receive priority consideration for state or water management district funding assistance; encouraging cooperation in the development of water supplies; providing for alternative water supply development; encouraging municipalities, counties, and special districts to create regional water supply authorities; establishing the primary roles of the water management districts in alternative water supply development; establishing the primary roles of local governments, regional water supply authorities, special districts, and publicly owned and privately owned water utilities in alternative water supply development; requiring the water management districts to detail the specific allocations to be used for alternative water supply development in their annual budget submission; requiring that the water management districts include the amount needed to implement the water supply development projects in each annual budget; establishing general funding criteria for funding assistance to the state or water management districts; establishing economic incentives for alternative water supply development; providing a funding formula for the distribution of state funds to the water management districts for alternative water supply development; requiring that funding assistance for alternative water supply development be limited to a percentage of the total capital costs of an approved project; establishing a selection process and criteria; providing for cost recovery from the Public Service Commission; requiring a water management district governing board to conduct water supply planning for each region identified in the district water supply plan; providing procedures and requirements with respect to regional water supply plans; providing for joint development of a specified water supply development component of a regional water supply plan within the boundaries of the Southwest Florida Water Management District; providing that approval of a regional water supply plan is not subject to the rulemaking requirements of the Administrative Procedure Act; requiring the department to submit annual reports on the status of regional water supply planning in each district; providing for construction with respect to the water supply development

component of a regional water supply plan; requiring water management districts to present to certain entities the relevant portions of a regional water supply plan; requiring certain entities to provide written notification to water management districts as to the implementation of water supply project options; requiring water management districts to notify local governments of the need for alternative water supply projects; requiring water management districts to assist local governments in the development and future revision of local government comprehensive plan elements or public facilities reports related to water resource issues; providing for the creation of regional water supply authorities; providing purpose of such authorities; specifying considerations with respect to the creation of a proposed authority; specifying authority of a regional water supply authority; providing authority of specified entities to convey title, dedicate land, or grant land-use rights to a regional water supply authority for specified purposes; providing preferential rights of counties and municipalities to purchase water from regional water supply authorities; providing an exemption for specified water supply authorities from consideration of certain factors and submissions; providing applicability of such exemptions; authorizing the West Coast Regional Water Supply Authority and its member governments to reconstitute the authority's governance and rename the authority under a voluntary interlocal agreement; providing compliance requirements with respect to the interlocal agreement; providing for supersession of conflicting general or special laws; providing requirements with respect to annual budgets; specifying the annual millage for the authority; authorizing the authority to request the governing board of the district to levy ad valorem taxes within the boundaries of the authority to finance authority functions; providing requirements and procedures with respect to the collection of such taxes; amending ss. 120.52, 163.3167, 163.3177, 163.3191, 189.404, 189.4155, 189.4156, and 367.021, F.S.; conforming cross-references and removing obsolete provisions; amending ss. 373.036, 373.0363, 373.0421, 373.0695, 373.223, 373.2234, 373.229, 373.236, 373.536, 373.59, 378.212, 378.404, 403.0891, 403.890, 403.891, and 682.02, F.S.; conforming cross-references and removing obsolete provisions; renumbering s. 373.71, F.S.; relating to the Apalachicola-Chattahoochee-Flint River Basin Compact, to clarify retention of the section in part VI of ch. 373, F.S.; repealing s. 373.0361, F.S., relating to regional water supply planning; repealing s. 373.0391, F.S., relating to technical assistance to local governments; repealing s. 373.0831, F.S., relating to water resource and water supply development; repealing s. 373.196, F.S., relating to alternative water supply development; repealing s. 373.1961, F.S., relating to water production and related powers and duties of water management districts; repealing s. 373.1962, F.S., relating to regional water supply authorities; repealing s. 373.1963, F.S., relating to assistance to the West Coast Regional Water Supply Authority; amending s. 373.1961, F.S.; expanding alternative water supply funding to include quantifiable conservation projects; adding a high-water recharge criterion to the ranking criteria for water projects; amending s. 373.414, F.S.; adding limestone extraction operations to activities in surface waters and wetlands that require

mitigation; amending s. 378.901, F.S.; allowing life-of-the-mine permits for limestone extraction operations; providing authority for local governments to impose different permit restrictions; amending s. 373.41492, F.S.; updating mitigation fees for the Miami-Dade Lake Belt Mitigation Plan; revising provisions requiring the interagency committee to submit a report regarding mitigation fees to the Legislature; amending s. 215.619, F.S.; authorizing the issuance of bonds to be used to finance the management of sewage facilities in the Florida Keys Area of Critical State Concern; amending s. 380.0552, F.S.; revising legislative intent relating to the designation of the Florida Keys as an area of critical state concern; revising the procedures for removing the designation; providing for administrative review of such removal rather than judicial review; authorizing the Administration Commission to adopt rules or revise existing rules; revising the principles guiding development; revising compliance requirements for reviewing comprehensive plan amendments; amending s. 381.0065, F.S.; providing additional legislative intent; providing additional requirements for onsite sewage treatment and disposal systems in Monroe County; directing the Department of Health to create and administer a statewide septic tank evaluation program; providing procedures and criteria for the evaluation program; prohibiting the land application of septage after January 1, 2016; creating s. 381.00656, F.S.; providing for a low-income grant program for septic tank maintenance and replacement; amending s. 381.0066, F.S.; authorizing the Department of Health to collect an evaluation report fee; requiring such fees to be revenue neutral; amending s. 403.086, F.S.; requiring the Department of Environmental Protection to submit a report on the effects of reclaimed water use; clarifying reuse requirements for domestic wastewater facilities that discharge through ocean outfalls; clarifying reuse requirements for domestic wastewater facilities that divert wastewater from facilities discharging through ocean outfalls; providing legislative findings and discharge requirements for wastewater facilities in Monroe County; repealing sections 4, 5, and 6 of chapter 99-395, Laws of Florida, as amended, relating to sewage treatment in the Florida Keys; amending s. 403.1835, F.S.; conforming terms to changes made to the Florida Water Pollution Control Financing Corporation; amending s. 403.1837, F.S.; expanding the purview of the corporation to include loans made from the drinking water state revolving loan fund; providing conforming changes; amending s. 403.8532, F.S.; providing definitions for the terms “bonds” and “corporation”; providing conforming changes; authorizing the Department of Environmental Protection to adopt certain rules; amending s. 403.8533, F.S.; revising the purposes for the Drinking Water Revolving Loan Trust Fund; providing that the trust fund is exempt from the termination provisions of the State Constitution; amending s. 369.317, F.S.; clarifying mitigation offsets in the Wekiva Study Area; amending s. 215.47, F.S.; authorizing the State Board of Administration to make investments in alternative water supply and water resource development projects; amending s. 373.129, F.S.; requiring the water management districts to submit to alternative dispute resolution in conflicts with other governmental entities; amending s. 403.707, F.S.; requiring liners for new

landfills and expansions of existing landfills not yet permitted that will accept construction and demolition debris; amending s. 298.66, F.S.; clarifying penalties for people who damage drainage works constructed or maintained by a water management district; providing legislative intent that there are no substantive changes in the reorganization ch. 373, F.S.; providing legislative intent that substantive changes affecting repealed sections of law relating to the reorganization of ch. 373, F.S., shall be given full force and effect; amending s. 373.0361, F.S.; providing for the inclusion of wastewater utilities, reuse utilities, and the department in the regional water supply planning process; amending s. 373.079, F.S.; revising provisions relating to the authority of a water management district governing board to employ an executive director, an ombudsman, an inspector general, professional persons, and personnel; prohibiting governing board intervention during review of specified permit applications; providing for expiration of such prohibition; revising provisions authorizing a water management district governing board to delegate certain authority to the executive director; requiring the governing board to provide a process for referring certain denials to the board for final action; amending s. 373.083, F.S.; revising provisions authorizing a water management district governing board to delegate certain authority to the executive director; deleting a provision prohibiting governing board members from intervening in the review of certain applications; amending s. 373.085, F.S.; requiring water management districts and governmental agencies to encourage public-private partnerships for procurement of materials for infrastructure and restoration work projects; amending s. 373.118, F.S.; authorizing a water management district governing board to delegate certain authority to the executive director; requiring a water management district governing board to provide a process for referring application and petition denials to the board for final action; exempting such delegations from rulemaking under ch. 120, F.S.; amending s. 373.236, F.S.; reducing the frequency of compliance reports during the term of a consumptive use permit; providing an exception; amending s. 373.250, F.S.; requiring water management districts, in consultation with the department, to adopt rules relating to reclaimed water feasibility evaluations for consumptive use permit applicants; providing rule requirements; encouraging reuse utilities and water management districts to periodically coordinate and share information relating to reclaimed water; requiring water management districts to initiate certain rulemaking by a specified date; providing legislative findings with respect to nutrient water quality standards and the United States Environmental Protection Agency's nutrient water quality criteria rulemaking; amending ss. 220.1845 and 376.30781, F.S.; providing requirements for claiming certain site rehabilitation costs in applications for contaminated site rehabilitation tax credits; conforming cross-references; amending s. 376.85, F.S.; revising requirements for the Department of Environmental Protection's annual report to the Legislature regarding site rehabilitation; amending s. 403.973, F.S.; transferring certain authority over the expedited permitting and comprehensive plan amendment process from the Office of Tourism, Trade, and Economic Development to the Secretary of Environmental

Protection; revising job-creation criteria for businesses to qualify to submit permit applications and local comprehensive plan amendments for expedited review; providing that permit applications and local comprehensive plan amendments for specified renewable energy projects are eligible for the expedited permitting process; providing for the establishment of regional permit action teams through the execution of memoranda of agreement developed by permit applicants and the secretary; revising provisions relating to the memoranda of agreement developed by the secretary; providing for the appeal of local government comprehensive plan approvals for projects and requiring such appeals to be consolidated with challenges to state agency actions; requiring recommended orders relating to challenges to state agency actions pursuant to summary hearing provisions to include certain information; extending the deadline for issuance of final orders relating to such challenges; providing for challenges to state agency action related to expedited permitting for specified renewable energy projects; revising provisions relating to the review of sites proposed for the location of facilities eligible for the Innovation Incentive Program; revising criteria for counties eligible to receive technical assistance in preparing permit applications and local comprehensive plan amendments; specifying expedited review eligibility for certain electrical power projects; providing an effective date.

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

Section 1. Part VII of chapter 373, Florida Statutes, consisting of sections 373.701, 373.703, 373.705, 373.707, 373.709, 373.711, 373.713, and 373.715, is created to read:

PART VII

WATER SUPPLY POLICY, PLANNING, PRODUCTION, AND FUNDING

373.701 Declaration of policy.—It is declared to be the policy of the Legislature:

(1) To promote the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems.

(2)(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 s. 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.

(3) Cooperative efforts between municipalities, counties, water management districts, and the department are mandatory in order to meet the water needs of rapidly urbanizing areas in a manner that will supply adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from which such water is withdrawn. Such efforts should use all practical means of obtaining water, including, but not limited to, withdrawals of surface water and ground water, reuse, and desalination and will necessitate not only cooperation but also well-coordinated activities. Municipalities, counties, and special districts are encouraged to create regional water supply authorities as authorized in s. 373.713 or multijurisdictional water supply entities.

373.703 Water production; general powers and duties.—In the performance of, and in conjunction with, its other powers and duties, the governing board of a water management district existing pursuant to this chapter:

(1) Shall engage in planning to assist counties, municipalities, special districts, publicly owned and privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas. As used in this section and s. 373.707, regional water supply authorities are regional water authorities created under s. 373.713 or other laws of this state.

(2) Shall assist counties, municipalities, special districts, publicly owned or privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

(3) May establish, design, construct, operate, and maintain water production and transmission facilities for the purpose of supplying water to counties, municipalities, special districts, publicly owned and privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities. The permit required by part II of this chapter for a water management district engaged in water production and transmission shall be granted, denied, or granted with conditions by the department.

(4) Shall not engage in local water supply distribution.

(5) Shall not deprive, directly or indirectly, any county wherein water is withdrawn of the prior right to the reasonable and beneficial use of water which is required to supply adequately the reasonable and beneficial needs of the county or any of the inhabitants or property owners therein.

(6) May provide water and financial assistance to regional water supply authorities, but may not provide water to counties and municipalities which are located within the area of such authority without the specific approval of the authority or, in the event of the authority's disapproval, the approval of the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission. The district may supply water at rates and upon terms mutually agreed to by the parties or, if they do not agree, as set by the governing board and specifically approved by the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission.

(7) May acquire title to such interest as is necessary in real property, by purchase, gift, devise, lease, eminent domain, or otherwise, for water production and transmission consistent with this section and s. 373.707. However, the district shall not use any of the eminent domain powers herein granted to acquire water and water rights already devoted to reasonable and beneficial use or any water production or transmission facilities owned by any county, municipality, or regional water supply authority. The district may exercise eminent domain powers outside of its district boundaries for the acquisition of pumpage facilities, storage areas, transmission facilities, and the normal appurtenances thereto, provided that at least 45 days prior to the exercise of eminent domain, the district notifies the district where the property is located after public notice and the district where the property is located does not object within 45 days after notification of such exercise of eminent domain authority.

(8) In addition to the power to issue revenue bonds pursuant to s. 373.584, may issue revenue bonds for the purposes of paying the costs and expenses incurred in carrying out the purposes of this chapter or refunding obligations of the district issued pursuant to this section. Such revenue bonds shall be secured by, and be payable from, revenues derived from the operation, lease, or use of its water production and transmission facilities and other water-related facilities and from the sale of water or services relating thereto. Such revenue bonds may not be secured by, or be payable from, moneys derived by the district from the Water Management Lands Trust Fund or from ad valorem taxes received by the district. All provisions of

s. 373.584 relating to the issuance of revenue bonds which are not inconsistent with this section shall apply to the issuance of revenue bonds pursuant to this section. The district may also issue bond anticipation notes in accordance with the provisions of s. 373.584.

(9) May join with one or more other water management districts, counties, municipalities, special districts, publicly owned or privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities for the purpose of carrying out any of its powers, and may contract with such other entities to finance acquisitions, construction, operation, and maintenance. The contract may provide for contributions to be made by each party thereto, for the division and apportionment of the expenses of acquisitions, construction, operation, and maintenance, and for the division and apportionment of the benefits, services, and products therefrom. The contracts may contain other covenants and agreements necessary and appropriate to accomplish their purposes.

373.705 Water resource development; water supply development.—

(1) The Legislature finds that:

(a) The proper role of the water management districts in water supply is primarily planning and water resource development, but this does not preclude them from providing assistance with water supply development.

(b) The proper role of local government, regional water supply authorities, and government-owned and privately owned water utilities in water supply is primarily water supply development, but this does not preclude them from providing assistance with water resource development.

(c) Water resource development and water supply development must receive priority attention, where needed, to increase the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems.

(2) It is the intent of the Legislature that:

(a) Sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that the adverse effects of competition for water supplies be avoided.

(b) Water management districts take the lead in identifying and implementing water resource development projects, and be responsible for securing necessary funding for regionally significant water resource development projects.

(c) Local governments, regional water supply authorities, and government-owned and privately owned water utilities take the lead in securing funds for and implementing water supply development projects. Generally, direct beneficiaries of water supply development projects should pay the

costs of the projects from which they benefit, and water supply development projects should continue to be paid for through local funding sources.

(d) Water supply development be conducted in coordination with water management district regional water supply planning and water resource development.

(3) The water management districts shall fund and implement water resource development as defined in s. 373.019. The water management districts are encouraged to implement water resource development as expeditiously as possible in areas subject to regional water supply plans. Each governing board shall include in its annual budget the amount needed for the fiscal year to implement water resource development projects, as prioritized in its regional water supply plans.

(4)(a) Water supply development projects that are consistent with the relevant regional water supply plans and that meet one or more of the following criteria shall receive priority consideration for state or water management district funding assistance:

1. The project supports establishment of a dependable, sustainable supply of water which is not otherwise financially feasible;

2. The project provides substantial environmental benefits by preventing or limiting adverse water resource impacts, but requires funding assistance to be economically competitive with other options; or

3. The project significantly implements reuse, storage, recharge, or conservation of water in a manner that contributes to the sustainability of regional water sources.

(b) Water supply development projects that meet the criteria in paragraph (a) and that meet one or more of the following additional criteria shall be given first consideration for state or water management district funding assistance:

1. The project brings about replacement of existing sources in order to help implement a minimum flow or level; or

2. The project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(9).

373.707 Alternative water supply development.—

(1) The purpose of this section is to encourage cooperation in the development of water supplies and to provide for alternative water supply development.

(a) Demands on natural supplies of fresh water to meet the needs of a rapidly growing population and the needs of the environment, agriculture, industry, and mining will continue to increase.

(b) There is a need for the development of alternative water supplies for Florida to sustain its economic growth, economic viability, and natural resources.

(c) Cooperative efforts between municipalities, counties, special districts, water management districts, and the Department of Environmental Protection are mandatory in order to meet the water needs of rapidly urbanizing areas in a manner that will supply adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from which such water is withdrawn. Such efforts should use all practical means of obtaining water, including, but not limited to, withdrawals of surface water and ground water, reuse, and desalinization, and will necessitate not only cooperation but also well-coordinated activities. Municipalities, counties, and special districts are encouraged to create regional water supply authorities as authorized in s. 373.713 or multijurisdictional water supply entities.

(d) Alternative water supply development must receive priority funding attention to increase the available supplies of water to meet all existing and future reasonable-beneficial uses and to benefit the natural systems.

(e) Cooperation between counties, municipalities, regional water supply authorities, multijurisdictional water supply entities, special districts, and publicly owned and privately owned water utilities in the development of countywide and multicountywide alternative water supply projects will allow for necessary economies of scale and efficiencies to be achieved in order to accelerate the development of new, dependable, and sustainable alternative water supplies.

(f) It is in the public interest that county, municipal, industrial, agricultural, and other public and private water users, the Department of Environmental Protection, and the water management districts cooperate and work together in the development of alternative water supplies to avoid the adverse effects of competition for limited supplies of water. Public moneys or services provided to private entities for alternative water supply development may constitute public purposes that also are in the public interest.

(2)(a) Sufficient water must be available for all existing and future reasonable-beneficial uses and the natural systems, and the adverse effects of competition for water supplies must be avoided.

(b) Water supply development and alternative water supply development must be conducted in coordination with water management district regional water supply planning.

(c) Funding for the development of alternative water supplies shall be a shared responsibility of water suppliers and users, the State of Florida, and the water management districts, with water suppliers and users having the

primary responsibility and the State of Florida and the water management districts being responsible for providing funding assistance.

(3) The primary roles of the water management districts in water resource development as it relates to supporting alternative water supply development are:

(a) The formulation and implementation of regional water resource management strategies that support alternative water supply development;

(b) The collection and evaluation of surface water and groundwater data to be used for a planning level assessment of the feasibility of alternative water supply development projects;

(c) The construction, operation, and maintenance of major public works facilities for flood control, surface and underground water storage, and groundwater recharge augmentation to support alternative water supply development;

(d) Planning for alternative water supply development as provided in regional water supply plans in coordination with local governments, regional water supply authorities, multijurisdictional water supply entities, special districts, and publicly owned and privately owned water utilities and self-suppliers;

(e) The formulation and implementation of structural and nonstructural programs to protect and manage water resources in support of alternative water supply projects; and

(f) The provision of technical and financial assistance to local governments and publicly owned and privately owned water utilities for alternative water supply projects.

(4) The primary roles of local government, regional water supply authorities, multijurisdictional water supply entities, special districts, and publicly owned and privately owned water utilities in alternative water supply development shall be:

(a) The planning, design, construction, operation, and maintenance of alternative water supply development projects;

(b) The formulation and implementation of alternative water supply development strategies and programs;

(c) The planning, design, construction, operation, and maintenance of facilities to collect, divert, produce, treat, transmit, and distribute water for sale, resale, or end use; and

(d) The coordination of alternative water supply development activities with the appropriate water management district having jurisdiction over the activity.

(5) Nothing in this section shall be construed to preclude the various special districts, municipalities, and counties from continuing to operate existing water production and transmission facilities or to enter into cooperative agreements with other special districts, municipalities, and counties for the purpose of meeting their respective needs for dependable and adequate supplies of water; however, the obtaining of water through such operations shall not be done in a manner that results in adverse effects upon the areas from which such water is withdrawn.

(6)(a) The statewide funds provided pursuant to the Water Protection and Sustainability Program serve to supplement existing water management district or basin board funding for alternative water supply development assistance and should not result in a reduction of such funding. Therefore, the water management districts shall include in the annual tentative and adopted budget submittals required under this chapter the amount of funds allocated for water resource development that supports alternative water supply development and the funds allocated for alternative water supply projects selected for inclusion in the Water Protection and Sustainability Program. It shall be the goal of each water management district and basin boards that the combined funds allocated annually for these purposes be, at a minimum, the equivalent of 100 percent of the state funding provided to the water management district for alternative water supply development. If this goal is not achieved, the water management district shall provide in the budget submittal an explanation of the reasons or constraints that prevent this goal from being met, an explanation of how the goal will be met in future years, and affirmation of match is required during the budget review process as established under s. 373.536(5). The Suwannee River Water Management District and the Northwest Florida Water Management District shall not be required to meet the match requirements of this paragraph; however, they shall try to achieve the match requirement to the greatest extent practicable.

(b) State funds from the Water Protection and Sustainability Program created in s. 403.890 shall be made available for financial assistance for the project construction costs of alternative water supply development projects selected by a water management district governing board for inclusion in the program.

(7) The water management district shall implement its responsibilities as expeditiously as possible in areas subject to regional water supply plans. Each district's governing board shall include in its annual budget the amount needed for the fiscal year to assist in implementing alternative water supply development projects.

(8)(a) The water management districts and the state shall share a percentage of revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, special district, industrial, and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies.

(b) Beginning in the 2005-2006 fiscal year, the state shall annually provide a portion of those revenues deposited into the Water Protection and Sustainability Program Trust Fund for the purpose of providing funding assistance for the development of alternative water supplies pursuant to the Water Protection and Sustainability Program. At the beginning of each fiscal year, beginning with the 2005-2006 fiscal year, such revenues shall be distributed by the department into the alternative water supply trust fund accounts created by each district for the purpose of alternative water supply development under the following funding formula:

1. Thirty percent to the South Florida Water Management District;

2. Twenty-five percent to the Southwest Florida Water Management District;

3. Twenty-five percent to the St. Johns River Water Management District;

4. Ten percent to the Suwannee River Water Management District; and

5. Ten percent to the Northwest Florida Water Management District.

(c) The financial assistance for alternative water supply projects allocated in each district's budget as required in subsection (6) shall be combined with the state funds and used to assist in funding the project construction costs of alternative water supply projects selected by the governing board. If the district has not completed any regional water supply plan, or the regional water supply plan does not identify the need for any alternative water supply projects, funds deposited in that district's trust fund may be used for water resource development projects, including, but not limited to, springs protection.

(d) All projects submitted to the governing board for consideration shall reflect the total capital cost for implementation. The costs shall be segregated pursuant to the categories described in the definition of capital costs.

(e) Applicants for projects that may receive funding assistance pursuant to the Water Protection and Sustainability Program shall, at a minimum, be required to pay 60 percent of the project's construction costs. The water management districts may, at their discretion, totally or partially waive this requirement for projects sponsored by financially disadvantaged small local governments as defined in former s. 403.885(5). The water management districts or basin boards may, at their discretion, use ad valorem or federal revenues to assist a project applicant in meeting the requirements of this paragraph.

(f) The governing boards shall determine those projects that will be selected for financial assistance. The governing boards may establish factors to determine project funding; however, significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water is a major component.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

8. Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(9).

(g) Additional factors to be considered in determining project funding shall include:

1. Whether the project is part of a plan to implement two or more alternative water supply projects, all of which will be operated to produce water at a uniform rate for the participants in a multijurisdictional water supply entity or regional water supply authority.

2. The percentage of project costs to be funded by the water supplier or water user.

3. Whether the project proposal includes sufficient preliminary planning and engineering to demonstrate that the project can reasonably be implemented within the timeframes provided in the regional water supply plan.

4. Whether the project is a subsequent phase of an alternative water supply project that is underway.

5. Whether and in what percentage a local government or local government utility is transferring water supply system revenues to the local government general fund in excess of reimbursements for services received from the general fund, including direct and indirect costs and legitimate payments in lieu of taxes.

(h) After conducting one or more meetings to solicit public input on eligible projects, including input from those entities identified pursuant to s. 373.709(2)(a)3.d. for implementation of alternative water supply projects, the governing board of each water management district shall select projects for

funding assistance based upon the criteria set forth in paragraphs (f) and (g). The governing board may select a project identified or listed as an alternative water supply development project in the regional water supply plan, or allocate up to 20 percent of the funding for alternative water supply projects that are not identified or listed in the regional water supply plan but are consistent with the goals of the plan.

(i) Without diminishing amounts available through other means described in this paragraph, the governing boards are encouraged to consider establishing revolving loan funds to expand the total funds available to accomplish the objectives of this section. A revolving loan fund created under this paragraph must be a nonlapsing fund from which the water management district may make loans with interest rates below prevailing market rates to public or private entities for the purposes described in this section. The governing board may adopt resolutions to establish revolving loan funds which must specify the details of the administration of the fund, the procedures for applying for loans from the fund, the criteria for awarding loans from the fund, the initial capitalization of the fund, and the goals for future capitalization of the fund in subsequent budget years. Revolving loan funds created under this paragraph must be used to expand the total sums and sources of cooperative funding available for the development of alternative water supplies. The Legislature does not intend for the creation of revolving loan funds to supplant or otherwise reduce existing sources or amounts of funds currently available through other means.

(j) For each utility that receives financial assistance from the state or a water management district for an alternative water supply project, the water management district shall require the appropriate rate-setting authority to develop rate structures for water customers in the service area of the funded utility that will:

1. Promote the conservation of water; and

2. Promote the use of water from alternative water supplies.

(k) The governing boards shall establish a process for the disbursal of revenues pursuant to this subsection.

(l) All revenues made available pursuant to this subsection must be encumbered annually by the governing board when it approves projects sufficient to expend the available revenues.

(m) This subsection is not subject to the rulemaking requirements of chapter 120.

(n) By March 1 of each year, as part of the consolidated annual report required by s. 373.036(7), each water management district shall submit a report on the disbursal of all budgeted amounts pursuant to this section. Such report shall describe all alternative water supply projects funded as well as the quantity of new water to be created as a result of such projects and

shall account separately for any other moneys provided through grants, matching grants, revolving loans, and the use of district lands or facilities to implement regional water supply plans.

(o) The Florida Public Service Commission shall allow entities under its jurisdiction constructing or participating in constructing facilities that provide alternative water supplies to recover their full, prudently incurred cost of constructing such facilities through their rate structure. If construction of a facility or participation in construction is pursuant to or in furtherance of a regional water supply plan, the cost shall be deemed to be prudently incurred. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates. Any state or water management district cost-share is not subject to the recovery provisions allowed in this paragraph.

(9) Funding assistance provided by the water management districts for a water reuse system may include the following conditions for that project if a water management district determines that such conditions will encourage water use efficiency:

(a) Metering of reclaimed water use for residential irrigation, agricultural irrigation, industrial uses, except for electric utilities as defined in s. 366.02(2), landscape irrigation, golf course irrigation, irrigation of other public access areas, commercial and institutional uses such as toilet flushing, and transfers to other reclaimed water utilities;

(b) Implementation of reclaimed water rate structures based on actual use of reclaimed water for the reuse activities listed in paragraph (a);

(c) Implementation of education programs to inform the public about water issues, water conservation, and the importance and proper use of reclaimed water; or

(d) Development of location data for key reuse facilities.

373.709 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for any water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water utilities, multijurisdictional water supply entities, self-suppliers, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as members of the public, in the planning process and in seeking input. During preparation,

but prior to completion of the regional water supply plan, the district must conduct at least one public workshop to discuss the technical data and modeling tools anticipated to be used to support the regional water supply plan. The district shall also hold several public meetings to communicate the status, overall conceptual intent, and impacts of the plan on existing and future reasonable-beneficial uses and related natural systems. During the planning process, a local government may choose to prepare its own water supply assessment to determine if existing water sources are adequate to meet existing and projected reasonable-beneficial needs of the local government while sustaining water resources and related natural systems. The local government shall submit such assessment, including the data and methodology used, to the district. The district shall consider the local government's assessment during the formation of the plan. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section shall be subject to s. 120.569. The governing board shall reevaluate such a determination at least once every 5 years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

(2) Each regional water supply plan shall be based on at least a 20-year planning period and shall include, but need not be limited to:

(a) A water supply development component for each water supply planning region identified by the district which includes:

1. A quantification of the water supply needs for all existing and future reasonable-beneficial uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses shall be based upon meeting those needs for a 1-in-10-year drought event. Population projections used for determining public water supply needs must be based upon the best available data. In determining the best available data, the district shall consider the University of Florida's Bureau of Economic and Business Research (BEBR) medium population projections and any population projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1) if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the BEBR projections must be fully described, and the original BEBR data must be presented along with the adjusted data.

2. A list of water supply development project options, including traditional and alternative water supply project options, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects. If such users propose a project to be listed as an alternative water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list. The total capacity of the projects included in the plan

shall exceed the needs identified in subparagraph 1. and shall take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and levels and water reservations. Where the district determines it is appropriate, the plan should specifically identify the need for multijurisdictional approaches to project options that, based on planning level analysis, are appropriate to supply the intended uses and that, based on such analysis, appear to be permittable and financially and technically feasible. The list of water supply development options must contain provisions that recognize that alternative water supply options for agricultural self-suppliers are limited.

3. For each project option identified in subparagraph 2., the following shall be provided:

a. An estimate of the amount of water to become available through the project.

b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and operating and maintaining the project.

c. An analysis of funding needs and sources of possible funding options. For alternative water supply projects the water management districts shall provide funding assistance in accordance with s. 373.707(8).

d. Identification of the entity that should implement each project option and the current status of project implementation.

(b) A water resource development component that includes:

1. A listing of those water resource development projects that support water supply development.

2. For each water resource development project listed:

a. An estimate of the amount of water to become available through the project.

b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and for operating and maintaining the project.

c. An analysis of funding needs and sources of possible funding options.

d. Identification of the entity that should implement each project option and the current status of project implementation.

(c) The recovery and prevention strategy described in s. 373.0421(2).

(d) A funding strategy for water resource development projects, which shall be reasonable and sufficient to pay the cost of constructing or implementing all of the listed projects.

(e) Consideration of how the project options addressed in paragraph (a) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.

(f) The technical data and information applicable to each planning region which are necessary to support the regional water supply plan.

(g) The minimum flows and levels established for water resources within each planning region.

(h) Reservations of water adopted by rule pursuant to s. 373.223(4) within each planning region.

(i) Identification of surface waters or aquifers for which minimum flows and levels are scheduled to be adopted.

(j) An analysis, developed in cooperation with the department, of areas or instances in which the variance provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to create water supply development or water resource development projects.

(3) The water supply development component of a regional water supply plan which deals with or affects public utilities and public water supply for those areas served by a regional water supply authority and its member governments within the boundary of the Southwest Florida Water Management District shall be developed jointly by the authority and the district. In areas not served by regional water supply authorities, or other multijurisdictional water supply entities, and where opportunities exist to meet water supply needs more efficiently through multijurisdictional projects identified pursuant to paragraph (2)(a), water management districts are directed to assist in developing multijurisdictional approaches to water supply project development jointly with affected water utilities, special districts, and local governments.

(4) The South Florida Water Management District shall include in its regional water supply plan water resource and water supply development projects that promote the elimination of wastewater ocean outfalls as provided in s. 403.086(9).

(5) Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569.

(6) Annually and in conjunction with the reporting requirements of s. 373.536(6)(a)4., the department shall submit to the Governor and the Legislature a report on the status of regional water supply planning in each district. The report shall include:

(a) A compilation of the estimated costs of and potential sources of funding for water resource development and water supply development projects as identified in the water management district regional water supply plans.

(b) The percentage and amount, by district, of district ad valorem tax revenues or other district funds made available to develop alternative water supplies.

(c) A description of each district's progress toward achieving its water resource development objectives, including the district's implementation of its 5-year water resource development work program.

(d) An assessment of the specific progress being made to implement each alternative water supply project option chosen by the entities and identified for implementation in the plan.

(e) An overall assessment of the progress being made to develop water supply in each district, including, but not limited to, an explanation of how each project, either alternative or traditional, will produce, contribute to, or account for additional water being made available for consumptive uses, an estimate of the quantity of water to be produced by each project, and an assessment of the contribution of the district's regional water supply plan in providing sufficient water to meet the needs of existing and future reasonable-beneficial uses for a 1-in-10 year drought event, as well as the needs of the natural systems.

(7) Nothing contained in the water supply development component of a regional water supply plan shall be construed to require local governments, government-owned or privately owned water utilities, special districts, self-suppliers, regional water supply authorities, multijurisdictional water supply entities, or other water suppliers to select a water supply development project identified in the component merely because it is identified in the plan. Except as provided in s. 373.223(3) and (5), the plan may not be used in the review of permits under part II of this chapter unless the plan or an applicable portion thereof has been adopted by rule. However, this subsection does not prohibit a water management district from employing the data or other information used to establish the plan in reviewing permits under part II, nor does it limit the authority of the department or governing board under part II.

(8) Where the water supply component of a water supply planning region shows the need for one or more alternative water supply projects, the district shall notify the affected local governments and make every reasonable effort to educate and involve local public officials in working toward solutions in

conjunction with the districts and, where appropriate, other local and regional water supply entities.

(a) Within 6 months following approval or amendment of its regional water supply plan, each water management district shall notify by certified mail each entity identified in sub-subparagraph (2)(a)3.d. of that portion of the plan relevant to the entity. Upon request of such an entity, the water management district shall appear before and present its findings and recommendations to the entity.

(b) Within 1 year after the notification by a water management district pursuant to paragraph (a), each entity identified in sub-subparagraph (2)(a) 3.d. shall provide to the water management district written notification of the following: the alternative water supply projects or options identified in paragraph (2)(a) which it has developed or intends to develop, if any; an estimate of the quantity of water to be produced by each project; and the status of project implementation, including development of the financial plan, facilities master planning, permitting, and efforts in coordinating multijurisdictional projects, if applicable. The information provided in the notification shall be updated annually, and a progress report shall be provided by November 15 of each year to the water management district. If an entity does not intend to develop one or more of the alternative water supply project options identified in the regional water supply plan, the entity shall propose, within 1 year after notification by a water management district pursuant to paragraph (a), another alternative water supply project option sufficient to address the needs identified in paragraph (2)(a) within the entity's jurisdiction and shall provide an estimate of the quantity of water to be produced by the project and the status of project implementation as described in this paragraph. The entity may request that the water management district consider the other project for inclusion in the regional water supply plan.

(9) For any regional water supply plan that is scheduled to be updated before December 31, 2005, the deadline for such update shall be extended by 1 year.

373.711 Technical assistance to local governments.—

(1) The water management districts shall assist local governments in the development and future revision of local government comprehensive plan elements or public facilities report as required by s. 189.415, related to water resource issues.

(2) By July 1, 1991, each water management district shall prepare and provide information and data to assist local governments in the preparation and implementation of their local government comprehensive plans or public facilities report as required by s. 189.415, whichever is applicable. Such information and data shall include, but not be limited to:

(a) All information and data required in a public facilities report pursuant to s. 189.415.

(b) A description of regulations, programs, and schedules implemented by the district.

(c) Identification of regulations, programs, and schedules undertaken or proposed by the district to further the State Comprehensive Plan.

(d) A description of surface water basins, including regulatory jurisdictions, flood-prone areas, existing and projected water quality in water management district operated facilities, as well as surface water runoff characteristics and topography regarding flood plains, wetlands, and recharge areas.

(e) A description of groundwater characteristics, including existing and planned wellfield sites, existing and anticipated cones of influence, highly productive groundwater areas, aquifer recharge areas, deep well injection zones, contaminated areas, an assessment of regional water resource needs and sources for the next 20 years, and water quality.

(f) The identification of existing and potential water management district land acquisitions.

(g) Information reflecting the minimum flows for surface watercourses to avoid harm to water resources or the ecosystem and information reflecting the minimum water levels for aquifers to avoid harm to water resources or the ecosystem.

373.713 Regional water supply authorities.—

(1) By interlocal agreement between counties, municipalities, or special districts, as applicable, pursuant to the Florida Interlocal Cooperation Act of 1969, s. 163.01, and upon the approval of the Secretary of Environmental Protection to ensure that such agreement will be in the public interest and complies with the intent and purposes of this act, regional water supply authorities may be created for the purpose of developing, recovering, storing, and supplying water for county or municipal purposes in such a manner as will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas. In approving said agreement the Secretary of Environmental Protection shall consider, but not be limited to, the following:

(a) Whether the geographic territory of the proposed authority is of sufficient size and character to reduce the environmental effects of improper or excessive withdrawals of water from concentrated areas.

(b) The maximization of economic development of the water resources within the territory of the proposed authority.

(c) The availability of a dependable and adequate water supply.

(d) The ability of any proposed authority to design, construct, operate, and maintain water supply facilities in the locations, and at the times necessary, to ensure that an adequate water supply will be available to all citizens within the authority.

(e) The effect or impact of any proposed authority on any municipality, county, or existing authority or authorities.

(f) The existing needs of the water users within the area of the authority.

(2) In addition to other powers and duties agreed upon, and notwithstanding the provisions of s. 163.01, such authority may:

(a) Upon approval of the electors residing in each county or municipality within the territory to be included in any authority, levy ad valorem taxes, not to exceed 0.5 mill, pursuant to s. 9(b), Art. VII of the State Constitution. No tax authorized by this paragraph shall be levied in any county or municipality without an affirmative vote of the electors residing in such county or municipality.

(b) Acquire water and water rights; develop, store, and transport water; provide, sell, and deliver water for county or municipal uses and purposes; and provide for the furnishing of such water and water service upon terms and conditions and at rates which will apportion to parties and nonparties an equitable share of the capital cost and operating expense of the authority's work to the purchaser.

(c) Collect, treat, and recover wastewater.

(d) Not engage in local distribution.

(e) Exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use to acquire title to such interest in real property as is necessary to the exercise of the powers herein granted, except water and water rights already devoted to reasonable and beneficial use or any water production or transmission facilities owned by any county or municipality.

(f) Issue revenue bonds in the manner prescribed by the Revenue Bond Act of 1953, as amended, part I, chapter 159, to be payable solely from funds derived from the sale of water by the authority to any county or municipality. Such bonds may be additionally secured by the full faith and credit of any county or municipality, as provided by s. 159.16 or by a pledge of excise taxes, as provided by s. 159.19. For the purpose of issuing revenue bonds, an authority shall be considered a "unit" as defined in s. 159.02(2) and as that term is used in the Revenue Bond Act of 1953, as amended. Such bonds may be issued to finance the cost of acquiring properties and facilities for the production and transmission of water by the authority to any county or municipality, which cost shall include the acquisition of real property and easements therein for such purposes. Such bonds may be in the form of refunding bonds to take up any outstanding bonds of the authority or of any

county or municipality where such outstanding bonds are secured by properties and facilities for production and transmission of water, which properties and facilities are being acquired by the authority. Refunding bonds may be issued to take up and refund all outstanding bonds of said authority that are subject to call and termination, and all bonds of said authority that are not subject to call or redemption, when the surrender of said bonds can be procured from the holder thereof at prices satisfactory to the authority. Such refunding bonds may be issued at any time when, in the judgment of the authority, it will be to the best interest of the authority financially or economically by securing a lower rate of interest on said bonds or by extending the time of maturity of said bonds or, for any other reason, in the judgment of the authority, advantageous to said authority.

(g) Sue and be sued in its own name.

(h) Borrow money and incur indebtedness and issue bonds or other evidence of such indebtedness.

(i) Join with one or more other public corporations for the purpose of carrying out any of its powers and for that purpose to contract with such other public corporation or corporations for the purpose of financing such acquisitions, construction, and operations. Such contracts may provide for contributions to be made by each party thereto, for the division and apportionment of the expenses of such acquisitions and operations, and for the division and apportionment of the benefits, services, and products therefrom. Such contract may contain such other and further covenants and agreements as may be necessary and convenient to accomplish the purposes hereof.

(3) A regional water supply authority is authorized to develop, construct, operate, maintain, or contract for alternative sources of potable water, including desalinated water, and pipelines to interconnect authority sources and facilities, either by itself or jointly with a water management district; however, such alternative potable water sources, facilities, and pipelines may also be privately developed, constructed, owned, operated, and maintained, in which event an authority and a water management district are authorized to pledge and contribute their funds to reduce the wholesale cost of water from such alternative sources of potable water supplied by an authority to its member governments.

(4) When it is found to be in the public interest, for the public convenience and welfare, for a public benefit, and necessary for carrying out the purpose of any regional water supply authority, any state agency, county, water control district existing pursuant to chapter 298, water management district existing pursuant to this chapter, municipality, governmental agency, or public corporation in this state holding title to any interest in land is hereby authorized, in its discretion, to convey the title to or dedicate land, title to which is in such entity, including tax-reverted land, or to grant use-rights therein, to any regional water supply authority created pursuant to this section. Land granted or conveyed to such authority shall be for the public

purposes of such authority and may be made subject to the condition that in the event said land is not so used, or if used and subsequently its use for said purpose is abandoned, the interest granted shall cease as to such authority and shall automatically revert to the granting entity.

(5) Each county, special district, or municipality that is a party to an agreement pursuant to subsection (1) shall have a preferential right to purchase water from the regional water supply authority for use by such county, special district, or municipality.

(6) In carrying out the provisions of this section, any county wherein water is withdrawn by the authority shall not be deprived, directly or indirectly, of the prior right to the reasonable and beneficial use of water which is required adequately to supply the reasonable and beneficial needs of the county or any of the inhabitants or property owners therein.

(7) Upon a resolution adopted by the governing body of any county or municipality, the authority may, subject to a majority vote of its voting members, include such county or municipality in its regional water supply authority upon such terms and conditions as may be prescribed.

(8) The authority shall design, construct, operate, and maintain facilities in the locations and at the times necessary to ensure that an adequate water supply will be available to all citizens within the authority.

(9) Where a water supply authority exists pursuant to this section or s. 373.715 under a voluntary interlocal agreement that is consistent with requirements in s. 373.715(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.

373.715 Assistance to West Coast Regional Water Supply Authority.—

(1) It is the intent of the Legislature to authorize the implementation of changes in governance recommended by the West Coast Regional Water Supply Authority in its reports to the Legislature dated February 1, 1997, and January 5, 1998. The authority and its member governments may reconstitute the authority's governance and rename the authority under a voluntary interlocal agreement with a term of not less than 20 years. The interlocal agreement must comply with this subsection as follows:

(a) The authority and its member governments agree that cooperative efforts are mandatory to meet their water needs in a manner that will provide adequate and dependable supplies of water where needed without resulting in adverse environmental effects upon the areas from which the water is withdrawn or otherwise produced.

(b) In accordance with s. 4, Art. VIII of the State Constitution and notwithstanding s. 163.01, the interlocal agreement may include the following terms, which are considered approved by the parties without a vote of their electors, upon execution of the interlocal agreement by all member governments and upon satisfaction of all conditions precedent in the interlocal agreement:

1. All member governments shall relinquish to the authority their individual rights to develop potable water supply sources, except as otherwise provided in the interlocal agreement;

2. The authority shall be the sole and exclusive wholesale potable water supplier for all member governments; and

3. The authority shall have the absolute and unequivocal obligation to meet the wholesale needs of the member governments for potable water.

4. A member government may not restrict or prohibit the use of land within a member's jurisdictional boundaries by the authority for water supply purposes through use of zoning, land use, comprehensive planning, or other form of regulation.

5. A member government may not impose any tax, fee, or charge upon the authority in conjunction with the production or supply of water not otherwise provided for in the interlocal agreement.

6. The authority may use the powers provided in part II of chapter 159 for financing and refinancing water treatment, production, or transmission facilities, including, but not limited to, desalinization facilities. All such water treatment, production, or transmission facilities are considered a "manufacturing plant" for purposes of s. 159.27(5) and serve a paramount public purpose by providing water to citizens of the state.

7. A member government and any governmental or quasi-judicial board or commission established by local ordinance or general or special law where the governing membership of such board or commission is shared, in whole or in part, or appointed by a member government agreeing to be bound by the interlocal agreement shall be limited to the procedures set forth therein regarding actions that directly or indirectly restrict or prohibit the use of lands or other activities related to the production or supply of water.

(c) The authority shall acquire full or lesser interests in all regionally significant member government wholesale water supply facilities and tangible assets and each member government shall convey such interests in the facilities and assets to the authority, at an agreed value.

(d) The authority shall charge a uniform per gallon wholesale rate to member governments for the wholesale supply of potable water. All capital, operation, maintenance, and administrative costs for existing facilities and acquired facilities, authority master water plan facilities, and other future

projects must be allocated to member governments based on water usage at the uniform per gallon wholesale rate.

(e) The interlocal agreement may include procedures for resolving the parties' differences regarding water management district proposed agency action in the water use permitting process within the authority. Such procedures should minimize the potential for litigation and include alternative dispute resolution. Any governmental or quasi-judicial board or commission established by local ordinance or general or special law where the governing members of such board or commission is shared, in whole or in part, or appointed by a member government, may agree to be bound by the dispute resolution procedures set forth in the interlocal agreement.

(f) Upon execution of the voluntary interlocal agreement provided for herein, the authority shall jointly develop with the Southwest Florida Water Management District alternative sources of potable water and transmission pipelines to interconnect regionally significant water supply sources and facilities of the authority in amounts sufficient to meet the needs of all member governments for a period of at least 20 years and for natural systems. Nothing herein, however, shall preclude the authority and its member governments from developing traditional water sources pursuant to the voluntary interlocal agreement. Development and construction costs for alternative source facilities, which may include a desalination facility and significant regional interconnects, must be borne as mutually agreed to by both the authority and the Southwest Florida Water Management District. Nothing herein shall preclude authority or district cost sharing with private entities for the construction or ownership of alternative source facilities. By December 31, 1997, the authority and the Southwest Florida Water Management District shall enter into a mutually acceptable agreement detailing the development and implementation of directives contained in this paragraph. Nothing in this section shall be construed to modify the rights or responsibilities of the authority or its member governments, except as otherwise provided herein, or of the Southwest Florida Water Management District or the department pursuant to this chapter or chapter 403 and as otherwise set forth by statutes.

(g) Unless otherwise provided in the interlocal agreement, the authority shall be governed by a board of commissioners consisting of nine voting members, all of whom must be elected officers, as follows:

1. Three members from Hillsborough County who must be selected by the county commission; provided, however, that one member shall be selected by the Mayor of Tampa in the event that the City of Tampa elects to be a member of the authority;

2. Three members from Pasco County, two of whom must be selected by the county commission and one of whom must be selected by the City Council of New Port Richey; and

3. Three members from Pinellas County, two of whom must be selected by the county commission and one of whom must be selected by the City Council of St. Petersburg.

Except as otherwise provided in this section or in the voluntary interlocal agreement between the member governments, a majority vote shall bind the authority and its member governments in all matters relating to the funding of wholesale water supply, production, delivery, and related activities.

(2) The provisions of this section supersede any conflicting provisions contained in all other general or special laws or provisions thereof as they may apply directly or indirectly to the exclusivity of water supply or withdrawal of water, including provisions relating to the environmental effects, if any, in conjunction with the production and supply of potable water, and the provisions of this section are intended to be a complete revision of all laws related to a regional water supply authority created under s. 373.713 and this section.

(3) In lieu of the provisions in s. 373.713(2)(a), the Southwest Florida Water Management District shall assist the West Coast Regional Water Supply Authority for a period of 5 years, terminating December 31, 1981, by levying an ad valorem tax, upon request of the authority, of not more than 0.05 mill on all taxable property within the limits of the authority. During such period the corresponding basin board ad valorem tax levies shall be reduced accordingly.

(4) The authority shall prepare its annual budget in the same manner as prescribed for the preparation of basin budgets, but such authority budget shall not be subject to review by the respective basin boards or by the governing board of the district.

(5) The annual millage for the authority shall be the amount required to raise the amount called for by the annual budget when applied to the total assessment on all taxable property within the limits of the authority, as determined for county taxing purposes.

(6) The authority may, by resolution, request the governing board of the district to levy ad valorem taxes within the boundaries of the authority. Upon receipt of such request, together with formal certification of the adoption of its annual budget and of the required tax levy, the authority tax levy shall be made by the governing board of the district to finance authority functions.

(7) The taxes provided for in this section shall be extended by the property appraiser on the county tax roll in each county within, or partly within, the authority boundaries and shall be collected by the tax collector in the same manner and time as county taxes, and the proceeds therefrom paid to the district which shall forthwith pay them over to the authority. Until paid, such taxes shall be a lien on the property against which assessed and enforceable in like manner as county taxes. The property appraisers, tax collectors, and clerks of the circuit court of the respective counties shall be

entitled to compensation for services performed in connection with such taxes at the same rates as apply to county taxes.

(8) The governing board of the district shall not be responsible for any actions or lack of actions by the authority.

Section 2. Subsection (13) of section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.—As used in this act:

(13) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d) Any county representative, agency, department, or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners has, by resolution, authorized the representative, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

The term "party" does not include a member government of a regional water supply authority or a governmental or quasi-judicial board or commission established by local ordinance or special or general law where the governing membership of such board or commission is shared with, in whole or in part, or appointed by a member government of a regional water supply authority in proceedings under s. 120.569, s. 120.57, or s. 120.68, to the extent that an interlocal agreement under ss. 163.01 and 373.713 ~~373.1962~~ exists in which the member government has agreed that its substantial interests are not affected by the proceedings or that it is to be bound by alternative dispute resolution in lieu of participating in the proceedings. This exclusion applies only to those particular types of disputes or controversies, if any, identified in an interlocal agreement.

Section 3. Subsection (13) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(13) Each local government shall address in its comprehensive plan, as enumerated in this chapter, the water supply sources necessary to meet and achieve the existing and projected water use demand for the established planning period, considering the applicable plan developed pursuant to s. 373.709 ~~373.0361~~.

Section 4. Paragraph (a) of subsection (4) and paragraphs (c), (d), and (h) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with the appropriate water management district's regional water supply plans approved pursuant to s. 373.709 ~~373.0361~~; with adopted rules pertaining to designated areas of critical state concern; and with the state comprehensive plan shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region and to the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist.

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. Within 18 months after the governing board approves an updated regional water supply plan, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.709(2)(a) ~~373.0361(2)(a)~~ or proposed by the local government under s. 373.709(8)(b)

~~373.0361(8)(b)~~. If a local government is located within two water management districts, the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the water needs identified in s. 373.709(2)(a) ~~373.0361(2)(a)~~ within the local government's jurisdiction and include a work plan, covering at least a 10 year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified in the element as necessary to serve existing and new development. The work plan shall be updated, at a minimum, every 5 years within 18 months after the governing board of a water management district approves an updated regional water supply plan. Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to the comprehensive plan. Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies.

(d) A conservation element for the conservation, use, and protection of natural resources in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources, including factors that affect energy conservation. Local governments shall assess their current, as well as projected, water needs and sources for at least a 10-year period, considering the appropriate regional water supply plan approved pursuant to s. 373.709 ~~373.0361~~, or, in the absence of an approved regional water supply plan, the district water management plan approved pursuant to s. 373.036(2). This information shall be submitted to the appropriate agencies. The land use map or map series contained in the future land use element shall generally identify and depict the following:

1. Existing and planned waterwells and cones of influence where applicable.

2. Beaches and shores, including estuarine systems.

3. Rivers, bays, lakes, flood plains, and harbors.

4. Wetlands.

5. Minerals and soils.

6. Energy conservation.

The land uses identified on such maps shall be consistent with applicable state law and rules.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.709 ~~373.0361~~, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element shall provide procedures to identify and implement joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 1013.30 and airport master plans under paragraph(k).

c. The intergovernmental coordination element shall provide for a dispute resolution process as established pursuant to s. 186.509 for bringing to closure in a timely manner intergovernmental disputes.

d. The intergovernmental coordination element shall provide for interlocal agreements as established pursuant to s. 333.03(1)(b).

2. The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element shall describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement. Within 1 year of adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements.

3. To foster coordination between special districts and local general-purpose governments as local general-purpose governments implement local comprehensive plans, each independent special district must submit a public facilities report to the appropriate local government as required by s. 189.415.

4.a. Local governments shall execute an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777. The local government shall amend the intergovernmental coordination element to provide that coordination between the local government and school board is pursuant to the agreement and shall state the obligations of the local government under the agreement.

b. Plan amendments that comply with this subparagraph are exempt from the provisions of s. 163.3187(1).

5. The state land planning agency shall establish a schedule for phased completion and transmittal of plan amendments to implement subparagraphs 1., 2., and 3. from all jurisdictions so as to accomplish their adoption by December 31, 1999. A local government may complete and transmit its plan amendments to carry out these provisions prior to the scheduled date established by the state land planning agency. The plan amendments are exempt from the provisions of s. 163.3187(1).

6. By January 1, 2004, any county having a population greater than 100,000, and the municipalities and special districts within that county, shall submit a report to the Department of Community Affairs which:

a. Identifies all existing or proposed interlocal service delivery agreements regarding the following: education; sanitary sewer; public safety; solid waste; drainage; potable water; parks and recreation; and transportation facilities.

b. Identifies any deficits or duplication in the provision of services within its jurisdiction, whether capital or operational. Upon request, the Department of Community Affairs shall provide technical assistance to the local governments in identifying deficits or duplication.

7. Within 6 months after submission of the report, the Department of Community Affairs shall, through the appropriate regional planning council, coordinate a meeting of all local governments within the regional planning area to discuss the reports and potential strategies to remedy any identified deficiencies or duplications.

8. Each local government shall update its intergovernmental coordination element based upon the findings in the report submitted pursuant to subparagraph 6. The report may be used as supporting data and analysis for the intergovernmental coordination element.

Section 5. Paragraph (l) of subsection (2) of section 163.3191, Florida Statutes, is amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(2) The report shall present an evaluation and assessment of the comprehensive plan and shall contain appropriate statements to update the comprehensive plan, including, but not limited to, words, maps, illustrations, or other media, related to:

(l) The extent to which the local government has been successful in identifying alternative water supply projects and traditional water supply projects, including conservation and reuse, necessary to meet the water needs identified in s. 373.709(2)(a) ~~373.0361(2)(a)~~ within the local government's jurisdiction. The report must evaluate the degree to which the local government has implemented the work plan for building public, private, and regional water supply facilities, including development of alternative water supplies, identified in the element as necessary to serve existing and new development.

Section 6. Paragraphs (c) and (d) of subsection (4) of section 189.404, Florida Statutes, are amended to read:

189.404 Legislative intent for the creation of independent special districts; special act prohibitions; model elements and other requirements; general-purpose local government/Governor and Cabinet creation authorizations.—

(4) LOCAL GOVERNMENT/GOVERNOR AND CABINET CREATION AUTHORIZATIONS.—Except as otherwise authorized by general law, only the Legislature may create independent special districts.

(c) The Governor and Cabinet may create an independent special district which shall be established by rule in accordance with s. 190.005 or as otherwise authorized in general law. The Governor and Cabinet may also approve the establishment of a charter for the creation of an independent special district which shall be in accordance with s. 373.713 ~~373.1962~~, or as otherwise authorized in general law.

(d)1. Any combination of two or more counties may create a regional special district which shall be established in accordance with s. 950.001, or as otherwise authorized in general law.

2. Any combination of two or more counties or municipalities may create a regional special district which shall be established in accordance with s. 373.713 ~~373.1962~~, or as otherwise authorized by general law.

3. Any combination of two or more counties, municipalities, or other political subdivisions may create a regional special district in accordance with s. 163.567, or as otherwise authorized in general law.

Section 7. Subsection (3) of section 189.4155, Florida Statutes, is amended to read:

189.4155 Activities of special districts; local government comprehensive planning.—

(3) The provisions of this section shall not apply to water management districts created pursuant to s. 373.069, to regional water supply authorities created pursuant to s. 373.713 ~~373.1962~~, or to spoil disposal sites owned or used by the Federal Government.

Section 8. Section 189.4156, Florida Statutes, is amended to read:

189.4156 Water management district technical assistance; local government comprehensive planning.—Water management districts shall assist local governments in the development of local government comprehensive plan elements related to water resource issues as required by s. 373.711 ~~373.0391~~.

Section 9. Subsection (7) of section 367.021, Florida Statutes, is amended to read:

367.021 Definitions.—As used in this chapter, the following words or terms shall have the meanings indicated:

(7) "Governmental authority" means a political subdivision, as defined by s. 1.01(8), a regional water supply authority created pursuant to s. 373.713 ~~373.1962~~, or a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility.

Section 10. Subsections (1) and (17) of section 373.019, Florida Statutes, are amended to read:

373.019 Definitions.—When appearing in this chapter or in any rule, regulation, or order adopted pursuant thereto, the term:

(1) "Alternative water supplies" means salt water; brackish surface and groundwater; surface water captured predominately during wet-weather flows; sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; stormwater; and any other water supply source that is designated as nontraditional for a water supply planning region in the applicable regional water supply plan.

(17) "Regional water supply plan" means a detailed water supply plan developed by a governing board under s. 373.709 ~~s. 373.0361~~.

Section 11. Paragraph (b) of subsection (2) and paragraph (b) of subsection (7) of section 373.036, Florida Statutes, are amended to read:

373.036 Florida water plan; district water management plans.—

(2) DISTRICT WATER MANAGEMENT PLANS.—

(b) The district water management plan shall include, but not be limited to:

1. The scientific methodologies for establishing minimum flows and levels under s. 373.042, and all established minimum flows and levels.

2. Identification of one or more water supply planning regions that singly or together encompass the entire district.

3. Technical data and information prepared under s. 373.711 ~~373.0391~~.

4. A districtwide water supply assessment, to be completed no later than July 1, 1998, which determines for each water supply planning region:

a. Existing legal uses, reasonably anticipated future needs, and existing and reasonably anticipated sources of water and conservation efforts; and

b. Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for all existing legal uses and reasonably anticipated future needs and to sustain the water resources and related natural systems.

5. Any completed regional water supply plans.

(7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

(b) The consolidated annual report shall contain the following elements, as appropriate to that water management district:

1. A district water management plan annual report or the annual work plan report allowed in subparagraph (2)(e)4.

2. The department-approved minimum flows and levels annual priority list and schedule required by s. 373.042(2).

3. The annual 5-year capital improvements plan required by s. 373.536(6)(a)3.

4. The alternative water supplies annual report required by s. 373.707(8)(n) ~~373.1961(3)(n)~~.

5. The final annual 5-year water resource development work program required by s. 373.536(6)(a)4.

6. The Florida Forever Water Management District Work Plan annual report required by s. 373.199(7).

7. The mitigation donation annual report required by s. 373.414(1)(b)2.

Section 12. Paragraphs (a) and (e) of subsection (4) of section 373.0363, Florida Statutes, are amended to read:

373.0363 Southern Water Use Caution Area Recovery Strategy.—

(4) The West-Central Florida Water Restoration Action Plan includes:

(a) The Central West Coast Surface Water Enhancement Initiative. The purpose of this initiative is to make additional surface waters available for public supply through restoration of surface waters, natural water flows, and freshwater wetland communities. This initiative is designed to allow limits on groundwater withdrawals in order to slow the rate of saltwater intrusion. The initiative shall be an ongoing program in cooperation with the Peace River-Manasota Regional Water Supply Authority created under s. 373.713 ~~373.1962~~.

(e) The Central Florida Water Resource Development Initiative. The purpose of this initiative is to create and implement a long-term plan that takes a comprehensive approach to limit ground water withdrawals in the Southern Water Use Caution Area and to identify and develop alternative water supplies for Polk County. The project components developed pursuant to this initiative are eligible for state and regional funding under s. 373.707 ~~373.196~~ as an alternative water supply, as defined in s. 373.019, or as a supplemental water supply under the rules of the Southwest Florida Water Management District or the South Florida Water Management District. The initiative shall be implemented by the district as an ongoing program in cooperation with Polk County and the South Florida Water Management District.

Section 13. Subsection (2) of section 373.0421, Florida Statutes, is amended to read:

373.0421 Establishment and implementation of minimum flows and levels.—

(2) If the existing flow or level in a water body is below, or is projected to fall within 20 years below, the applicable minimum flow or level established pursuant to s. 373.042, the department or governing board, as part of the regional water supply plan described in s. 373.709 ~~373.0361~~, shall expeditiously implement a recovery or prevention strategy, which includes the development of additional water supplies and other actions, consistent with the authority granted by this chapter, to:

(a) Achieve recovery to the established minimum flow or level as soon as practicable; or

(b) Prevent the existing flow or level from falling below the established minimum flow or level.

The recovery or prevention strategy shall include phasing or a timetable which will allow for the provision of sufficient water supplies for all existing

and projected reasonable-beneficial uses, including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, to the extent practical, and to offset, reductions in permitted withdrawals, consistent with the provisions of this chapter.

Section 14. Subsection (4) of section 373.0695, Florida Statutes, is amended to read:

373.0695 Duties of basin boards; authorized expenditures.—

(4) In the exercise of the duties and powers granted herein, the basin boards shall be subject to all the limitations and restrictions imposed on the water management districts in s. 373.703 ~~373.1961~~.

Section 15. Subsections (3) and (5) of section 373.223, Florida Statutes, are amended to read:

373.223 Conditions for a permit.—

(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 paragraph (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 373.709 ~~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 this subsection.

(5) In evaluating an application for consumptive use of water which proposes the use of an alternative water supply project as described in the regional water supply plan and provides reasonable assurances of the applicant's capability to design, construct, operate, and maintain the project, the governing board or department shall presume that the alternative water supply use is consistent with the public interest under paragraph (1)(c). However, where the governing board identifies the need for a multijurisdictional water supply entity or regional water supply authority to develop the alternative water supply project pursuant to s. 373.709(2)(a)2. ~~373.0361(2)(a)2.~~, the presumption shall be accorded only to that use proposed by such entity or authority. This subsection does not effect evaluation of the use pursuant to the provisions of paragraphs (1)(a) and (b), subsections (2) and (3), and ss. 373.2295 and 373.233.

Section 16. Section 373.2234, Florida Statutes, is amended to read:

373.2234 Preferred water supply sources.—The governing board of a water management district is authorized to adopt rules that identify preferred water supply sources for consumptive uses for which there is sufficient data to establish that a preferred source will provide a substantial new water supply to meet the existing and projected reasonable-beneficial uses of a water supply planning region identified pursuant to s. 373.709(1) ~~373.0361(1)~~, while sustaining existing water resources and natural systems. At a minimum, such rules must contain a description of the preferred water supply source and an assessment of the water the preferred source is projected to produce. If an applicant proposes to use a preferred water supply source, that applicant's proposed water use is subject to s. 373.223(1), except that the proposed use of a preferred water supply source must be considered by a water management district when determining whether a permit applicant's proposed use of water is consistent with the public interest pursuant to s. 373.223(1)(c). A consumptive use permit issued for the use of a preferred water supply source must be granted, when requested by the applicant, for at least a 20-year period and may be subject to the compliance reporting provisions of s. 373.236(4). Nothing in this section shall be construed to exempt the use of preferred water supply sources from the

provisions of ss. 373.016(4) and 373.223(2) and (3), or be construed to provide that permits issued for the use of a nonpreferred water supply source must be issued for a duration of less than 20 years or that the use of a nonpreferred water supply source is not consistent with the public interest. Additionally, nothing in this section shall be interpreted to require the use of a preferred water supply source or to restrict or prohibit the use of a nonpreferred water supply source. Rules adopted by the governing board of a water management district to implement this section shall specify that the use of a preferred water supply source is not required and that the use of a nonpreferred water supply source is not restricted or prohibited.

Section 17. Subsection (3) of section 373.229, Florida Statutes, is amended 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 information pertaining to factors to be considered, pursuant to s. 373.223(3), unless exempt under s. 373.713(9) ~~373.1962(9)~~.

Section 18. Paragraph (a) of subsection (6) of section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(6)(a) The Legislature finds that the need for alternative water supply development projects to meet anticipated public water supply demands of the state is so important that it is essential to encourage participation in and contribution to these projects by private-rural-land owners who characteristically have relatively modest near-term water demands but substantially increasing demands after the 20-year planning period in s. 373.709 ~~373.0361~~. Therefore, where such landowners make extraordinary contributions of lands or construction funding to enable the expeditious implementation of such projects, water management districts and the department may grant permits for such projects for a period of up to 50 years to municipalities, counties, special districts, regional water supply authorities, multijurisdictional water supply entities, and publicly or privately owned utilities, with the exception of any publicly or privately owned utilities created for or by a private landowner after April 1, 2008, which have entered into an agreement with the private landowner for the purpose of more efficiently pursuing alternative public water supply development projects identified in a district's regional water supply plan and meeting water demands of both the applicant and the landowner.

Section 19. Paragraph (a) of subsection (6) of section 373.536, Florida Statutes, is amended to read:

373.536 District budget and hearing thereon.—

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(a) Each district must, by the date specified for each item, furnish copies of the following documents to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over the districts, as determined by the President of the Senate or the Speaker of the House of Representatives as applicable, the secretary of the department, and the governing board of each county in which the district has jurisdiction or derives any funds for the operations of the district:

1. The adopted budget, to be furnished within 10 days after its adoption.

2. A financial audit of its accounts and records, to be furnished within 10 days after its acceptance by the governing board. The audit must be conducted in accordance with the provisions of s. 11.45 and the rules adopted thereunder. In addition to the entities named above, the district must provide a copy of the audit to the Auditor General within 10 days after its acceptance by the governing board.

3. A 5-year capital improvements plan, to be included in the consolidated annual report required by s. 373.036(7). The plan must include expected sources of revenue for planned improvements and must be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043.

4. A 5-year water resource development work program to be furnished within 30 days after the adoption of the final budget. The program must describe the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised under s. 373.709 ~~373.0361~~. The work program must address all the elements of the water resource development component in the district's approved regional water supply plans and must identify which projects in the work program will provide water, explain how each water resource development project will produce additional water available for consumptive uses, estimate the quantity of water to be produced by each project, and provide an assessment of the contribution of the district's regional water supply plans in providing sufficient water to meet the water supply needs of existing and future reasonable-beneficial uses for a 1-in-10-year drought event. Within 30 days after its submittal, the department shall review the proposed work program and submit its findings, questions, and comments to the district. The review must include a written evaluation of the program's consistency with the furtherance of the district's approved regional water supply plans, and the adequacy of proposed expenditures. As part of the review, the department shall give interested parties the opportunity to provide written comments on each district's proposed work program. Within 45 days after receipt of the department's evaluation, the governing board shall state in writing to the department which changes recommended in the evaluation it will incorporate into its work program submitted as part of the March 1 consolidated annual report required by s.

373.036(7) or specify the reasons for not incorporating the changes. The department shall include the district's responses in a final evaluation report and shall submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 20. Subsection (11) of section 373.59, Florida Statutes, is amended to read:

373.59 Water Management Lands Trust Fund.—

(11) Notwithstanding any provision of this section to the contrary, the governing board of a water management district may request, and the Secretary of Environmental Protection shall release upon such request, moneys allocated to the districts pursuant to subsection (8) for purposes consistent with the provisions of s. 373.709 ~~373.0361~~, s. 373.705 ~~373.0831~~, s. 373.139, or ss. 373.451-373.4595 and for legislatively authorized land acquisition and water restoration initiatives. No funds may be used pursuant to this subsection until necessary debt service obligations, requirements for payments in lieu of taxes, and land management obligations that may be required by this chapter are provided for.

Section 21. Paragraph (g) of subsection (1) of section 378.212, Florida Statutes, is amended to read:

378.212 Variances.—

(1) Upon application, the secretary may grant a variance from the provisions of this part or the rules adopted pursuant thereto. Variances and renewals thereof may be granted for any one of the following reasons:

(g) To accommodate reclamation that provides water supply development or water resource development not inconsistent with the applicable regional water supply plan approved pursuant to s. 373.709 ~~373.0361~~, provided adverse impacts are not caused to the water resources in the basin. A variance may also be granted from the requirements of part IV of chapter 373, or the rules adopted thereunder, when a project provides an improvement in water availability in the basin and does not cause adverse impacts to water resources in the basin.

Section 22. Subsection (9) of section 378.404, Florida Statutes, is amended to read:

378.404 Department of Environmental Protection; powers and duties. The department shall have the following powers and duties:

(9) To grant variances from the provisions of this part to accommodate reclamation that provides for water supply development or water resource development not inconsistent with the applicable regional water supply plan approved pursuant to s. 373.709 ~~373.0361~~, appropriate stormwater management, improved wildlife habitat, recreation, or a mixture thereof, provided

adverse impacts are not caused to the water resources in the basin and public health and safety are not adversely affected.

Section 23. Paragraph (a) of subsection (3) of section 403.0891, Florida Statutes, is amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(3)(a) Each local government required by chapter 163 to submit a comprehensive plan, whose plan is submitted after July 1, 1992, and the others when updated after July 1, 1992, in the development of its stormwater management program described by elements within its comprehensive plan shall consider the water resource implementation rule, district stormwater management goals, plans approved pursuant to the Surface Water Improvement and Management Act, ss. 373.451-373.4595, and technical assistance information provided by the water management districts pursuant to s. 373.711 ~~373.0391~~.

Section 24. Section 403.890, Florida Statutes, is amended to read:

403.890 Water Protection and Sustainability Program~~; intent; goals; purposes.—~~

~~(1) Effective July 1, 2006, revenues transferred from the Department of Revenue pursuant to s. 201.15(1)(c)2. shall be deposited into the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection. These revenues and any other additional revenues deposited into or appropriated to the Water Protection and Sustainability Program Trust Fund shall be distributed by the Department of Environmental Protection in the following manner:~~

~~(a) Sixty percent to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.1961.~~

~~(b) Twenty percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 85 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Fifteen percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of the total maximum daily load program under s. 403.067, suitable best management practices or other measures used to achieve water~~

~~quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of capital projects, best management practices, and other measures. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.~~

~~(c) Ten percent shall be disbursed for the purposes of funding projects pursuant to ss. 373.451-373.459 or surface water restoration activities in water-management-district-designated priority water bodies. The Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:~~

~~1. Thirty-five percent to the South Florida Water Management District;~~

~~2. Twenty-five percent to the Southwest Florida Water Management District;~~

~~3. Twenty-five percent to the St. Johns River Water Management District;~~

~~4. Seven and one-half percent to the Suwannee River Water Management District; and~~

~~5. Seven and one-half percent to the Northwest Florida Water Management District.~~

~~(d) Ten percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.~~

~~(2) Applicable beginning in the 2007-2008 fiscal year, revenues transferred from the Department of Revenue pursuant to s. 201.15(1)(c)2. shall be deposited into the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection. These revenues and any other additional~~ Revenues deposited into or appropriated to the Water Protection and Sustainability Program Trust Fund shall be distributed by the Department of Environmental Protection in the following manner:

(1)~~(a)~~ Sixty-five percent to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.707 ~~373.1961~~.

(2)~~(b)~~ Twenty-two and five-tenths percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 83.33 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Sixteen and sixty-seven hundredths percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of the total maximum daily load program under s. 403.067, suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of capital projects, best management practices, and other measures. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

(3)~~(c)~~ Twelve and five-tenths percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.

(4)~~(d)~~ On June 30, 2009, and every 24 months thereafter, the Department of Environmental Protection shall request the return of all unencumbered funds distributed pursuant to this section. These funds shall be deposited into the Water Protection and Sustainability Program Trust Fund and redistributed pursuant to the provisions of this section.

~~(3) For the 2008-2009 fiscal year only, moneys in the Water Protection and Sustainability Program Trust Fund shall be transferred to the Ecosystem Management and Restoration Trust Fund for grants and aids to local governments for water projects as provided in the General Appropriations Act. This subsection expires July 1, 2009.~~

~~(4) For fiscal year 2005-2006, funds deposited or appropriated into the Water Protection and Sustainability Program Trust Fund shall be distributed as follows:~~

~~(a) One hundred million dollars to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.1961.~~

~~(b) Funds remaining after the distribution provided for in subsection (1) shall be distributed as follows:~~

~~1. Fifty percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 85 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Fifteen percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of best management practices. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.~~

~~2. Twenty-five percent for the purposes of funding projects pursuant to ss. 373.451-373.459 or surface water restoration activities in water-management-district-designated priority water bodies. The Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:~~

~~a. Thirty-five percent to the South Florida Water Management District;~~

~~b. Twenty-five percent to the Southwest Florida Water Management District;~~

~~c. Twenty-five percent to the St. Johns River Water Management District;~~

~~d. Seven and one-half percent to the Suwannee River Water Management District; and~~

~~c. Seven and one-half percent to the Northwest Florida Water Management District.~~

~~3. Twenty-five percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.~~

~~Prior to the end of the 2008 Regular Session, the Legislature must review the distribution of funds under the Water Protection and Sustainability Program to determine if revisions to the funding formula are required. At the discretion of the President of the Senate and the Speaker of the House of Representatives, the appropriate substantive committees of the Legislature may conduct an interim project to review the Water Protection and Sustainability Program and the funding formula and make written recommendations to the Legislature proposing necessary changes, if any.~~

~~(5) For the 2009-2010 fiscal year only, funds shall be distributed as follows:~~

~~(a) Thirty-one and twenty-one hundredths percent to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.1961.~~

~~(b) Twenty-six and eighty-seven hundredths percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 86 percent shall be transferred to the credit of the Water Quality Assurance Trust Fund of the Department of Environmental Protection to address water quality impacts associated with nonagricultural nonpoint sources. Fourteen percent of these funds shall be transferred to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of the total maximum daily load program under s. 403.067, suitable best management practices, or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of capital projects, best management practices, and other measures. These funds may not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement that allocates responsibility for the cleanup of point and nonpoint sources.~~

~~(c) Forty-one and ninety-two hundredths percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.~~

~~This subsection expires July 1, 2010.~~

Section 25. Subsection (1) of section 403.891, Florida Statutes, is amended to read:

403.891 Water Protection and Sustainability Program Trust Fund of the Department of Environmental Protection.—

(1) The Water Protection and Sustainability Program Trust Fund is created within the Department of Environmental Protection. The purpose of the trust fund is to ~~receive funds pursuant to s. 201.15(1)(c)2., funds from other sources provided for in law and the General Appropriations Act, and funds received by the department in order to~~ implement the ~~provisions of the~~ Water Sustainability and Protection Program created in s. 403.890.

Section 26. Section 682.02, Florida Statutes, is amended to read:

682.02 Arbitration agreements made valid, irrevocable, and enforceable; scope.—Two or more parties may agree in writing to submit to arbitration any controversy existing between them at the time of the agreement, or they may include in a written contract a provision for the settlement by arbitration of any controversy thereafter arising between them relating to such contract or the failure or refusal to perform the whole or any part thereof. This section also applies to written interlocal agreements under ss. 163.01 and 373.713 ~~373.1962~~ in which two or more parties agree to submit to arbitration any controversy between them concerning water use permit applications and other matters, regardless of whether or not the water management district with jurisdiction over the subject application is a party to the interlocal agreement or a participant in the arbitration. Such agreement or provision shall be valid, enforceable, and irrevocable without regard to the justiciable character of the controversy; provided that this act shall not apply to any such agreement or provision to arbitrate in which it is stipulated that this law shall not apply or to any arbitration or award thereunder.

Section 27. Section 373.71, Florida Statutes, is renumbered as section 373.69, Florida Statutes.

Section 28. Sections 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, Florida Statutes, are repealed.

Section 29. Paragraphs (a),(b),(c), and (f) of subsection (3) of section 373.1961, Florida Statutes, is amended to read:

373.1961 Water production; general powers and duties; identification of needs; funding criteria; economic incentives; reuse funding.—

(3) FUNDING.—

(a) The water management districts and the state shall share a percentage of revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, special district, industrial, and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies and conservation projects that result in quantifiable water savings.

(b) Beginning in fiscal year 2005-2006, the state shall annually provide a portion of those revenues deposited into the Water Protection and Sustainability Program Trust Fund for the purpose of providing funding assistance for the development of alternative water supplies and conservation projects that result in quantifiable water savings pursuant to the Water Protection and Sustainability Program. At the beginning of each fiscal year, beginning with fiscal year 2005-2006, such revenues shall be distributed by the department into the alternative water supply trust fund accounts created by each district for the purpose of alternative water supply development under the following funding formula:

1. Thirty percent to the South Florida Water Management District;

2. Twenty-five percent to the Southwest Florida Water Management District;

3. Twenty-five percent to the St. Johns River Water Management District;

4. Ten percent to the Suwannee River Water Management District; and

5. Ten percent to the Northwest Florida Water Management District.

(c) The financial assistance for alternative water supply projects allocated in each district's budget as required in s. 373.196(6) shall be combined with the state funds and used to assist in funding the project construction costs of alternative water supply projects and the project costs of conservation projects that result in quantifiable water savings selected by the governing board. If the district has not completed any regional water supply plan, or the regional water supply plan does not identify the need for any alternative water supply projects, funds deposited in that district's trust fund may be used for water resource development projects, including, but not limited to, springs protection.

(f) The governing boards shall determine those projects that will be selected for financial assistance. The governing boards may establish factors to determine project funding; however, significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water is a major component.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

8. Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(9).

9. Whether the county or municipality, or the multiple counties or municipalities, in which the project is located has implemented a high-water recharge protection tax assessment program as provided in s. 193.625.

Section 30. Paragraph (a) of subsection (19) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.

(19)(a) Financial responsibility for mitigation for wetlands and other surface waters required by a permit issued pursuant to this part for activities associated with the extraction of limestone and phosphate are subject to approval by the department as part of the permit application review. Financial responsibility for permitted activities that ~~which~~ will occur over a period of 3 years or less of mining operations must be provided to the department before ~~prior to~~ the commencement of mining operations and must ~~shall be in an amount~~ equal ~~to~~ 110 percent of the estimated mitigation costs for wetlands and other surface waters affected under the permit. For permitted activities that ~~which~~ will occur over a period of more than 3 years of mining operations, the initial financial responsibility demonstration must ~~shall be in an amount~~ equal ~~to~~ 110 percent of the estimated mitigation costs for wetlands and other surface waters affected in the first 3 years of operation under the permit.~~; and,~~ For each year thereafter, the financial responsibility demonstration must ~~shall~~ be updated, including providing ~~to provide~~ an amount equal to 110 percent of the estimated mitigation costs for the next year of operations under the permit for which financial responsibility has not already been demonstrated and to release portions of the financial responsibility mechanisms in accordance with applicable rules.

Section 31. Subsection (2) of section 378.901, Florida Statutes, is amended to read:

378.901 Life-of-the-mine permit.—

(2) As an alternative to, and in lieu of, separate applications for permits required under ~~by~~ part IV of chapter 373 and part IV of this chapter, any ~~each~~ operator who mines or extracts or proposes to mine or extract heavy minerals, limestone, or fuller's earth clay may apply to the bureau for a life-of-the-mine permit. This subsection does not limit the authority of a local government to approve, approve with conditions, deny, or impose a permit duration that is different from the duration issued pursuant to this section.

Section 32. Subsections (2), (5), and (9) of section 373.41492, Florida Statutes, are amended to read:

373.41492 Miami-Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Miami-Dade County Lake Belt.—

(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Miami-Dade County Lake Belt Area and the east one-half of sections 24 and 25 and all of sections 35 and 36, Township 53 South, Range 39 East. The mitigation fee is imposed for each ton of limerock and sand sold from within the properties where the fee applies in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. The mitigation fee imposed by this subsection for each ton of limerock and sand sold shall be 12 cents per ton beginning January 1, 2007; 18 cents per ton beginning January 1, 2008; ~~and~~ 24 cents per ton beginning January 1, 2009, and 45 cents per ton beginning close of business December 31, 2011. To upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County, a water treatment plant upgrade fee is imposed within the same Lake Belt Area subject to the mitigation fee and upon the same kind of mined limerock and sand subject to the mitigation fee. The water treatment plant upgrade fee imposed by this subsection for each ton of limerock and sand sold shall be 15 cents per ton beginning on January 1, 2007, and the collection of this fee shall cease once the total amount of proceeds collected for this fee reaches the amount of the actual moneys necessary to design and construct the water treatment plant upgrade, as determined in an open, public solicitation process. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fees. The amount of the mitigation fee and the water treatment plant upgrade fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock or sand product from the limerock or sand miner, or its subsidiary or affiliate, for which the fee or fees apply. The limerock or sand miner, or its subsidiary or affiliate, who sells the limerock or sand product shall collect the mitigation fee and the water treatment plant upgrade fee and forward the proceeds of the fees to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs.

(5) Each January 1, beginning January 1, 2010, through December 31, 2011, ~~Beginning January 1, 2010, and each January 1 thereafter,~~ the per-ton mitigation fee shall be increased by 2.1 percentage points, plus a cost growth index. The cost growth index shall be the percentage change in the weighted average of the Employment Cost Index for All Civilian Workers (ecu 10001I), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, and the percentage change in the Producer Price Index for All Commodities (WPU 00000000), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, compared to the weighted average of these indices for the previous year. The weighted average shall be calculated as 0.6 times the percentage change in the Employment Cost Index for All Civilian Workers (ecu 10001I), plus 0.4 times the percentage change in the Producer Price Index for All Commodities (WPU 00000000). If either index is discontinued, it shall be replaced by its successor index, as identified by the United States Department of Labor.

(9)(a) The interagency committee established in this section shall annually prepare and submit to the governing board of the South Florida Water Management District a report evaluating the mitigation costs and revenues generated by the mitigation fee.

(b) No sooner than January 31, 2010, and no more frequently than every 2 ~~5~~ years thereafter, the interagency committee shall submit to the Legislature a report recommending any needed adjustments to the mitigation fee, including the annual escalator provided for in subsection (5), to ensure that the revenue generated reflects the actual costs of the mitigation.

Section 33. Subsection (1) of section 215.619, Florida Statutes, is amended to read:

215.619 Bonds for Everglades restoration.—

(1) The issuance of Everglades restoration bonds to finance or refinance the cost of the acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan under s. 373.470, the Lake Okeechobee Watershed Protection Plan under s. 373.4595, the Caloosahatchee River Watershed Protection Plan under s. 373.4595, the St. Lucie River Watershed Protection Plan under s. 373.4595, and the Florida Keys Area of Critical State Concern protection program under ss. 380.05 and 380.0552 in order to restore and conserve natural systems through the implementation of water management projects, including wastewater management projects identified in the "Keys Wastewater Plan," dated November 2007, and submitted to the Florida House of Representatives on December 4, 2007, is authorized in accordance with s. 11(e), Art. VII of the State Constitution.

(a) Everglades restoration bonds, except refunding bonds, may be issued only in fiscal years 2002-2003 through 2019-2020 and may not be issued in an amount exceeding $100 million per fiscal year unless:

1.~~(a)~~ The Department of Environmental Protection has requested additional amounts in order to achieve cost savings or accelerate the purchase of land; or

2.~~(b)~~ The Legislature authorizes an additional amount of bonds not to exceed $200 million, and limited to $50 million per fiscal year, ~~for no more than 4 fiscal years,~~ specifically for the purpose of funding the Florida Keys Area of Critical State Concern protection program. Proceeds from the bonds shall be managed by the Department of Environmental Protection for the purpose of entering into financial assistance agreements with local governments located in the Florida Keys Area of Critical State Concern to finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities.

(b) The duration of Everglades restoration bonds may not exceed 20 annual maturities~~,~~ and ~~those bonds~~ must mature by December 31, 2040. Except for refunding bonds, a series of bonds may not be issued unless an amount equal to the debt service coming due in the year of issuance has been appropriated by the Legislature. Beginning July 1, 2010, the Legislature shall analyze the ratio of the state's debt to projected revenues before authorizing the issuance of ~~prior to the authorization to issue any~~ bonds under this section.

Section 34. Subsections (2), (4), (7), and (9) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is ~~hereby declared that~~ the intent of the Legislature to ~~is~~:

(a) ~~To~~ Establish a land use management system that protects the natural environment of the Florida Keys.

(b) ~~To~~ Establish a land use management system that conserves and promotes the community character of the Florida Keys.

(c) ~~To~~ Establish a land use management system that promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services.

(d) ~~To~~ Provide ~~for~~ affordable housing in close proximity to places of employment in the Florida Keys.

(e) ~~To~~ Establish a land use management system that promotes and supports a diverse and sound economic base.

(f) ~~To~~ Protect the constitutional rights of property owners to own, use, and dispose of their real property.

(g) ~~To~~ Promote coordination and efficiency among governmental agencies that have ~~with~~ permitting jurisdiction over land use activities in the Florida Keys.

(h) Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys.

(i) Protect and improve the nearshore water quality of the Florida Keys through the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable.

(j) Ensure that the population of the Florida Keys can be safely evacuated.

(4) REMOVAL OF DESIGNATION.—

(a) ~~Between July 12, 2008, and August 30, 2008, the state land planning agency shall submit a written report to the Administration Commission describing in detail the progress of the Florida Keys Area toward accomplishing the tasks of the work program as defined in paragraph (c) and providing a recommendation as to whether substantial progress toward accomplishing the tasks of the work program has been achieved. Subsequent to receipt of the report, the Administration Commission shall determine, prior to October 1, 2008, whether substantial progress has been achieved toward accomplishing the tasks of the work program.~~ The designation of the Florida Keys Area as an area of critical state concern under this section may be recommended for removal upon fulfilling the legislative intent under subsection (2) and completion of all the work program tasks specified in rules of the Administration Commission ~~shall be removed October 1, 2009, unless the Administration Commission finds, after receipt of the state land planning agency report, that substantial progress has not been achieved toward accomplishing the tasks of the work program. If the designation of the Florida Keys Area as an area of critical state concern is removed, the Administration Commission, within 60 days after removal of the designation, shall initiate rulemaking pursuant to chapter 120 to repeal any rules relating to the designation of the Florida Keys Area as an area of critical state concern. If, after receipt of the state land planning agency's report, the Administration Commission finds that substantial progress toward accomplishing the tasks of the work program has not been achieved, the Administration Commission shall provide a written report to the Monroe County Commission within 30 days after making such finding detailing the tasks under the work program that must be accomplished in order for substantial progress to be achieved within the next 12 months.~~

(b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission

describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:

1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(10) and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(l);

2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.

~~(b) If the designation of the Florida Keys Area as an area of critical state concern is not removed in accordance with paragraph (a), the state land planning agency shall submit a written annual report to the Administration Commission on November 1 of each year, until such time as the designation is removed, describing the progress of the Florida Keys Area toward accomplishing remaining tasks under the work program and providing a recommendation as to whether substantial progress toward accomplishing the tasks of the work program has been achieved. The Administration Commission shall determine, within 45 days after receipt of the annual report, whether substantial progress has been achieved toward accomplishing the remaining tasks of the work program. The designation of the Florida Keys Area as an area of critical state concern under this section shall be removed unless the Administration Commission finds that substantial progress has not been achieved toward accomplishing the tasks of the work program. If the designation of the Florida Keys Area as an area of critical state concern is removed, the Administration Commission, within 60 days after removal of the designation, shall initiate rulemaking pursuant to chapter 120 to repeal any rules relating to the designation of the Florida Keys Area as an area of critical state concern. If the Administration Commission finds that substantial progress has not been achieved, the Administration Commission shall provide to the Monroe County Commission, within 30 days after making its finding, a report detailing the tasks under the work program that must be accomplished in order for substantial progress to be achieved within the next 12 months.~~

(c) After receipt of the state land planning agency report and recommendation, the Administration Commission shall determine whether the requirements have been fulfilled and may remove the designation of the Florida Keys as an area of critical state concern. If the commission removes the designation, it shall initiate rulemaking to repeal any rules relating such designation within 60 days. If, after receipt of the state land planning agency's report and recommendation, the commission finds that the

requirements for recommending removal of designation have not been met, the commission shall provide a written report to the local governments within 30 days after making such a finding detailing the tasks that must be completed by the local government.

~~(c) For purposes of this subsection, the term "work program" means the 10-year work program as set forth in rule 28-20.110, Florida Administrative Code, on January 1, 2006, excluding amendments to the work program that take effect after January 1, 2006.~~

(d) The ~~determination of the~~ Administration Commission's determination concerning the removal of the designation of the Florida Keys as an area of critical state concern ~~Commission as to whether substantial progress has been made toward accomplishing the tasks of the work program~~ may be ~~judicially~~ reviewed pursuant to chapter 120 ~~86~~. All proceedings shall be conducted by the Division of Administrative Hearings and must be initiated within 30 days after the commission issues its determination ~~in the circuit court of the judicial circuit where the Administration Commission maintains its headquarters and shall be initiated within 30 days after rendition of the Administration Commission's determination~~. ~~The Administration Commission's determination as to whether substantial progress has been made toward accomplishing the tasks of the work program shall be upheld if it is supported by competent and substantial evidence and shall not be subject to administrative review under chapter 120.~~

(e) After removal of the designation of the Florida Keys as an area of critical state concern, the state land planning agency shall review proposed local comprehensive plans, and any amendments to existing comprehensive plans, which are applicable to the Florida Keys Area, the boundaries of which were described in chapter 28-29, Florida Administrative Code, as of January 1, 2006, for compliance ~~with subparagraphs 1. and 2., in addition to reviewing proposed local comprehensive plans and amendments for compliance~~ as defined in s. 163.3184. All procedures and penalties described in s. 163.3184 apply to the review conducted pursuant to this paragraph.

~~1. Adoption of construction schedules for wastewater facilities improvements in the annually adopted capital improvements element and adoption of standards for the construction of wastewater treatment facilities which meet or exceed the criteria of chapter 99-395, Laws of Florida.~~

~~2. Adoption of goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.~~

(f) The Administration Commission may adopt rules or revise existing rules as necessary to administer this subsection.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified ~~set forth~~ in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which ~~chapter~~ is ~~hereby~~ adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and ~~no~~ specific provisions may not ~~provision shall~~ be construed or applied in isolation from the other provisions. However, the principles for guiding development ~~as set forth in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984,~~ are repealed 18 months from July 1, 1986. After repeal, ~~the following shall be the principles with which~~ any plan amendments must be consistent with the following principles:

(a) Strengthening ~~To strengthen~~ local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing ~~the continuation of~~ the area of critical state concern designation.

(b) Protecting ~~To protect~~ shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

(c) Protecting ~~To protect~~ upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.

(d) Ensuring ~~To ensure~~ the maximum well-being of the Florida Keys and its citizens through sound economic development.

(e) Limiting ~~To limit~~ the adverse impacts of development on the quality of water throughout the Florida Keys.

(f) Enhancing ~~To enhance~~ natural scenic resources, promoting ~~promote~~ the aesthetic benefits of the natural environment, and ensuring ~~ensure~~ that development is compatible with the unique historic character of the Florida Keys.

(g) Protecting ~~To protect~~ the historical heritage of the Florida Keys.

(h) Protecting ~~To protect~~ the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;

2. Sewage collection, treatment, and disposal facilities;

3. Solid waste treatment, collection, and disposal facilities;

4. Key West Naval Air Station and other military facilities;

5. Transportation facilities;

6. Federal parks, wildlife refuges, and marine sanctuaries;

7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;

8. City electric service and the Florida Keys Electric Co-op; and

9. Other utilities, as appropriate.

(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(k)~~(i)~~ Limiting ~~To limit~~ the adverse impacts of public investments on the environmental resources of the Florida Keys.

(l)~~(j)~~ Making ~~To make~~ available adequate affordable housing for all sectors of the population of the Florida Keys.

(m)~~(k)~~ Providing ~~To provide~~ adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.

(n)~~(l)~~ Protecting ~~To protect~~ the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes ~~shall become~~ effective only upon ~~the~~ approval ~~thereof~~ by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified ~~set forth~~ in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must ~~shall either~~ approve or reject the requested changes within 60 days after ~~of~~ receipt ~~thereof~~.

Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(10) for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.

(b) ~~Further,~~ The state land planning agency, after consulting with the appropriate local government, may, no more ~~often~~ than once per ~~a~~ year, recommend to the Administration Commission the enactment, amendment, or rescission of a land development regulation or element of a local comprehensive plan. Within 45 days following the receipt of such recommendation ~~by the state land planning agency~~, the commission shall reject the recommendation, or accept it with or without modification and adopt it~~,~~ by rule, including any changes. ~~Any~~ Such local development regulation or plan must ~~shall~~ be in compliance with the principles for guiding development.

Section 35. Subsection (1) and paragraph (l) of subsection (4) of section 381.0065, Florida Statutes are amended, present subsection (5) of that section is renumbered as subsection (6), and new subsections (5) and (7) are added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(1) LEGISLATIVE INTENT.—

(a) It is the intent of the Legislature that proper management of onsite sewage treatment and disposal systems is paramount to the health, safety, and welfare of the public. It is further the intent of the Legislature that the department shall administer an evaluation program to ensure the operational condition of the system and identify any failure with the system.

(b) It is the intent of the Legislature that where a publicly owned or investor-owned sewerage system is not available, the department shall issue permits for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems under conditions as described in this section and rules adopted under this section. It is further the intent of the Legislature that the installation and use of onsite sewage treatment and disposal systems not adversely affect the public health or significantly degrade the groundwater or surface water.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and ~~which considers~~ water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. On or after July 1, 2010, all new, modified, and repaired onsite sewage treatment and disposal systems must provide the level of treatment described in subparagraph 2. However, in areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, an onsite sewage treatment and disposal system may be repaired to the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

4. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

5. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

6. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by section 4 of chapter 99-395, Laws of Florida.

(5) EVALUATION AND ASSESSMENT.—

(a) Beginning January 1, 2011, the department shall administer an onsite sewage treatment and disposal system evaluation program for the purpose of assessing the fundamental operational condition of systems and identifying any failures within the systems. The department shall adopt rules implementing the program standards, procedures, and requirements, including, but not limited to, a schedule for a 5-year evaluation cycle, requirements for the pump-out of a system or repair of a failing system, enforcement procedures for failure of a system owner to obtain an evaluation of the system, and failure of a contractor to timely submit evaluation results to the department and the system owner. The department shall ensure statewide implementation of the evaluation and assessment program by January 1, 2016.

(b) Owners of an onsite sewage treatment and disposal system, excluding a system that is required to obtain an operating permit, shall have the system evaluated at least once every 5 years to assess the fundamental operational condition of the system, and identify any failure within the system.

(c) All evaluation procedures must be documented and nothing in this subsection limits the amount of detail an evaluator may provide at his or her professional discretion. The evaluation must include a tank and drainfield evaluation, a written assessment of the condition of the system, and, if necessary, a disclosure statement pursuant to the department's procedure.

(d)1. Systems being evaluated that were installed prior to January 1, 1983, shall meet a minimum 6-inch separation from the bottom of the drainfield to the wettest season water table elevation as defined by department rule. All drainfield repairs, replacements or modifications to systems installed prior to January 1, 1983, shall meet a minimum 12-inch separation from the bottom of the drainfield to the wettest season water table elevation as defined by department rule.

2. Systems being evaluated that were installed on or after January 1, 1983, shall meet a minimum 12-inch separation from the bottom of the

drainfield to the wettest season water table elevation as defined by department rule. All drainfield repairs, replacements or modification to systems developed on or after January 1, 1983, shall meet a minimum 24-inch separation from the bottom of the drainfield to the wettest season water table elevation.

(e) If documentation of a tank pump-out or a permitted new installation, repair, or modification of the system within the previous 5 years is provided, and states the capacity of the tank and indicates that the condition of the tank is not a sanitary or public health nuisance pursuant to department rule, a pump-out of the system is not required.

(f) Owners are responsible for paying the cost of any required pump-out, repair, or replacement pursuant to department rule, and may not request partial evaluation or the omission of portions of the evaluation.

(g) Each evaluation or pump-out required under this subsection must be performed by a septic tank contractor or master septic tank contractor registered under part III of chapter 489, a professional engineer with wastewater treatment system experience licensed pursuant to chapter 471, or an environmental health professional certified under chapter 381 in the area of onsite sewage treatment and disposal system evaluation.

(h) The evaluation report fee collected pursuant to s. 381.0066(2)(b) shall be remitted to the department by the evaluator at the time the report is submitted.

(i) Prior to any evaluation deadline, the department must provide a minimum of 60 days' notice to owners that their systems must be evaluated by that deadline. The department may include a copy of any homeowner educational materials developed pursuant to this section which provides information on the proper maintenance of onsite sewage treatment and disposal systems.

(6)~~(5)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term "premises" does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction.

(b)1. The department may issue citations that may contain an order of correction or an order to pay a fine, or both, for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department, when a violation of these sections or rules is enforceable by an administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action.

2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.

3. The fines imposed by a citation issued by the department may not exceed $500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.

4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the citation and must pay an amount up to the maximum fine.

5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.

6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

7. The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any fines it collects in the county health department trust fund for use in providing services specified in those sections.

8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.

(7) LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective January 1, 2016, the land application of septage from onsite sewage

treatment and disposal systems is prohibited. By February 1, 2011, the department, in consultation with the Department of Environmental Protection, shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, recommending alternative methods to establish enhanced treatment levels for the land application of septage from onsite sewage and disposal systems. The report shall include, but is not limited to, a schedule for the reduction in land application, appropriate treatment levels, alternative methods for treatment and disposal, enhanced application site permitting requirements including any requirements for nutrient management plans, and the range of costs to local governments, affected businesses and individuals for alternative treatment and disposal methods. The report shall also include any recommendations for legislation or rule authority needed to reduce land application of septage.

Section 36. Section 381.00656, Florida Statutes, is created to read:

381.00656 Grant program for repair of onsite sewage treatment disposal systems.—Effective January 1, 2012, the department shall administer a grant program to assist owners of onsite sewage treatment and disposal systems identified pursuant to s. 381.0065 or the rules adopted thereunder. A grant under the program may be awarded to an owner only for the purpose of inspecting, pumping, repairing, or replacing a system serving a single-family residence occupied by an owner with a family income of less than or equal to 133 percent of the federal poverty level at the time of application. The department may prioritize applications for an award of grant funds based upon the severity of a system's failure, its relative environmental impact, the income of the family, or any combination thereof. The department shall adopt rules establishing the grant application and award process, including an application form. The department shall seek to make grants in each fiscal year equal to the total amount of grant funds available, with any excess funds used for grant awards in subsequent fiscal years.

Section 37. Subsection (2) of section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(a) Application review, permit issuance, or system inspection, including repair of a subsurface, mound, filled, or other alternative system or permitting of an abandoned system: a fee of not less than $25, or more than $125.

(b) A 5-year evaluation report submitted pursuant to s. 381.0065(5): a fee not less than $15, or more than $30. At least $1 and no more than $5 collected pursuant to this paragraph shall be used to fund a grant program established under s. 381.00656.

(c)~~(b)~~ Site evaluation, site reevaluation, evaluation of a system previously in use, or a per annum septage disposal site evaluation: a fee of not less than $40, or more than $115.

(d)~~(c)~~ Biennial Operating permit for aerobic treatment units or performance-based treatment systems: a fee of not more than $100.

(e)~~(d)~~ Annual operating permit for systems located in areas zoned for industrial manufacturing or equivalent uses or where the system is expected to receive wastewater which is not domestic in nature: a fee of not less than $150, or more than $300.

(f)~~(e)~~ Innovative technology: a fee not to exceed $25,000.

(g)~~(f)~~ Septage disposal service, septage stabilization facility, portable or temporary toilet service, tank manufacturer inspection: a fee of not less than $25, or more than $200, per year.

(h)~~(g)~~ Application for variance: a fee of not less than $150, or more than $300.

(i)~~(h)~~ Annual operating permit for waterless, incinerating, or organic waste composting toilets: a fee of not less than $50, or more than $150.

(j)~~(i)~~ Aerobic treatment unit or performance-based treatment system maintenance entity permit: a fee of not less than $25, or more than $150, per year.

(k)~~(j)~~ Reinspection fee per visit for site inspection after system construction approval or for noncompliant system installation per site visit: a fee of not less than $25, or more than $100.

(l)~~(k)~~ Research: An additional $5 fee shall be added to each new system construction permit issued to be used to fund onsite sewage treatment and disposal system research, demonstration, and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

(m)~~(l)~~ Annual operating permit, including annual inspection and any required sampling and laboratory analysis of effluent, for an engineer-designed performance-based system: a fee of not less than $150, or more than $300.

On or before January 1, 2011, the Surgeon General, after consultation with the Revenue Estimating Conference, shall determine a revenue neutral fee schedule for services provided pursuant to s. 381.0065(5) within the parameters set in paragraph (b). Such determination is not subject to the provisions of chapter 120. The funds collected pursuant to this subsection must be deposited in a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655.

Section 38. Subsection (9) of section 403.086, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(9) The Legislature finds that the discharge of domestic wastewater through ocean outfalls wastes valuable water supplies that should be reclaimed for beneficial purposes to meet public and natural systems demands. The Legislature also finds that discharge of domestic wastewater through ocean outfalls compromises the coastal environment, quality of life, and local economies that depend on those resources. The Legislature declares that more stringent treatment and management requirements for such domestic wastewater and the subsequent, timely elimination of ocean outfalls as a primary means of domestic wastewater discharge are in the public interest.

(a) The construction of new ocean outfalls for domestic wastewater discharge and the expansion of existing ocean outfalls for this purpose, along with associated pumping and piping systems, are prohibited. Each domestic wastewater ocean outfall shall be limited to the discharge capacity specified in the department permit authorizing the outfall in effect on July 1, 2008, which discharge capacity shall not be increased. Maintenance of existing, department-authorized domestic wastewater ocean outfalls and associated pumping and piping systems is allowed, subject to the requirements of this section. The department is directed to work with the United States Environmental Protection Agency to ensure that the requirements of this subsection are implemented consistently for all domestic wastewater facilities in Florida which discharge through ocean outfalls.

(b) The discharge of domestic wastewater through ocean outfalls shall meet advanced wastewater treatment and management requirements no later than December 31, 2018. For purposes of this subsection, the term "advanced wastewater treatment and management requirements" means the advanced waste treatment requirements set forth in subsection (4), a reduction in outfall baseline loadings of total nitrogen and total phosphorus which is equivalent to that which would be achieved by the advanced waste treatment requirements in subsection (4), or a reduction in cumulative outfall loadings of total nitrogen and total phosphorus occurring between December 31, 2008, and December 31, 2025, which is equivalent to that which would be achieved if the advanced waste treatment requirements in subsection (4) were fully implemented beginning December 31, 2018, and continued through December 31, 2025. The department shall establish the average baseline loadings of total nitrogen and total phosphorus for each outfall using monitoring data available for calendar years 2003 through 2007 and shall establish required loading reductions based on this baseline. The baseline loadings and required loading reductions of total nitrogen and total phosphorus shall be expressed as an average annual daily loading value. The advanced wastewater treatment and management requirements of this paragraph shall be deemed to be met for any domestic wastewater facility

discharging through an ocean outfall on July 1, 2008, which has installed no later than December 31, 2018, a fully operational reuse system comprising 100 percent of the facility's annual average daily flow for reuse activities authorized by the department.

(c) Each domestic wastewater facility that discharges through an ocean outfall on July 1, 2008, shall install a functioning reuse system no later than December 31, 2025. For purposes of this subsection, a "functioning reuse system" means an environmentally, economically, and technically feasible system that provides a minimum of 60 percent of the facility's actual flow on an annual basis for irrigation of public access areas, residential properties, or agricultural crops; aquifer recharge; groundwater recharge; industrial cooling; or other acceptable reuse purposes authorized by the department. For purposes of this subsection, the term "facility's actual flow on an annual basis" means the annual average flow of domestic wastewater discharging through the facility's ocean outfall, as determined by the department, using monitoring data available for calendar years 2003 through 2007. Flows diverted ~~Diversion of flows~~ from ~~these~~ facilities to other facilities that provide 100 percent reuse of the diverted flows prior to December 31, 2025, shall be considered to contribute to meeting the 60 percent ~~60-percent~~ reuse requirement. For utilities operating more than one outfall, the reuse requirement can be met if the combined actual reuse flows from facilities served by the outfalls is at least 60 percent of the sum of the total actual flows from the ~~these~~ facilities, including flows diverted to other facilities for 100 percent reuse prior to December 31, 2025. In the event treatment in addition to the advanced wastewater treatment and management requirements described in paragraph (b) is needed in order to support a functioning reuse system, such treatment shall be fully operational no later than December 31, 2025.

(d) The discharge of domestic wastewater through ocean outfalls is prohibited after December 31, 2025, except as a backup discharge that is part of a functioning reuse system authorized by the department as provided for in paragraph (c). A backup discharge may occur only during periods of reduced demand for reclaimed water in the reuse system, such as periods of wet weather, and shall comply with the advanced wastewater treatment and management requirements of paragraph (b).

(e) The holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall as of July 1, 2008, shall submit to the secretary of the department the following:

1. A detailed plan to meet the requirements of this subsection, including an identification of all land acquisition and facilities necessary to provide for reuse of the domestic wastewater; an analysis of the costs to meet the requirements; and a financing plan for meeting the requirements, including identifying any actions necessary to implement the financing plan, such as bond issuance or other borrowing, assessments, rate increases, fees, other charges, or other financing mechanisms. The plan shall include a detailed schedule for the completion of all necessary actions and shall be accompanied

by supporting data and other documentation. The plan shall be submitted no later than July 1, 2013.

2. No later than July 1, 2016, an update of the plan required in subparagraph 1. documenting any refinements or changes in the costs, actions, or financing necessary to eliminate the ocean outfall discharge in accordance with this subsection or a written statement that the plan is current and accurate.

(f) By December 31, 2009, and by December 31 every 5 years thereafter, the holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall shall submit to the secretary of the department a report summarizing the actions accomplished to date and the actions remaining and proposed to meet the requirements of this subsection, including progress toward meeting the specific deadlines set forth in paragraphs (b) through (e). The report shall include the detailed schedule for and status of the evaluation of reuse and disposal options, preparation of preliminary design reports, preparation and submittal of permit applications, construction initiation, construction progress milestones, construction completion, initiation of operation, and continuing operation and maintenance.

(g) No later than July 1, 2010, and by July 1 every 5 years thereafter, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of this subsection. The report shall summarize progress to date, including the increased amount of reclaimed water provided and potable water offsets achieved, and identify any obstacles to continued progress, including all instances of substantial noncompliance.

(h) By February 1, 2012, the department shall submit a report to the Governor and Legislature detailing the results and recommendations from phases 1 through 3 of its ongoing study on reclaimed water use.

(i)~~(h)~~ The renewal of each permit that authorizes the discharge of domestic wastewater through an ocean outfall as of July 1, 2008, shall be accompanied by an order in accordance with s. 403.088(2)(e) and (f) which establishes an enforceable compliance schedule consistent with the requirements of this subsection.

(j) An entity that diverts wastewater flow from a receiving facility that discharges domestic wastewater through an ocean outfall must meet the 60 percent reuse requirement of paragraph (c). Reuse by the diverting entity of the diverted flows shall be credited to the diverting entity. The diverted flow shall also be correspondingly deducted from the receiving facility's actual flow on an annual basis from which the required reuse is calculated pursuant to paragraph (c), and the receiving facility's reuse requirement shall be recalculated accordingly.

(10) The Legislature finds that the discharge of inadequately treated and managed domestic wastewater from dozens of small wastewater facilities and thousands of septic tanks and other onsite systems in the Florida Keys compromises the quality of the coastal environment, including nearshore and offshore waters, and threatens the quality of life and local economies that depend on those resources. The Legislature also finds that the only practical and cost-effective way to fundamentally improve wastewater management in the Florida Keys is for the local governments in Monroe County, including those special districts established for the purpose of collection, transmission, treatment, or disposal of sewage, to timely complete the wastewater or sewage treatment and disposal facilities initiated under the work program of Administration Commission rule 28-20, Florida Administrative Code, and the Monroe County Sanitary Master Wastewater Plan, dated June 2000. The Legislature therefore declares that the construction and operation of comprehensive central wastewater systems in accordance with this subsection is in the public interest. To give effect to those findings, the requirements of this subsection apply to all domestic wastewater facilities in Monroe County, including privately owned facilities, unless otherwise provided under this subsection.

(a) The discharge of domestic wastewater into surface waters is prohibited.

(b) Monroe County, each municipality, and those special districts established for the purpose of collection, transmission, treatment, or disposal of sewage in Monroe County shall complete the wastewater collection, treatment, and disposal facilities within its jurisdiction designated as hot spots in the Monroe County Sanitary Master Wastewater Plan, dated June 2000, specifically listed in Exhibits 6-1 through 6-3 of Chapter 6 of the plan and mapped in Exhibit F-1 of Appendix F of the plan. The required facilities and connections, and any additional facilities or other adjustments required by rules adopted by the Administration Commission under s. 380.0552, must be completed by December 31, 2015, pursuant to specific schedules established by the commission. Domestic wastewater facilities located outside local government and special district service areas must meet the treatment and disposal requirements of this subsection by December 31, 2015.

(c) After December 31, 2015, all new or expanded domestic wastewater discharges must comply with the treatment and disposal requirements of this subsection and department rules.

(d) Wastewater treatment facilities having design capacities:

1. Greater than or equal to 100,000 gallons per day must provide basic disinfection as defined by department rule and the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 5 mg/l.

b. Suspended Solids of 5 mg/l.

c. Total Nitrogen, expressed as N, of 3 mg/l.

d. Total Phosphorus, expressed as P, of 1 mg/l.

2. Less than 100,000 gallons per day must provide basic disinfection as defined by department rule and the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l.

d. Total Phosphorus, expressed as P, of 1 mg/l.

(e) Class V injection wells, as defined by department or Department of Health rule, must meet the following requirements and otherwise comply with department or Department of Health rules, as applicable:

1. If the design capacity of the facility is less than 1 million gallons per day, the injection well must be at least 90 feet deep and cased to a minimum depth of 60 feet or to such greater cased depth and total well depth as may be required by department rule.

2. Except as provided in subparagraph 3. for backup wells, if the design capacity of the facility is equal to or greater than 1 million gallons per day, each primary injection well must be cased to a minimum depth of 2,000 feet or to such greater depth as may be required by department rule.

3. If an injection well is used as a backup to a primary injection well, the following conditions apply:

a. The backup well may be used only when the primary injection well is out of service because of equipment failure, power failure, or the need for mechanical integrity testing or repair;

b. The backup well may not be used for more than a total of 500 hours during any 5-year period unless specifically authorized in writing by the department;

c. The backup well must be at least 90 feet deep and cased to a minimum depth of 60 feet, or to such greater cased depth and total well depth as may be required by department rule; and

d. Fluid injected into the backup well must meet the requirements of paragraph (d).

(f) The requirements of paragraphs (d) and (e) do not apply to:

1. Class I injection wells as defined by department rule, including any authorized mechanical integrity tests;

2. Authorized mechanical integrity tests associated with Class V wells as defined by department rule; or

3. The following types of reuse systems authorized by department rule:

a. Slow-rate land application systems;

b. Industrial uses of reclaimed water; and

c. Use of reclaimed water for toilet flushing, fire protection, vehicle washing, construction dust control, and decorative water features.

However, disposal systems serving as backups to reuse systems must comply with the other provisions of this subsection.

(g) For wastewater treatment facilities in operation as of July 1, 2010, which are located within areas to be served by Monroe County, municipalities in Monroe County, or those special districts established for the purpose of collection, transmission, treatment, or disposal of sewage but which are owned by other entities, the requirements of paragraphs (d) and (e) do not apply until January 1, 2016. Wastewater operating permits issued pursuant to this chapter and in effect for these facilities as of June 30, 2010, are extended until December 31, 2015, or until the facility is connected to a local government central wastewater system, whichever occurs first. Wastewater treatment facilities in operation after December 31, 2015, must comply with the treatment and disposal requirements of this subsection and department rules.

(h) If it is demonstrated that a discharge, even if the discharge is otherwise in compliance with this subsection, will cause or contribute to a violation of state water quality standards, the department shall:

1. Require more stringent effluent limitations;

2. Order the point or method of discharge changed;

3. Limit the duration or volume of the discharge; or

4. Prohibit the discharge.

(i) All sewage treatment facilities must monitor effluent for total nitrogen and total phosphorus concentration as required by department rule.

(j) The department shall require the levels of operator certification and staffing necessary to ensure proper operation and maintenance of sewage facilities.

(k) The department may adopt rules necessary to carry out this subsection.

(l) The authority of a local government, including a special district, to mandate connection of a wastewater facility, as defined by department rule, is governed by section 4 of chapter 99-395, Laws of Florida.

Section 39. Section 5 of chapter 99-395, Laws of Florida; and section 6 of chapter 99-395, Laws of Florida, as amended by section 1 of chapter 2001-337, and section 1 of chapter 2004-455, Laws of Florida, are repealed.

Section 40. Subsection (2) of section 403.1835, Florida Statutes, is reordered and amended, and subsections (3) and (10) of that section are amended, to read:

403.1835 Water pollution control financial assistance.—

(2) As used in ~~For the purposes of~~ this section and s. 403.1837, the term:

(c)~~(a)~~ "Local governmental agencies" refers to any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing, acting jointly in connection with a project having jurisdiction over collection, transmission, treatment, or disposal of sewage, industrial wastes, stormwater, or other wastes and includes a district or authority whose ~~the~~ principal responsibility ~~of which~~ is to provide airport, industrial or research park, or port facilities to the public.

(a)~~(b)~~ "Bonds" means bonds, certificates, or other obligations of indebtedness issued by the ~~Florida Water Pollution Control Financing~~ corporation under this section and s. 403.1837.

(b)~~(c)~~ "Corporation" means the Florida Water Pollution Control Financing Corporation created under s. 403.1837.

(3) The department may provide financial assistance through any program authorized under 33 U.S.C. s. 1383 ~~s.603 of the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500~~, as amended, including, but not limited to, making grants and loans, providing loan guarantees, purchasing loan insurance or other credit enhancements, and buying or refinancing local debt. This financial assistance must be administered in accordance with this section and applicable federal authorities. ~~The department shall administer all programs operated from funds secured through the activities of the Florida Water Pollution Control Financing corporation under s. 403.1837, to fulfill the purposes of this section.~~

(a) The department may make or request the corporation to make loans to local government agencies, which ~~agencies~~ may pledge any revenue available to them to repay any funds borrowed.

(b) The department may make or request the corporation to make loans, grants, and deposits to other entities eligible to participate in the financial assistance programs authorized under the Federal Water Pollution Control Act, or as a result of other federal action, which ~~entities~~ may pledge any

revenue available to them to repay any funds borrowed. Notwithstanding s. 17.57, the department may make deposits to financial institutions that ~~which~~ earn less than the prevailing rate for United States Treasury securities that have ~~with~~ corresponding maturities for the purpose of enabling such financial institutions to make below-market interest rate loans to entities qualified to receive loans under this section and the rules of the department.

(c) The department shall administer financial assistance so that at least 15 percent of the funding made available each year under this section is reserved for use by small communities during the year it is reserved.

(d) The department may make grants to financially disadvantaged small communities, as defined in s. 403.1838, using funds made available from grant allocations on loans authorized under subsection (4). The grants must be administered in accordance with s. 403.1838.

(10) The department may adopt rules regarding program administration; project eligibilities and priorities, including the development and management of project priority lists; financial assistance application requirements associated with planning, design, construction, and implementation activities, including environmental and engineering requirements; financial assistance agreement conditions; disbursement and repayment provisions; auditing provisions; program exceptions; the procedural and contractual relationship between the department and the ~~Florida Water Pollution Control Financing~~ corporation under s. 403.1837; and other provisions consistent with the purposes of this section.

Section 41. Section 403.1837, Florida Statutes, is amended to read:

403.1837 Florida Water Pollution Control Financing Corporation.—

(1) The Florida Water Pollution Control Financing Corporation is created as a nonprofit public-benefit corporation for the purpose of financing or refinancing the costs of ~~water pollution control~~ projects and activities described in ss. ~~s.~~ 403.1835 and 403.8532. The projects and activities described in those sections ~~that section are found to~~ constitute a public governmental purpose; are ~~be~~ necessary for the health, safety, and welfare of all residents; and include legislatively approved fixed capital outlay projects. Fulfilling ~~The fulfillment of~~ the purposes of the corporation promotes the health, safety, and welfare of the people of the state and serves essential governmental functions and a paramount public purpose. The activities of the corporation are specifically limited to assisting the department in implementing financing activities to provide funding for the programs authorized in ss. ~~s.~~ 403.1835 and 403.8532. All other activities relating to the purposes for which the corporation raises funds are the responsibility of the department, including, but not limited to, development of program criteria, review of applications for financial assistance, decisions relating to the number and amount of loans or other financial assistance to be provided, and enforcement of the terms of any financial assistance agreements

provided through funds raised by the corporation. The corporation shall terminate upon fulfilling ~~fulfillment of~~ the purposes of this section.

(2) The corporation shall be governed by a board of directors consisting of the Governor's Budget Director or ~~the budget director's~~ designee, the Chief Financial Officer or ~~the Chief Financial Officer's~~ designee, and the Secretary of Environmental Protection or ~~the secretary's~~ designee. The executive director of the State Board of Administration shall be the chief executive officer of the corporation; shall direct and supervise the administrative affairs of the corporation; and shall control, direct, and supervise operation of the corporation. The corporation shall have such other officers as may be determined by the board of directors.

(3) The corporation shall have all the powers of a corporate body under the laws of the state, consistent ~~to the extent not inconsistent~~ with ~~or restricted by~~ this section, including, but not limited to, the power to:

(a) Adopt, amend, and repeal bylaws consistent ~~not inconsistent~~ with this section.

(b) Sue and be sued.

(c) Adopt and use a common seal.

(d) Acquire, purchase, hold, lease, and convey any real and personal property as may be proper or expedient to carry out the purposes of the corporation and this section, and to sell, lease, or otherwise dispose of that property.

(e) Elect or appoint and employ such officers, agents, and employees as the corporation considers advisable to operate and manage the affairs of the corporation, who ~~which officers, agents, and employees~~ may be officers or employees of the department and the state agencies represented on the board of directors of the corporation.

(f) Borrow money and issue notes, bonds, certificates of indebtedness, or other obligations or evidences of indebtedness described in s. 403.1835 or s. 403.8532.

(g) Operate, as specifically directed by the department, any program to provide financial assistance authorized under s. 403.1835(3) or s. 403.8532(3), which may be funded from any funds received under a service contract with the department, from the proceeds of bonds issued by the corporation, or from any other funding sources obtained by the corporation.

(h) Sell all or any portion of the loans issued under s. 403.1835 or s. 403.8532 to accomplish the purposes of those sections ~~this section and s. 403.1835~~.

(i) Make and execute any contracts, trust agreements, and other instruments and agreements necessary or convenient to accomplish the purposes of the corporation and this section.

(j) Select, retain, and employ professionals, contractors, or agents, which may include the Division of Bond Finance of the State Board of Administration, as ~~are~~ necessary or convenient to enable or assist the corporation in carrying out its purposes and this section.

(k) Do any act or thing necessary or convenient to carry out the purposes of the corporation and this section.

(4) The corporation shall evaluate all financial and market conditions necessary and prudent for the purpose of making sound, financially responsible, and cost-effective decisions in order to secure additional funds to fulfill the purposes of this section and ss. ~~s.~~ 403.1835 and 403.8532.

(5) The corporation may enter into one or more service contracts with the department under which the corporation shall provide services to the department in connection with financing the functions, projects, and activities provided ~~for~~ in ss. ~~s.~~ 403.1835 and 403.8532. The department may enter into one or more service contracts with the corporation and provide for payments under those contracts pursuant to s. 403.1835(9) or s. 403.8533, subject to annual appropriation by the Legislature.

(a) The service contracts may provide for the transfer of all or a portion of the funds in the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund and the Drinking Water Revolving Loan Trust Fund to the corporation for use by the corporation for costs incurred by the corporation in its operations, including, but not limited to, payment of debt service, reserves, or other costs in relation to bonds issued by the corporation, for use by the corporation at the request of the department to directly provide the types of local financial assistance provided ~~for~~ in ss. ~~s.~~ 403.1835(3) and 403.8532(3), or for payment of the administrative costs of the corporation.

(b) The department may not transfer funds under any service contract with the corporation without a specific appropriation for such purpose in the General Appropriations Act, except for administrative expenses incurred by the State Board of Administration or other expenses necessary under documents authorizing or securing previously issued bonds of the corporation. The service contracts may also provide for the assignment or transfer to the corporation of any loans made by the department.

(c) The service contracts may establish the operating relationship between the department and the corporation and must ~~shall~~ require the department to request the corporation to issue bonds before any issuance of bonds by the corporation, to take any actions necessary to enforce the agreements entered into between the corporation and other parties, and to take all other actions necessary to assist the corporation in its operations.

(d) In compliance with s. 287.0641 and other applicable provisions of law, the obligations of the department under the service contracts do not constitute a general obligation of the state or a pledge of the faith and credit or taxing power of the state, nor may the obligations be construed ~~in any manner~~ as an obligation of the State Board of Administration or entities for which it invests funds, or of the department except as provided in this section as payable solely from amounts available under any service contract between the corporation and the department, subject to appropriation.

(e) In compliance with this subsection and s. 287.0582, service contracts must expressly include the following statement: "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

(6) The corporation may issue and incur notes, bonds, certificates of indebtedness, or other obligations or evidences of indebtedness payable from and secured by amounts received from payment of loans and other moneys received by the corporation, including, but not limited to, amounts payable to the corporation by the department under a service contract entered into under subsection (5). The proceeds of the bonds may be used for the purpose of providing funds for projects and activities provided ~~for~~ in subsection (1) or for refunding bonds previously issued by the corporation. The corporation may select a financing team and issue obligations through competitive bidding or negotiated contracts, whichever is most cost-effective. ~~Any~~ Such indebtedness of the corporation does not constitute a debt or obligation of the state or a pledge of the faith and credit or taxing power of the state.

(7) The corporation is exempt from taxation and assessments of any nature whatsoever upon its income and any property, assets, or revenues acquired, received, or used in the furtherance of the purposes provided in ss. 403.1835, ~~and~~ 403.1838, and 403.8532. The obligations of the corporation incurred under subsection (6) and the interest and income on the obligations and all security agreements, letters of credit, liquidity facilities, or other obligations or instruments arising out of, entered into in connection with, or given to secure payment of the obligations are exempt from all taxation; however, the exemption does not apply to any tax imposed by chapter 220 on the interest, income, or profits on debt obligations owned by corporations.

(8) The corporation shall validate any bonds issued under this section, except refunding bonds, which may be validated at the option of the corporation, by proceedings under chapter 75. The validation complaint must be filed ~~only~~ in the Circuit Court for Leon County. The notice required under s. 75.06 must be published in Leon County, and the complaint and order of the circuit court shall be served only on the State Attorney for the Second Judicial Circuit. Sections 75.04(2) and 75.06(2) do not apply to a validation complaint filed as authorized in this subsection. The validation of the first bonds issued under this section may be appealed to the Supreme Court, and the appeal shall be handled on an expedited basis.

(9) The corporation and the department may ~~shall~~ not take any action that ~~will~~ materially and adversely affects ~~affect~~ the rights of holders of any obligations issued under this section as long as the obligations are outstanding.

(10) The corporation is not a special district for purposes of chapter 189 or a unit of local government for purposes of part III of chapter 218. The provisions of chapters 120 and 215, except the limitation on interest rates provided by s. 215.84, which applies to obligations of the corporation issued under this section, and part I of chapter 287, except ss. 287.0582 and 287.0641, do not apply to this section, the corporation ~~created in this section~~, the service contracts entered into under this section, or debt obligations issued by the corporation as provided in this section.

(11) The benefits or earnings of the corporation may not inure to the benefit of any private person, except persons receiving grants and loans under s. 403.1835 or s. 403.8532.

(12) Upon dissolution of the corporation, title to all property owned by the corporation reverts to the department.

(13) The corporation may contract with the State Board of Administration to serve as trustee with respect to debt obligations issued by the corporation as provided by this section; to hold, administer, and invest proceeds of those debt obligations and other funds of the corporation; and to perform other services required by the corporation. The State Board of Administration may perform these services and may contract with others to provide all or a part of those services and to recover the costs and expenses of providing those services.

Section 42. Subsections (2), (3), (9), and (14) of section 403.8532, Florida Statutes, are amended to read:

403.8532 Drinking water state revolving loan fund; use; rules.—

(2) For purposes of this section, the term:

(a) "Bonds" means bonds, certificates, or other obligations of indebtedness issued by the corporation under this section and s. 403.1837.

(b) "Corporation" means the Florida Water Pollution Control Financing Corporation created pursuant to s. 403.1837.

(c)~~(a)~~ "Financially disadvantaged community" means the service area of a project to be served by a public water system that meets criteria established by department rule and in accordance with federal guidance.

(d)~~(b)~~ "Local governmental agency" means any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing acting jointly in connection with a project, having jurisdiction over a public water system.

(e)~~(c)~~ "Public water system" means all facilities, including land, necessary for the treatment and distribution of water for human consumption and includes public water systems as defined in s. 403.852 and as otherwise defined in the federal Safe Drinking Water Act, as amended. Such systems may be publicly owned, privately owned, investor-owned, or cooperatively held.

(f)~~(d)~~ "Small public water system" means a public water system that ~~which~~ regularly serves fewer than 10,000 people.

(3) The department may ~~is authorized to~~ make, or request that the corporation make, loans, grants, and deposits to community water systems, nonprofit transient noncommunity water systems, and nonprofit nontransient noncommunity water systems to assist them in planning, designing, and constructing public water systems, unless such public water systems are for-profit privately owned or investor-owned systems that regularly serve 1,500 service connections or more within a single certified or franchised area. However, a for-profit privately owned or investor-owned public water system that regularly serves 1,500 service connections or more within a single certified or franchised area may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems. The department may ~~is authorized to~~ provide loan guarantees, ~~to~~ purchase loan insurance, and ~~to~~ refinance local debt through the issue of new loans for projects approved by the department. Public water systems may ~~are authorized to~~ borrow funds made available pursuant to this section and may pledge any revenues or other adequate security available to them to repay any funds borrowed.

(a) The department shall administer loans so that amounts credited to the Drinking Water Revolving Loan Trust Fund in any fiscal year are reserved for the following purposes:

1.~~(a)~~ At least 15 percent for ~~to~~ qualifying small public water systems.

2.~~(b)~~ Up to 15 percent for ~~to~~ qualifying financially disadvantaged communities.

(b)~~(c)~~ ~~However,~~ If an insufficient number of the projects for which funds are reserved under this subsection ~~paragraph~~ have been submitted to the department at the time the funding priority list authorized under this section is adopted, the reservation of these funds ~~shall~~ no longer applies ~~apply~~. The department may award the unreserved funds as otherwise provided in this section.

(9) The department may adopt rules regarding the procedural and contractual relationship between the department and the corporation under s. 403.1837 and ~~is authorized to make rules necessary~~ to carry out the purposes of this section and the federal Safe Drinking Water Act, as amended. Such rules shall:

(a) Set forth a priority system for loans based on public health considerations, compliance with state and federal requirements relating to public drinking water systems, and affordability. The priority system shall give special consideration to ~~the following~~:

1. Projects that provide for the development of alternative drinking water supply projects and management techniques in areas where existing source waters are limited or threatened by saltwater intrusion, excessive drawdowns, contamination, or other problems;

2. Projects that provide for a dependable, sustainable supply of drinking water and that are not otherwise financially feasible; and

3. Projects that contribute to the sustainability of regional water sources.

(b) Establish the requirements for the award and repayment of financial assistance.

(c) Require evidence of credit worthiness and adequate security, including an identification of revenues to be pledged, and documentation of their sufficiency for loan repayment and pledged revenue coverage, to ensure that each loan recipient can meet its loan repayment requirements.

(d) Require each project receiving financial assistance to be cost-effective, environmentally sound, implementable, and self-supporting.

(e) Implement other provisions of the federal Safe Drinking Water Act, as amended.

(14) ~~All moneys available for financial assistance under this section shall be deposited in~~ The Drinking Water Revolving Loan Trust Fund established under s. 403.8533 shall be used exclusively to carry out the purposes of this section. Any funds that ~~therein which~~ are not needed on an immediate basis for financial assistance shall be invested pursuant to s. 215.49. State revolving fund capitalization grants awarded by the Federal Government, state matching funds, and investment earnings thereon shall be deposited into the fund. The principal and interest of all loans repaid and investment earnings thereon shall be deposited into the fund.

Section 43. Section 403.8533, Florida Statutes, is amended to read:

403.8533 Drinking Water Revolving Loan Trust Fund.—

(1) There is created the Drinking Water Revolving Loan Trust Fund to be administered by the Department of Environmental Protection for the purposes of:

(a) Funding for low-interest loans for planning, engineering design, and construction of public drinking water systems and improvements to such systems;

(b) Funding for compliance activities, operator certification programs, and source water protection programs; ~~and~~

(c) Funding for administering loans by the department; and~~.~~

(d) Paying amounts payable under any service contract entered into by the department under s. 403.1837, subject to annual appropriation by the Legislature.

(2) The trust fund shall be used for the deposit of all moneys awarded by the Federal Government to fund revolving loan programs. All moneys in the fund that are not needed on an immediate basis for loans shall be invested pursuant to s. 215.49. The principal and interest of all loans repaid and investment earnings shall be deposited into this fund.

(3) Pursuant to s. 19(f)(3), Art. III of the State Constitution, the Drinking Water Revolving Loan Trust Fund is exempt from the termination provisions of s. 19(f)(2), Art. III of the State Constitution.

Section 44. Subsection (6) of section 369.317, Florida Statutes, is amended to read:

369.317 Wekiva Parkway.—

(6) The Orlando-Orange County Expressway Authority is hereby granted the authority to act as a third-party acquisition agent, pursuant to s. 259.041 on behalf of the Board of Trustees or chapter 373 on behalf of the governing board of the St. Johns River Water Management District, for the acquisition of all necessary lands, property and all interests in property identified herein, including fee simple or less-than-fee simple interests. The lands subject to this authority are identified in paragraph 10.a., State of Florida, Office of the Governor, Executive Order 03-112 of July 1, 2003, and in Recommendation 16 of the Wekiva Basin Area Task Force created by Executive Order 2002-259, such lands otherwise known as Neighborhood Lakes, a 1,587+/- acre parcel located in Orange and Lake Counties within Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East; Seminole Woods/ Swamp, a 5,353+/- acre parcel located in Lake County within Section 37, Township 19 South, Range 28 East; New Garden Coal; a 1,605+/- acre parcel in Lake County within Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28 East; Pine Plantation, a 617+/- acre tract consisting of eight individual parcels within the Apopka City limits. The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, and other land acquisition entities shall participate and cooperate in providing information and support to the third-party acquisition agent. The land acquisition process authorized by this paragraph shall begin no later than December 31, 2004. Acquisition of the properties identified as Neighborhood Lakes, Pine Plantation, and New Garden Coal, or approval as a mitigation bank shall be concluded no later than December 31, 2010. Department of Transportation and Orlando-Orange

County Expressway Authority funds expended to purchase an interest in those lands identified in this subsection shall be eligible as environmental mitigation for road construction related impacts in the Wekiva Study Area. If any of the lands identified in this subsection are used as environmental mitigation for road construction related impacts incurred by the Department of Transportation or Orlando-Orange County Expressway Authority, or for other impacts incurred by other entities, within the Wekiva Study Area or within the Wekiva parkway alignment corridor, and if the mitigation offsets these impacts, the St. Johns River Water Management District and the Department of Environmental Protection shall consider the activity regulated under part IV of chapter 373 to meet the cumulative impact requirements of s. 373.414(8)(a).

Section 45. Subsection (20) is added to section 215.47, Florida Statutes, to read:

215.47 Investments; authorized securities; loan of securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(20) The State Board of Administration, consistent with its fiduciary duties, may invest net assets of the system trust fund in projects deemed eligible under the provisions of s. 373.707.

Section 46. Subsection (8) is added to section 373.129, Florida Statutes, to read:

373.129 Maintenance of actions.—The department, the governing board of any water management district, any local board, or a local government to which authority has been delegated pursuant to s. 373.103(8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes:

(8) In conflicts arising where a water management district is a party to litigation against another governmental entity, as defined in s. 164.1031, a district has an affirmative duty to engage in alternative dispute resolution in good faith as required by chapter 164.

Section 47. Paragraph (b) of subsection (9) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(9) The department shall establish a separate category for solid waste management facilities that accept only construction and demolition debris for disposal or recycling. The department shall establish a reasonable schedule for existing facilities to comply with this section to avoid undue hardship to such facilities. However, a permitted solid waste disposal unit that receives a significant amount of waste prior to the compliance deadline

established in this schedule shall not be required to be retrofitted with liners or leachate control systems.

(b) The department shall ~~not~~ require liners and leachate collection systems at individual disposal units and lateral expansions of existing disposal units that have not received a department permit authorizing construction or operation prior to July 1, 2010, ~~facilities~~ unless the owner or operator ~~it~~ demonstrates, based upon the types of waste received, the methods for controlling types of waste disposed of, the proximity of the groundwater and surface water, and the results of the hydrogeological and geotechnical investigations, that the facility is not ~~reasonably~~ expected to result in violations of the groundwater standards and criteria if built without a liner ~~otherwise~~.

Section 48. Section 298.66, Florida Statutes, is amended to read:

298.66 Obstruction of public drainage canals, etc., prohibited; damages; penalties.—

(1) A ~~No~~ person may not willfully, or otherwise, obstruct any public canal, drain, ditch or watercourse or damage or destroy any public drainage works constructed in or maintained by any district.

(2)~~(1)~~ Any person who ~~shall~~ willfully obstructs ~~obstruct~~ any public canal, drain, ditch, or watercourse or damages or destroys ~~shall damage or destroy~~ any public drainage works constructed in or maintained by any district~~,~~ shall be liable to any person injured thereby for the full amount of the injury occasioned to any land or crops or other property by reason of such misconduct~~,~~ and shall be liable to the district constructing the drainage ~~said~~ work for double the cost of removing such obstruction or repairing such damage.

(3)~~(2)~~ Any person who ~~Whoever shall~~ willfully, or otherwise, obstructs ~~obstruct~~ any public canal, drain, ditch, or watercourse, impedes or obstructs ~~or impede or obstruct~~ the flow of water therein, or damages or destroys ~~shall damage or destroy~~ any public drainage works constructed in or maintained by any district commits ~~shall be guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 49. It is the intent of the Legislature that the creation of part VII of chapter 373, Florida Statutes, is to reorganize certain existing provisions of part I of chapter 373, Florida Statutes, and does not make any substantive changes to existing law or judicial interpretation thereof. It is further the intent of the Legislature that any legislation enacted during the 2010 Regular Session and any extension thereof affecting ss. 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, Florida Statutes, either before or after this act becomes law, be given full force and effect substantively and that such new substantive provisions of law shall be integrated into ss. 373.703, 373.705, 373.707, 373.709, 373.711, 373.713, and 373.715, Florida Statutes, as created by this act.

Section 50. Subsection (1) of section 373.0361, Florida Statutes, is amended to read:

373.0361 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for any water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the department, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as members of the public, in the planning process and in seeking input. During preparation, but prior to completion of the regional water supply plan, the district must conduct at least one public workshop to discuss the technical data and modeling tools anticipated to be used to support the regional water supply plan. The district shall also hold several public meetings to communicate the status, overall conceptual intent, and impacts of the plan on existing and future reasonable-beneficial uses and related natural systems. During the planning process, a local government may choose to prepare its own water supply assessment to determine if existing water sources are adequate to meet existing and projected reasonable-beneficial needs of the local government while sustaining water resources and related natural systems. The local government shall submit such assessment, including the data and methodology used, to the district. The district shall consider the local government's assessment during the formation of the plan. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section shall be subject to s. 120.569. The governing board shall reevaluate such a determination at least once every 5 years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

Section 51. Subsection (4) of section 373.079, Florida Statutes, is amended to read:

373.079 Members of governing board; oath of office; staff.—

(4)~~(a)~~ The governing board of the district shall ~~is authorized to~~ employ:

(a) An executive director, ombudsman, and such engineers, other professional persons, and other personnel and assistants as it deems necessary and under such terms and conditions as it may determine and to terminate such employment. The appointment of an executive director by the governing board is subject to approval by the Governor and must be

initially confirmed by the ~~Florida~~ Senate. The governing board may delegate all or part of its authority under this paragraph to the executive director. However, the governing board shall delegate to the executive director all of its authority to take final action on permit applications under ~~part II or~~ part IV or petitions for variances or waivers of permitting requirements under ~~part II or~~ part IV~~, except for denials of such actions as provided in s. 373.083(5)~~.

1. The executive director may execute such delegated authority through designated staff members. Such delegations shall not be subject to the rulemaking requirements of chapter 120. The governing board must provide a process for referring a denial of such application or petition to the governing board for the purpose of taking final action. The executive director must be confirmed by the Senate upon employment and must be confirmed or reconfirmed by the Senate during the second regular session of the Legislature following a gubernatorial election.

2. The delegation required by this paragraph shall expressly prohibit governing board members from individually intervening in any manner during the review of an application before such application is referred to the governing board for final action. This subparagraph does not prohibit the governing board as a collegial body from acting on any permit application or supervising, overseeing, or directing the activities of district staff. This subparagraph expires June 1, 2011, unless reenacted by the Legislature.

(b)~~1. The governing board of each water management district shall employ~~ An inspector general, who shall report directly to the board. However, the governing boards of the Suwannee River Water Management District and the Northwest Florida Water Management District may jointly employ an inspector general, or provide for inspector general services by interagency agreement with a state agency or water management district inspector general.

~~2.~~ An inspector general must have the same qualifications ~~prescribed~~ and perform the applicable duties of state agency inspectors general as provided in s. 20.055.

Section 52. Subsection (5) of section 373.083, Florida Statutes, is amended to read:

373.083 General powers and duties of the governing board.—In addition to other powers and duties allowed it by law, the governing board is authorized to:

(5) Execute any of the powers, duties, and functions vested in the governing board through a member ~~or members thereof~~, the executive director, or other district staff as designated by the governing board. The governing board may establish the scope and terms of any delegation and no delegation shall be subject to the rulemaking requirements of chapter 120. However, if the governing board delegates ~~shall delegate~~ to the executive

director ~~all of~~ its authority to take final action on permit applications under part II ~~or part IV~~ or petitions for variances or waivers of permitting requirements under part II ~~or part IV~~, ~~and~~ the executive director may execute such delegated authority through designated staff. ~~Such delegations shall not be subject to the rulemaking requirements of chapter 120.~~ However, the governing board must ~~shall~~ provide a process for referring a ~~any~~ denial of such application or petition to the governing board for the purpose of taking ~~to take~~ final action. ~~Such process shall expressly prohibit any member of a governing board from intervening in any manner during the review of an application prior to such application being referred to the governing board for final action.~~ The authority to delegate under ~~in~~ this subsection is supplemental to any other provision of this chapter granting authority to the governing board to delegate specific powers, duties, or functions.

Section 53. Subsection (1) of section 373.085, Florida Statutes, is amended to read:

373.085 Use of works or land by other districts or private persons.—

(1)(a) In order to promote water quantity and water resource development, projects that improve flood control, and conservation of lands, the district and other governmental agencies shall encourage public-private partnerships by collaborating, when possible, with those partnerships when procuring materials for infrastructure and restoration work projects, consistent with district and state procurement procedures.

(b) The governing board has authority to prescribe the manner in which local works provided by other districts or by private persons will connect with and make use of the works or land of the district, to issue permits therefor, and to cancel the permits for noncompliance with the conditions thereof or for other cause. It is unlawful to connect with or make use of the works or land of the district without consent in writing from its governing board, and the board has authority to prevent or, if done, estop or terminate the same. The use of the works or land of the district for access is governed by this section and is not subject to the provisions of s. 704.01. However, any land or works of the district which have historically been used for public access to the ocean by means of the North New River Canal and its tributaries may not be closed for this purpose unless the district can demonstrate that significant harm to the resource would result from such public use.

Section 54. Subsection (5) is added to section 373.118, Florida Statutes, to read:

373.118 General permits; delegation.—

(5) To improve efficiency, the governing board may delegate its powers and duties pertaining to general permits to the executive director. The executive director may execute such delegated authority through designated staff. However, when delegating the authority to take final action on permit applications under part II or petitions for variances or waivers of permitting

requirements under part II, the governing board must provide a process for referring a denial of such application or petition to the governing board for the purpose of taking final action. Such delegations are not subject to the rulemaking requirements of chapter 120.

Section 55. Subsection (4) of section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(4) Where necessary to maintain reasonable assurance that the conditions for issuance of a 20-year permit can continue to be met, the governing board or department, in addition to any conditions required pursuant to s. 373.219, may require a compliance report by the permittee every 10 ~~5~~ years during the term of a permit. The Suwannee River Water Management District may require a compliance report by the permittee every 5 years through July 1, 2015, and thereafter every 10 years during the term of the permit. This report shall contain sufficient data to maintain reasonable assurance that the initial conditions for permit issuance are met. Following review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. Permit modifications pursuant to this subsection shall not be subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district. This subsection shall not be construed to limit the existing authority of the department or the governing board to modify or revoke a consumptive use permit.

Section 56. Paragraphs (c) and (d) are added to subsection (3) of section 373.250, Florida Statutes, subsections (4) and (5) of that section are renumbered as subsections (5) and (6), respectively, and a new subsection (4) is added to that section, to read:

373.250 Reuse of reclaimed water.—

(3) The water management district shall, in consultation with the department, adopt rules to implement this section. Such rules shall include, but not be limited to:

(c) Provisions to require permit applicants to provide, as part of their reclaimed water feasibility evaluation for a nonpotable use, written documentation from a reuse utility addressing the availability of reclaimed water. This requirement shall apply when the applicant's proposed use is within an area that is or may be served with reclaimed water by a reuse utility within a 5-year horizon, as established by the reuse utility and provided to the district. If the applicable reuse utility fails to respond or does not provide the information required under paragraph (d) within 30 days after receipt of the request, the applicant shall provide to the district a copy of the written request and a statement that the utility failed to provide the requested information. The district is not required to adopt, by rule, the area

where written documentation from a reuse utility is required, but the district shall publish the area, and any updates thereto, on the district's website. This paragraph may not be construed to limit the ability of a district to require the use of reclaimed water or to limit a utility's ability to plan reclaimed water infrastructure.

(d) Provisions specifying the content of the documentation required in paragraph (c), including sufficient information regarding the availability and costs associated with the connection to and the use of reclaimed water, to facilitate the permit applicant's reclaimed water feasibility evaluation.

(4) Reuse utilities and the applicable water management district or districts are encouraged to periodically coordinate and share information concerning the status of reclaimed water distribution system construction, the availability of reclaimed water supplies, and existing consumptive use permits in areas served by the reuse utility.

Section 57. The water management districts shall initiate rulemaking no later than July 1, 2011, to implement the requirements of s. 373.250(3)(c) and (d), Florida Statutes, as created by this act.

Section 58. (1) The Legislature finds the following with respect to nutrient water quality standards:

(a) Nutrients are essential for the biological health and productivity of Florida waters.

(b) A delicate relationship exists between the level of nutrients in a waterbody and its health and productivity.

(c) Increasing the level of nutrients in combination with site-specific conditions can cause impairment to a waterbody.

(d) The establishment of numeric nutrient criteria in a manner that fails to take into account site-specific factors may result in criteria that lack adequate scientific support and cause unintended environmental and economic consequences.

(e) The total maximum daily load program is the best mechanism for establishing numeric nutrient standards for nutrient-impaired waterbodies and restoring nutrient-impaired waterbodies, and consistent with the congressional intent expressed in the Clean Water Act, any numeric nutrient criteria established pursuant to s. 303(c) of the Clean Water Act should work in concert with the total maximum daily load program, the state stormwater treatment rule, and other water quality programs.

(f) The state currently implements a narrative nutrient criterion and, while complicated, the establishment of sound science-based numeric nutrient criteria to complement the narrative criterion would enhance the ability of the state to achieve a balance of adequate nutrients to sustain

aquatic life while not allowing excess nutrients that will alter the aquatic ecosystem.

(g) The state's reclaimed lakes, canals, and ditches represent unique surface waters for which alternative uses and associated criteria are appropriate.

(2) The Legislature further finds the following with respect to the United States Environmental Protection Agency's nutrient water quality criteria rulemaking:

(a) The agency's January 2010 proposed water quality standards for the state fail to take into account the unique characteristics of the state's many thousands of rivers, streams, and canals.

(b) The agency's January 2010 proposed water quality standards fail to incorporate, and may undermine, the state's science-based total maximum daily loads program.

(c) The finalization and implementation of the agency's January 2010 proposed water quality standards will have severe economic consequences on the state's agriculture, local governments, wastewater utilities, economically vital industries, small businesses, and residents living below the poverty level or on fixed incomes.

Section 59. Subsections (1), (2), and (3) of section 220.1845, Florida Statutes, are renumbered as subsections (2), (3), and (4), respectively, and a new subsection (1) is added to that section to read:

220.1845 Contaminated site rehabilitation tax credit.—

(1) APPLICATION FOR TAX CREDIT.—A site rehabilitation application must be received by the Division of Waste Management of the Department of Environmental Protection by January 31 of the year after the calendar year for which site rehabilitation costs are being claimed in a tax credit application. All site rehabilitation costs claimed must have been for work conducted between January 1 and December 31 of the year for which the application is being submitted. All payment requests must have been received and all costs must have been paid prior to submittal of the tax credit application, but no later than January 31 of the year after the calendar year for which site rehabilitation costs are being claimed.

Section 60. Paragraph (a) of subsection (5), paragraph (c) of subsection (6), and subsections (9) and (10) of section 376.30781, Florida Statutes, are amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(5) To claim the credit for site rehabilitation or solid waste removal, each tax credit applicant must apply to the Department of Environmental Protection for an allocation of the $2 million annual credit by filing a tax credit application with the Division of Waste Management on a form developed by the Department of Environmental Protection in cooperation with the Department of Revenue. The form shall include an affidavit from each tax credit applicant certifying that all information contained in the application, including all records of costs incurred and claimed in the tax credit application, are true and correct. If the application is submitted pursuant to subparagraph (3)(a)2., the form must include an affidavit signed by the real property owner stating that it is not, and has never been, the owner or operator of the drycleaning facility where the contamination exists. Approval of tax credits must be accomplished on a first-come, first-served basis based upon the date and time complete applications are received by the Division of Waste Management, subject to the limitations of subsection (14). To be eligible for a tax credit, the tax credit applicant must:

(a) For site rehabilitation tax credits, have entered into a voluntary cleanup agreement with the Department of Environmental Protection for a drycleaning-solvent-contaminated site or a Brownfield Site Rehabilitation Agreement, as applicable, and have paid all deductibles pursuant to s. 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program sites, as applicable. A site rehabilitation tax credit applicant must submit only a single completed application per site for each calendar year's site rehabilitation costs. A site rehabilitation application must be received by the Division of Waste Management of the Department of Environmental Protection by January 31 of the year after the calendar year for which site rehabilitation costs are being claimed in a tax credit application. <u>All site rehabilitation costs claimed must have been for work conducted between January 1 and December 31 of the year for which the application is being submitted. All payment requests must have been received and all costs must have been paid prior to submittal of the tax credit application, but no later than January 31 of the year after the calendar year for which site rehabilitation costs are being claimed.</u>

(6) To obtain the tax credit certificate, the tax credit applicant must provide all pertinent information requested on the tax credit application form, including, at a minimum, the name and address of the tax credit applicant and the address and tracking identification number of the eligible site. Along with the tax credit application form, the tax credit applicant must submit the following:

(c) Proof that the documentation submitted pursuant to paragraph (b) has been reviewed and verified by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants. Specifically, a certified public accountant's report must be submitted and the certified public accountant must attest to the accuracy and validity of the costs <u>claimed</u> ~~incurred and paid during the time period covered~~ in the application by conducting an independent review of the data presented by the tax credit applicant. Accuracy and validity of

costs incurred and paid shall be determined after the level of effort is certified by an appropriate professional registered in this state in each contributing technical discipline. The certified public accountant's report must also attest that the costs included in the application form are not duplicated within the application, that all payment requests were received and all costs were paid prior to submittal of the tax credit application, and, for site rehabilitation tax credits, that all costs claimed are for work conducted between January 1 and December 31 of the year for which the application is being submitted. A copy of the accountant's report shall be submitted to the Department of Environmental Protection in addition to the accountant's certification form in the tax credit application; and

(9) On or before May 1, the Department of Environmental Protection shall inform each tax credit applicant that is subject to the January 31 annual application deadline of the applicant's eligibility status and the amount of any tax credit due. The department shall provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(2)(g) ~~s. 220.1845(1)(g)~~. The May 1 deadline for annual site rehabilitation tax credit certificate awards shall not apply to any tax credit application for which the department has issued a notice of deficiency pursuant to subsection (8). The department shall respond within 90 days after receiving a response from the tax credit applicant to such a notice of deficiency. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

(10) For solid waste removal, new health care facility or health care provider, and affordable housing tax credit applications, the Department of Environmental Protection shall inform the applicant of the department's determination within 90 days after the application is deemed complete. Each eligible tax credit applicant shall be informed of the amount of its tax credit and provided with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(2)(g) ~~s. 220.1845(1)(g)~~. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

Section 61. Section 376.85, Florida Statutes, is amended to read:

376.85 Annual report.—The Department of Environmental Protection shall prepare and submit ~~an annual report~~ to the President of the Senate and the Speaker of the House of Representatives by August 1 of each year a report that includes ~~Legislature, beginning in December 1998, which shall include~~, but is not ~~be~~ limited to, the number, size, and locations of brownfield sites: that have been remediated under the provisions of this act,~~;~~ that are currently under rehabilitation pursuant to a negotiated site rehabilitation agreement with the department or a delegated local program,~~;~~ where alternative cleanup target levels have been established pursuant to s. 376.81(1)(g)3.,~~;~~ and~~,~~ where engineering and institutional control strategies are being employed as conditions of a "no further action order" to maintain the protections provided in s. 376.81(1)(g)1. and 2.

Section 62. Section 403.973, Florida Statutes, is amended to read:

403.973 Expedited permitting; amendments to comprehensive plans ~~plan amendments.—~~

(1) It is the intent of the Legislature to encourage and facilitate the location and expansion of those types of economic development projects which offer job creation and high wages, strengthen and diversify the state's economy, and have been thoughtfully planned to take into consideration the protection of the state's environment. It is also the intent of the Legislature to provide for an expedited permitting and comprehensive plan amendment process for such projects.

(2) As used in this section, the term:

(a) "Duly noticed" means publication in a newspaper of general circulation in the municipality or county with jurisdiction. The notice shall appear on at least 2 separate days, one of which shall be at least 7 days before the meeting. The notice shall state the date, time, and place of the meeting scheduled to discuss or enact the memorandum of agreement, and the places within the municipality or county where such proposed memorandum of agreement may be inspected by the public. The notice must be one-eighth of a page in size and must be published in a portion of the paper other than the legal notices section. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the memorandum of agreement.

(b) "Jobs" means permanent, full-time equivalent positions not including construction jobs.

(c) "Office" means the Office of Tourism, Trade, and Economic Development.

(d) "Permit applications" means state permits and licenses, and at the option of a participating local government, local development permits or orders.

(e) "Secretary" means the Secretary of Environmental Protection or his or her designee.

(3)(a) The secretary ~~Governor, through the office,~~ shall direct the creation of regional permit action teams~~,~~ for the purpose of expediting review of permit applications and local comprehensive plan amendments submitted by:

1. Businesses creating at least 50 ~~100~~ jobs;~~,~~ or

2. Businesses creating at least 25 ~~50~~ jobs if the project is located in an enterprise zone, or in a county having a population of fewer ~~less~~ than 75,000 or in a county having a population of fewer ~~less~~ than 125,000 ~~100,000~~ which is contiguous to a county having a population of fewer ~~less~~ than 75,000, as

determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.~~, or~~

(b) On a case-by-case basis and at the request of a county or municipal government, the office may certify as eligible for expedited review a project not meeting the minimum job creation thresholds but creating a minimum of 10 jobs. The recommendation from the governing body of the county or municipality in which the project may be located is required in order for the office to certify that any project is eligible for expedited review under this paragraph. When considering projects that do not meet the minimum job creation thresholds but that are recommended by the governing body in which the project may be located, the office shall consider economic impact factors that include, but are not limited to:

1. The proposed wage and skill levels relative to those existing in the area in which the project may be located;

2. The project's potential to diversify and strengthen the area's economy;

3. The amount of capital investment; and

4. The number of jobs that will be made available for persons served by the welfare transition program.

(c) At the request of a county or municipal government, the office or a Quick Permitting County may certify projects located in counties where the ratio of new jobs per participant in the welfare transition program, as determined by Workforce Florida, Inc., is less than one or otherwise critical, as eligible for the expedited permitting process. Such projects must meet the numerical job creation criteria of this subsection, but the jobs created by the project do not have to be high-wage jobs that diversify the state's economy.

(d) Projects located in a designated brownfield area are eligible for the expedited permitting process.

(e) Projects that are part of the state-of-the-art biomedical research institution and campus to be established in this state by the grantee under s. 288.955 are eligible for the expedited permitting process, if the projects are designated as part of the institution or campus by the board of county commissioners of the county in which the institution and campus are established.

(f) Projects resulting in the production of biofuels cultivated on lands that are 1,000 acres or more or in the construction of a biofuel or biodiesel processing facility or a facility generating renewable energy, as defined in s. 366.91(2)(d), are eligible for the expedited permitting process.

(4) The regional teams shall be established through the execution of memoranda of agreement developed by the applicant and the secretary, with input solicited from ~~between~~ the office and the respective heads of ~~the Department of Environmental Protection,~~ the Department of Community

Affairs, the Department of Transportation and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, appropriate regional planning councils, appropriate water management districts, and voluntarily participating municipalities and counties. The memoranda of agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

(5) In order to facilitate local government's option to participate in this expedited review process, the secretary ~~office~~ shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement. A local government shall hold a duly noticed public workshop to review and explain to the public the expedited permitting process and the terms and conditions of the standard form memorandum of agreement.

(6) The local government shall hold a duly noticed public hearing to execute a memorandum of agreement for each qualified project. Notwithstanding any other provision of law, and at the option of the local government, the workshop provided for in subsection (5) may be conducted on the same date as the public hearing held under this subsection. The memorandum of agreement that a local government signs shall include a provision identifying necessary local government procedures and time limits that will be modified to allow for the local government decision on the project within 90 days. The memorandum of agreement applies to projects, on a case-by-case basis, that qualify for special review and approval as specified in this section. The memorandum of agreement must make it clear that this expedited permitting and review process does not modify, qualify, or otherwise alter existing local government nonprocedural standards for permit applications, unless expressly authorized by law.

(7) ~~At the option of the participating local government,~~ Appeals of local government comprehensive plan approvals ~~its final approval~~ for a project shall ~~may~~ be pursuant to the summary hearing provisions of s. 120.574, pursuant to subsection (14), and consolidated with the challenge of any applicable state agency actions ~~or pursuant to other appellate processes available to the local government. The local government's decision to enter into a summary hearing must be made as provided in s. 120.574 or in the memorandum of agreement~~.

(8) Each memorandum of agreement shall include a process for final agency action on permit applications and local comprehensive plan amendment approvals within 90 days after receipt of a completed application, unless the applicant agrees to a longer time period or the secretary ~~office~~ determines that unforeseen or uncontrollable circumstances preclude final agency action within the 90-day timeframe. Permit applications governed by federally delegated or approved permitting programs whose requirements would prohibit or be inconsistent with the 90-day timeframe are exempt from this provision, but must be processed by the agency with federally delegated or approved program responsibility as expeditiously as possible.

(9) The secretary ~~office~~ shall inform the Legislature by October 1 of each year which agencies have not entered into or implemented an agreement and identify any barriers to achieving success of the program.

(10) The memoranda of agreement may provide for the waiver or modification of procedural rules prescribing forms, fees, procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are party to the memoranda of agreement. Notwithstanding any other provision of law to the contrary, a memorandum of agreement must to the extent feasible provide for proceedings and hearings otherwise held separately by the parties to the memorandum of agreement to be combined into one proceeding or held jointly and at one location. Such waivers or modifications shall not be available for permit applications governed by federally delegated or approved permitting programs, the requirements of which would prohibit, or be inconsistent with, such a waiver or modification.

(11) The standard form for memoranda of agreement shall include guidelines to be used in working with state, regional, and local permitting authorities. Guidelines may include, but are not limited to, the following:

(a) A central contact point for filing permit applications and local comprehensive plan amendments and for obtaining information on permit and local comprehensive plan amendment requirements;

(b) Identification of the individual or individuals within each respective agency who will be responsible for processing the expedited permit application or local comprehensive plan amendment for that agency;

(c) A mandatory preapplication review process to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment review. As a part of this process, the first interagency meeting to discuss a project shall be held within 14 days after the secretary's ~~office's~~ determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the secretary's ~~office's~~ determination that the project is eligible for expedited review;

(d) The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies;

(e) Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application for a comprehensive plan

amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184 from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph; and

(f) Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

(12) The applicant, the regional permit action team, and participating local governments may agree to incorporate into a single document the permits, licenses, and approvals that are obtained through the expedited permit process. This consolidated permit is subject to the summary hearing provisions set forth in subsection (14).

(13) Notwithstanding any other provisions of law:

(a) Local comprehensive plan amendments for projects qualified under this section are exempt from the twice-a-year limits provision in s. 163.3187; and

(b) Projects qualified under this section are not subject to interstate highway level-of-service standards adopted by the Department of Transportation for concurrency purposes. The memorandum of agreement specified in subsection (5) must include a process by which the applicant will be assessed a fair share of the cost of mitigating the project's significant traffic impacts, as defined in chapter 380 and related rules. The agreement must also specify whether the significant traffic impacts on the interstate system will be mitigated through the implementation of a project or payment of funds to the Department of Transportation. Where funds are paid, the Department of Transportation must include in the 5-year work program transportation projects or project phases, in an amount equal to the funds received, to mitigate the traffic impacts associated with the proposed project.

(14)(a) Challenges to state agency action in the expedited permitting process for projects processed under this section are subject to the summary hearing provisions of s. 120.574, except that the administrative law judge's decision, as provided in s. 120.574(2)(f), shall be in the form of a recommended order and shall not constitute the final action of the state agency. In those proceedings where the action of only one agency of the state other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 ~~10~~ working days after ~~of~~ receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order within 45 ~~10~~ working days after ~~of~~ receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure

pursuant to s. 120.54. This paragraph does not apply to the issuance of department licenses required under any federally delegated or approved permit program. In such instances, the department shall enter the final order. The participating agencies of the state may opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action. If a participating local government agrees to participate in the summary hearing provisions of s. 120.574 for purposes of review of local government comprehensive plan amendments, s. 163.3184(9) and (10) apply.

(b) Projects identified in paragraph (3)(f) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(15) The office, working with the agencies providing cooperative assistance and input regarding ~~participating in~~ the memoranda of agreement, shall review sites proposed for the location of facilities eligible for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the office, the agencies shall provide to the office a statement as to each site's necessary permits under local, state, and federal law and an identification of significant permitting issues, which if unresolved, may result in the denial of an agency permit or approval or any significant delay caused by the permitting process.

(16) This expedited permitting process shall not modify, qualify, or otherwise alter existing agency nonprocedural standards for permit applications or local comprehensive plan amendments, unless expressly authorized by law. If it is determined that the applicant is not eligible to use this process, the applicant may apply for permitting of the project through the normal permitting processes.

(17) The office shall be responsible for certifying a business as eligible for undergoing expedited review under this section. Enterprise Florida, Inc., a county or municipal government, or the Rural Economic Development Initiative may recommend to the Office of Tourism, Trade, and Economic Development that a project meeting the minimum job creation threshold undergo expedited review.

(18) The office, working with the Rural Economic Development Initiative and the agencies participating in the memoranda of agreement, shall provide technical assistance in preparing permit applications and local comprehensive plan amendments for counties having a population of fewer ~~less~~ than 75,000 residents, or counties having fewer than 125,000 ~~100,000~~ residents which are contiguous to counties having fewer than 75,000 residents. Additional assistance may include, but not be limited to, guidance in land

development regulations and permitting processes, working cooperatively with state, regional, and local entities to identify areas within these counties which may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

(19) The following projects are ineligible for review under this part:

(a) A project funded and operated by a local government, as defined in s. 377.709, and located within that government's jurisdiction.

(b) A project, the primary purpose of which is to:

1. Effect the final disposal of solid waste, biomedical waste, or hazardous waste in this state.

2. Produce electrical power, unless the production of electricity is incidental and not the primary function of the project <u>or the electrical power is derived from a fuel source for renewable energy as defined in s. 366.91(2)(d)</u>.

3. Extract natural resources.

4. Produce oil.

5. Construct, maintain, or operate an oil, petroleum, natural gas, or sewage pipeline.

Section 63. This act shall take effect July 1, 2010.

Approved by the Governor June 4, 2010.

Filed in Office Secretary of State June 4, 2010.