

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2122

SPONSOR: Natural Resources Committee and Senator Laurent

SUBJECT: Alternative Water Supplies

DATE: February 26, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Voigt	NR	Favorable/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill amends several provisions relating to water resources. Specifically, the bill:

Provides that title information pertaining to certain water management district real property transactions is not confidential.

Provides that the Department of Environmental Protection (DEP) or the water management district shall consider longer duration consumptive use permits to certain applicants.

Provides that the date by which the DEP must adopt a wetland mitigation assessment method rule is extended until July 31, 2002. Provides that the rule shall provide an exclusive and consistent process for determining the amount of mitigation required to offset impacts to wetlands and other surface waters. Deletes an obsolete provision requiring the Office of Program Policy Analysis and Government Accountability to conduct a cumulative impact study.

Allows the secretary of DEP to grant a variance from the mining reclamation provisions to accommodate reclamation that provides water supply development or water resource development.

Authorizes DEP, through its Water Pollution Control Financial Assistance Program, to use lending institutions as a conduit to issue and service loans to private borrowers by allowing institutions which earn less than the prevailing rate for United States Treasury securities to make below-market interest rate loans to qualified applicants.

Provides permitting requirements for simple cycle turbine plants. Such plants are encouraged to locate in coastal counties where they can be combined with reverse-osmosis facilities or other similar technologies to desalinate water resources to help meet potable water supply needs.

Provides that the permit exemption for maintenance dredging activities is clarified to allow for better management of return flow waters.

Requires the water management districts to develop an information program designed to provide information on existing hydrologic conditions of major surface and groundwater sources in Florida and suggestions for good conservation practices within those areas.

Requires the DEP, in consultation with the South Florida Water Management District and other specified entities to conduct a study to investigate the feasibility of discharging reclaimed wastewater to canals as an environmentally acceptable means of augmenting ground water supplies, enhancing natural systems, and conveying reuse water with enclosed conduits within canal rights-of-way. Provides for a written report on the results of the study to the Governor and the substantive committees of the House of Representatives and the Senate by January 31, 2003.

Provides that water supply development projects which are consistent with the relevant regional water supply plans and which meet at least one of several stated statutory criteria shall receive priority consideration for state or water management district funding assistance.

Repeals a provision relating to an obsolete water resources development account.

This bill amends ss. 373.139, 373.236, 373.414, 378.212, 403.1835, 403.813, and 373.0831, F.S.; creates s. 403.5205, F.S.; and repeals s. 373.498, F.S.

## **II. Present Situation:**

Section 373.139, F.S., provides that the Legislature declares it be necessary for the public health and welfare that water and water related resources be conserved and protected. The acquisition of real property for this objective constitutes a public purpose for which public funds may be expended. Appraisal reports, offers, and counteroffers are confidential and exempt from the Public Records Law. However, each district may disclose appraisal reports to private landowners under certain circumstances. In the event the negotiation for the real property is terminated by the district, the title information, appraisal report, offers, and counteroffers shall become available pursuant to the Public Records Law.

Part II of ch. 373, F.S., provides for the issuance of consumptive use permits. Consumptive use permits are not required for domestic consumption of water by individual users. To obtain a permit, s. 373.223, F.S., provides that the applicant must establish that the proposed use of water:

- Is a reasonable-beneficial use as defined in s. 373.019, F.S.;
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.

Section 373.236, F.S., provides that permits shall be granted for a period of 20 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Otherwise, permits may be issued for shorter durations which reflect the period for which such reasonable assurances can be provided. The governing board of the water management district may authorize a permit for up to 50 years in the case of a municipality or other governmental body of a public works or public service corporation where such a period is required to provide for the retirement of bonds for the construction of waterworks and waste disposal facilities.

Part III of ch. 378, F.S., governs the reclamation of phosphate mined lands. Section 378.207, F.S., requires the DEP to adopt statewide criteria and standards for reclamation. The rules are to recognize that surface mining takes place in diverse areas where the geologic, topographic, and edaphic conditions are different. The rules, recognizing technological limitations and economic consideration, shall require the return of the natural function of wetlands or a particular habitat or condition to that in existence prior to mining. Section 378.212, F.S., allows the secretary of DEP to grant variances from the rules for certain specified reasons.

Section 403.1835, F.S., creates a water pollution control financial assistance program, administered by DEP, to fund projects eligible under the Federal Water Pollution Control Act, including the planning, design, construction, and implementation of wastewater management systems, stormwater management systems, nonpoint source pollution management systems, and estuary conservation and management. Under the program, the department may make grants and loans, provide loan guarantees, purchase loan insurance or other credit enhancements, and buy or refinance local debt.

The South Florida Water Management District (SFWMD) has adopted four regional water supply plans: Kissimmee Basin, Lower West Coast, Upper East Coast and Lower East Coast. The Kissimmee Basin includes those portions of Orange, Osceola, Polk, Highlands, Okeechobee, and Glades County that lie within the SFWMD. Major issues of concern identified in the plan include the continued use of ground water to supply the projected population growth in Orange and Osceola Counties and increased surface water use in the Lake Istokpoga-Indian Prairie Basin resulting from proposed agricultural expansion.

The Lower East Coast Regional Water Supply Plan includes all of Miami-Dade, Broward and Palm Beach Counties as well as parts of seven other counties. The plan is linked closely to Comprehensive Review Study of the Central & South Florida Project, or Everglades Restudy. The plan focuses on \$187 million in projects to increase the available storage and recharge of water in the region.

### **III. Effect of Proposed Changes:**

**Section 1.** Section 373.139, F.S., is amended to provide that when lands are purchased by the water management districts, title information is not consideration confidential information. This is a conforming amendment to changes made last year in this section of law.

**Section 2.** Section 373.236, F.S., is amended to provide that the Department of Environmental Protection (DEP) or the water management district shall consider issuing longer duration

consumptive use permits to applicants who implement and provide reasonable assurances of effective and efficient conservation measures that exceed the average for the industry or type of water use and there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit.

**Section 3.** Section 373.414, F.S., requires the DEP and the water management districts to develop a uniform wetland mitigation assessment method. This bill provides that the DEP and the water management districts must develop a uniform mitigation assessment method for wetlands and other surface waters. The date by which the DEP must adopt by rule the wetland mitigation assessment method is extended from January 31, 2002, to July 31, 2002. The rule shall provide an exclusive and consistent process for determining the amount of mitigation required to offset impacts to wetlands and other surface waters, and once effective, shall supersede all rules, ordinances, and variance procedures from ordinances that determine the amount of mitigation needed to offset such impacts. Deletes an obsolete provision that required the Office of Program Policy Analysis and Government Accountability to conduct a cumulative impact study.

**Section 4.** Section 378.212, F.S., is amended to allow the Secretary of the DEP to grant a variance from the provisions relating to mine reclamation to accommodate reclamation that provide water supply development or water resource development consistent with the regional water supply plan, provided regional water resources are not adversely affected.

**Section 5.** The DEP is authorized to make deposits to financial institutions which earn less than the prevailing rate for United States Treasury securities with corresponding maturities for the purpose of enabling those financial institutions to make below-market interest rate loans to entities qualified to receive loans under s. 403.1835, F.S.

**Section 6.** Section 403.5205, F.S., is created to provide permitting requirements for simple cycle turbine plants. Plants are encouraged to locate in coastal counties where they can be combined with reverse-osmosis facilities or other similar technologies to desalinate water resources to help meet potable water-supply needs. Plants that are proposed to be combined with reverse-osmosis facilities or other similar desalination technologies are eligible to receive cooperative-funding assistance from water management districts that have cooperative-funding-assistance programs for activities designed to promote alternative water supplies. Construction permit applications for simple cycle turbine electric plants located in a water use caution area must also demonstrate compliance with the following conditions:

- A plant may not be located within 1 mile of another existing electric generating plant whether it uses a simple cycle turbine or other technology.
- A plant must demonstrate that the sole source of its cooling water will be provided by the reuse of reclaimed waste water or another nonpotable water source to assure protection of groundwater and surface water resources.

**Section 7.** Section 403.813, F.S., is amended to clarify the permit exemption for maintenance dredging activities to allow for better management of return flow waters.

**Section 8.** The water management districts are required to develop an information program designed to provide information on existing hydrologic conditions of major surface and groundwater sources in this state and suggestions for good conservation practices within those areas. Provides that such information be distributed to each legislative member and to local print and broadcast news organizations on a regular basis.

**Section 9.** This section provides that the Legislature finds that within the area identified in the Lower East Coast Regional Water Supply Plan approved by the South Florida Water Management District, the groundwater levels can benefit from augmentation. The Legislature finds that the discharge of reclaimed water into canals for transport and subsequent reuse may provide an environmentally acceptable means to augment water supplies and enhance natural systems; however, the Legislature also recognizes that there are water quality and water quantity issues that must be better understood and resolved. Also, there are cost-savings possible by collocating enclosed conduits for conveyance of water for reuse in this area within canal right-of-way that should be investigated. The DEP, in consultation with the South Florida Water Management District, Southeast Florida utilities, affected local governments, including local governments with principal responsibility for the operation and maintenance of a water control system capable of conveying reclaimed wastewater for reuse, representatives of the environmental and engineering communities, public health professionals, and individuals having expertise in water quality, shall conduct a study to investigate the feasibility of discharging reclaimed wastewater to canals as an environmentally acceptable means of augmenting ground water supplies, enhancing natural systems, and conveying reuse water within enclosed conduits within canal rights-of-way. A preliminary report for public comment is due by November 1, 2002. A final report to the Governor and the substantive committees of the House of Representatives and the Senate is due by January 31, 2003. Nothing in this section shall be used to alter the purpose of the Comprehensive Everglades Restoration Plan or the implementation of the Water Resources Development Act of 2000.

**Section 10.** Section 373.0831, F.S., is amended to provide that water supply development projects which are consistent with the relevant regional water supply plans and which meet at least one of several stated statutory criteria shall receive priority consideration for state or water management district funding assistance. Currently, such projects must meet *one or more* of the stated criteria. If a proposed alternative water supply project is identified in the relevant approved regional water supply plan, the project shall be eligible for at least one of the following:

- A consumptive use permit with at least a 10-year duration, if it otherwise meets the requirements for permit issuance; or
- Consideration for priority funding pursuant to s. 373.1961(2), F.S., with the implementation of the water resource development component of the proposed project.

**Section 11.** Section 373.498, F.S., relating to disbursements from water resources development account, which is an obsolete account, is repealed.

**Section 12.** This act shall take effect upon becoming a law.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Phosphate mining companies could receive a cost benefit in their reclamation efforts if they could obtain certain variances from the secretary of DEP to allow for reclamation efforts to supplement water resource development. Such efforts may be less costly than restoring wetlands to their original function.

The bill would make it easier for certain water supply development projects to receive priority consideration for state or water management district funding. Also, certain alternative water supply projects would be eligible for 10-year consumptive use permits and priority consideration for funding.

## C. Government Sector Impact:

The DEP is required to conduct a study of the feasibility of discharging reclaimed wastewater to canals as an environmentally acceptable means of augmenting ground water supplies. The department is required to consult with the South Florida Water Management District and other entities in conducting the study. The department would incur additional expenses associated with this study; however, it is anticipated that the department would use existing financial and staff resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---