

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HR 1045 Local Water Sources First
SPONSOR(S): Pickens
TIED BILLS: **IDEN./SIM. BILLS:** SR 1202

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Natural Resources</u>	<u>17Y, 1N</u>	<u>Lotspeich</u>	<u>Lotspeich</u>
2) <u>Procedures</u>	<u>31Y, 0N w/CS</u>	<u>Christian</u>	<u>Randle</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This resolution provides that the House of Representatives supports the "local sources first" policy as it currently exists in Chapter 373, F.S. The resolution also provides that the House recognizes March 31, 2004 as "Local Water Sources First Day" and opposes any changes to the "local sources first" policy. The resolution further encourages the Legislature and the Governor to oppose any changes to this policy.

The resolution has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background

Part II of Chapter 373, F.S. sets forth the process whereby one wishing to withdraw water from a surface or underground source must seek to obtain a permit from the water management district within which the source lies. The criteria utilized by the water management district in determining whether to issue the permit are set forth in Section 373.223, F.S. In order to receive such a consumptive use permit, the applicant must establish that the proposed use of water:

- (a) Is a reasonable-beneficial use as defined in s. 373.019;
- (b) Will not interfere with any presently existing legal use of water; and
- (c) Is consistent with the public interest.¹

If the applicant wishes to transport the water *beyond* the overlying land, across county boundaries, or outside the watershed from which it is taken, the water management district governing board or Department of Environmental Protection must determine that the transport and use is consistent with the public interest.²

In that provision of law known as the “**local sources first**” policy, an application that proposes to transport groundwater or surface water *across county boundaries* is evaluated by a water management district to consider several factors including:

- (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.

¹ s. 373.223(1), F.S.

² s. 373.223(2), F.S.

(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.³

In September 2003, the Florida Council of 100 released a report entitled “Improving Florida’s Water Supply Management Structure” (Report). The Report generated considerable interest in the current status and future of Florida’s ability to provide water for its citizens. The Council’s report expresses the concerns of its members that under the current water management district governance, planning, and water resource development system, adequate supplies of potable water will not be available to meet the future demands of Florida’s growing population.

The Council’s report made several Findings and Recommendations in three broad categories: governance, science and technology, and partnerships.

With regard to “local sources first,” the Council found:

Although water is a resource of the state, water is managed and regulated primarily at the regional and local levels. This has resulted in legislation, such as the “local sources first” policy. The “local sources first” policy was designed to require consideration of “local” alternative supplies. However, the unintended result of the “local sources first” policy is that districts, counties, and municipalities think they “own” the water in their areas, and must prevent access by any other district or locality. Thus water is less seen locally and regionally as a *state* resource.

We see “local sources first” evolving into a resource-based test as part of the regional water supply plans. Such a resource-based test might include the cost associated with developing alternative water supplies. For example, might it not be economically reasonable to consider transporting water from a non local source, if: A) it costs significantly more to develop alternative water supplies (such as a desalination plant) locally than it is to transport water from someplace else; B) there is no harm to the environment or the potential sender’s needs; and C) it is mutually beneficial, and minimum flows and levels are not violated?

Effect of Proposed Changes

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C. SECTION DIRECTORY:

Not Applicable

³ s. 373.223(3), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None
2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None
2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
Not applicable. This bill does not appear to affect municipal or county government.
2. Other: None

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A strike-all amendment to HR 1045 was adopted in the Committee on Procedures at its March 31, 2004. The strike-all amendment changes the essence of the bill as originally filed.