

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1881 CS PCB WNR 05-02 Water Supply
SPONSOR(S): Water & Natural Resources Committee
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|----------------|-----------|----------------|
| Orig. Comm.: Water & Natural Resources Committee | 10 Y, 0 N | Lotspeich | Lotspeich |
| 1) Agriculture & Environment Appropriations Committee | 9 Y, 0 N | Dixon | Dixon |
| 2) State Resources Council | 9 Y, 0 N, w/CS | Lotspeich | Hamby |
| 3) _____ | _____ | _____ | _____ |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

The bill amends several sections of Chapter 373, F.S., relating to water supply. These amendments include revisions to current law to reflect the increasing need for the development of alternative water supplies, and the need for increased levels of cooperation between local governments to develop such alternative water supplies. The revisions include provisions for priority funding assistance from water management districts for the development of alternative water supplies and provisions to encourage the formation of regional water supply authorities and "multi-jurisdictional water supply entities."

The bill has no fiscal impact.

The bill will take effect July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

In response to concerns about comprehensive water supply planning, the Florida Legislature in 1997 amended Chapter 373, F.S., to include a new process for regional water supply planning. The process requires each water management district to assess whether existing and anticipated sources of water are sufficient to serve projected future population needs over a 20-year planning period. Based on the assessments, water management districts are required to develop and update regional water supply plans for those areas where water supplies are determined to be inadequate to supply projected demand over the planning period. The WMDs are required to develop their regional water supply plans in an open public process. They share the data and modeling tools with all effected parties during this process and consider input and comments.

The five districts completed the water supply assessments in June 1998. The Northwest Florida, Southwest Florida, St. Johns River and South Florida districts identified areas where existing sources were determined to be insufficient to meet the 20-year needs and completed regional water supply plans in August 2001. The first updates of the plans are currently being prepared. The Department of Environmental Protection is required to report annually to the Governor and the Legislature on the status of the regional water supply planning in each district.¹

The statute makes a distinction between *water resource* and *water supply* development. *Water resource development* is primarily the responsibility of the water management districts and includes such things as collection and evaluation of water resource data, structural and nonstructural programs to manage water resources, construction and operation of major public works facilities for flood control and water storage, and technical assistance to water utilities.² *Water resource development* projects are designed to create identifiable, quantifiable supplies of water from traditional or alternative sources.

Water supply development is primarily the responsibility of water utilities and other water users and is defined as the planning, design, construction, operation and maintenance of public or private facilities for water collection, treatment and distribution for sale, resale or end use.³ *Water supply development assistance* represents the water management districts' financial assistance for regional or local water supply development projects.

Based on reports from the State's water management districts, it is clear that if the State's population growth meets the estimated projections, then some parts of the State will not have adequate groundwater to meet the demand that is expected to come from that growth. This will necessitate the development of "alternative" water supplies to supplement traditional groundwater sources.

Current law requires each water management district to submit annually to the Department of Environmental Protection a five year *water resource development work program* to:⁴

¹ Subsection 373.0361(5), F.S.

² Subsection 373.019(19), F.S.

³ Subsection 373.019(21), F.S.

⁴ Subparagraph 373.536(6)(a)4, F.S.

1. describe the district's implementation strategy for the water resource development component of each regional water supply plan;
2. list those water resource development projects that support water resource development;
3. provide an estimate of the quantity of water that will be produced by each project;
4. provide a timetable for implementing/constructing each project;
5. identify sources of funding for each project; and
6. identify the entity responsible for implementing/constructing each project.

As a result of this water supply planning process, each water management district will continually evaluate existing water resources and its ability to develop future water resources.

While four of the five water management districts have acknowledged that traditional groundwater sources will not be sufficient to meet the future needs of some areas within the district, each has identified existing and developable water resources within the district to meet the needs of that district for the 20-year planning horizon.

In summary, the Florida Legislature has created a statutory framework that mandates water supply planning in a way that is designed to better correlate water resources and the future needs of Florida's growing population. However, it is now well understood that Florida can no longer rely solely on the traditional, inexpensive groundwater sources to meet all the potable water needs of the people of the state and the nonpotable water needs of agriculture, industry, commerce and the environment. The development of alternative water supplies (i.e. sources other than the traditional, inexpensive groundwater sources) will be required to meet those needs. In addition, without cooperation between them, there are few local governments that will have the necessary financial resources to pursue the planning and implementation of projects that will be needed to produce the potable water from alternative sources.

Effect of Proposed Changes

The bill provides several statutory changes designed to provide additional incentives for the development of alternative water supplies and for local governments to work cooperatively to provide for the alternative water supplies.

Section 373.019, F.S., is amended to provides new definitions for "alternative water supplies", "capital costs," and "multi-jurisdictional water supply entities."

Section 373.0361, F.S., which guides the development of regional water supply plans, is substantially reworded. The effect of the rewording is to:

- add new language with respect to public education,
- provide water users the ability to propose specific projects as water supply development projects,
- provide that the total capacity of water supply project options take into account water resources constraints including minimum flows and levels and reservations
- add a new subsection to require the water management districts to notify the affected local governments and make every reasonable effort to educate and involve local public officials in working toward solutions when the water supply component shows the need for one or more alternative water supply projects

Section 373.196, F.S., is substantially rewords to provide legislative findings regarding alternative water supply development. Subsection (1) includes findings that:

- Demand for natural supplies of fresh water will continue to increase.
- There is a need for development of alternative supplies to sustain the state's economic growth and lessen the impact on the environment through the use of traditional groundwater sources.
- Cooperative efforts between municipalities, counties, special districts, water management districts and the Department of Environmental Protection are mandatory to meet the water needs of rapidly urbanizing areas
- Cooperation among all interest groups is needed to develop county-wide and multi-county projects to achieve economies of scale.
- Priority funding must be given to the development of alternative water supplies.
- All groups should work together in the development of alternative water supplies to avoid the adverse impacts of competition for limited supplies.

The changes in subsection (1) also include defining the primary roles of the water management districts and local governments and others regarding water supply development:

- The primary role of the water management districts shall be: formulation, development and implementation of strategies and programs; collection and evaluation of data; construction, operation and maintenance of facilities for flood control, storage, and recharge; planning for development in conjunction with local governments and others; and providing technical and financial assistance.
- The primary role of local governments, regional water supply authorities, special districts, and water utilities shall be: all facets of water supply development projects; formulation, development, and implementation of water supply development and alternative water supply development; all facets regarding facilities to collect, divert, produce, treat, transmit, and distribute water; and coordination of activities with appropriate water management districts.

Section 373.1961, F.S., relating to the powers and duties of water management districts, is amended. A new subsection (2) is created to direct water management districts to include in their annual budgets the amount needed to implement alternative water supply development projects, as prioritized in their regional water supply plans.

Subsection (2) is renumbered to Subsection (3) and is amended to delete redundant language and require water management districts to share a percentage of ad valorem tax revenues with water providers and users. Existing provisions concerning rate structures used by utilities who receive grants are relocated to this subsection.

Current provisions of law relating to water management district alternative water supplies grants advisory committee are significantly revised. The revised language: (1) provides for the water management district governing boards to establish a process for disbursing funds for the implementation of alternative water supply projects and (2) lists factors to be considered in awarding funds for such projects.

A new subsection (4) relocates current language relating to water management district funding for reuse.

Section 373.1962, F.S., is amended to make necessary conforming changes.

A new subsection (9) is created in s. 373.1963, F.S., to prohibit Tampa Bay Water from transferring water from a source located within the boundaries of a non-member local government without the prior consent of the non-member local government.

A new subsection (5) is created in s. 373.223, F.S., to provide that those alternative water supply development projects that are proposed by regional water supply authorities and multi-jurisdictional water supply entities are presumed to be consistent with the public interest for the purpose of meeting the criteria for obtaining a consumptive use permit.

A new subsection (4) is created in s. 373.236, F.S., to require water management districts to issue permits for a term of at least 20 years for alternative water supply projects. In addition, authority is granted to issue permits in excess of 20 years if they are needed to retire bonds or other financing instruments.

C. SECTION DIRECTORY:

Section 1. Amends s. 373.019, F.S., to add new definitions.

Section 2. Amends s. 373.0361, F.S., to add provisions relating to regional water supply plans.

Section 3. Amends s. 373.196, F.S., to add provisions relating to alternative water supply development.

Section 4. Amends s. 373.1961, F.S., to add provisions relating to funding assistance for the development of alternative water supplies.

Section 5. Amends s. 373.1962, F.S., to add provisions relating to regional water supply authorities

Section 6. Amends s. 373.1963, F.S., to add a subsection (9) prohibiting the transfer of water under certain conditions.

Section 7. Amends s. 373.223, F.S., to add subsection (5) relating conditions for the issuance of a consumptive use permit.

Section 8. Amends s. 373.236, F.S., to add subsection (4) relating to the duration of consumptive use permits for alternative water supply projects.

Section 9. Amends s. 373.036, F.S., to conform a cross-reference.

Section 10. Amends s. 373.421, F.S., to conform cross-references.

Section 11. Amends s. 403.813, F.S., to conform cross-references.

Section 12. Amends s. 556.102, F.S., to conform a cross-reference.

Section 13. Provides an effective date.

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, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill does not require the promulgation of rules by nor alter the rulemaking authority of any state agency

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 20, 2005, the State Resources Council adopted a strike-all amendment to HB 1881. The strike-all Amendment embodies the concepts and much of the language set forth in the original Bill (creating a new Part VII to Chapter 373 relating to water supply policy, planning and production), but instead of creating a new Part VII to Chapter 373, it incorporates those concepts and the language into existing sections of Chapter 373. This is being done to align HB 1881 with the water supply component of SB 444. This analysis has been revised to reflect the strike-all amendment.