

# 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.)

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Prepared By: Governmental Oversight and Productivity Committee

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BILL: CS/SB 440

SPONSOR: Environmental Preservation Committee and Senator Dockery

SUBJECT: Water Resources

DATE: April 1, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kiger</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The committee substitute creates a new Part VII to Chapter 373, F.S., to include all those sections of Chapter 373 that address water supply policy, planning, and production. In addition, necessary conforming changes and repealers are also contained in the bill.

This bill creates ss. 373.701, 373.703, 373.705, 373.707, 373.709, 373.711, 373.713, 373.715, 373.717, 373.919; amends ss. 120.52, 163.3167, 163.3177, 163.3191, 186.009, 189.404, 189.4155, 189.4156, 367.021, 373.019, 373.0421, 373.0695, 373.223, 373.2234, 373.229, 373.421, 373.536, 373.59, 378.212, 378.404, 403.031, 403.813, 403.0891, 556.102, 682.02; and repeals ss. 373.036, 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, Florida Statutes.

## II. Present Situation:

Chapter 373, F.S., was originally enacted by the Florida Legislature as the “Water Resources Act of 1972” (ch. 72-299, Laws of Florida). At that time, Chapter 373, F.S., was limited in scope to principally address issues relating to flood control, the management and storage of surface water, the regulation of consumptive use of water including wells, and the governance of the water management districts. No effort was made at that time to address water supply except through the “state water plan.” The direction of the state water plan was to “study existing water sources . . . to formulate, as a functional element of a comprehensive state plan, an integrated, coordinated plan for the use and development of the waters of the state” (see s. 373.036(1), F.S., (1972)).

Chapter 373, F.S., has been amended numerous times since 1972 to address a multitude of issues relating to water. The following sections of Chapter 373, F.S., either in whole or in part, specifically address water supply policy, planning and production:

373.016 Declaration of policy  
373.019 Definitions  
373.036 Florida Water Plan; district water management plans  
373.0361 Regional Water Supply Planning  
373.0391 Technical Assistance  
373.0831 Water resource development; water supply development  
373.196 Legislative findings  
373.1961 Water production  
373.1962 Regional water supply authorities  
373.1963 Assistance to West Coast Regional Water Supply Authority

### **Section 373.016 Declaration of policy**

Section 373.016, F.S., was included in the original Water Resources Act of 1972. At that time it included little in the way of policy that addressed water supply planning and production. Section 373.016, F.S., was amended in 1997 to add what is now paragraph (3)(d) which establishes a policy that the “availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems shall be promoted” (s. 1, ch. 97-160, Laws of Florida). In 1998, paragraphs (4)(a) and (b) were added to address the issue of the use of local sources of water for consumptive uses first before transporting water across county boundaries (s. 1, ch. 98-88, Laws of Florida).

### **Section 373.019 Definitions**

Section 373.019 F.S., was included in the original Water Resources Act of 1972. However, there were no sections which provided definitions relating to water supply policy, planning or production. Several definitions were added in 1997 (s. 2, ch. 97-160, Laws of Florida). These included definitions for “district water management plan,” “Florida water plan,” “regional water supply plan,” “water resource development,” and “water supply development” (see subsections 373.019(2), (5), (14), (19), and (21), F.S.).

### **Section 373.036 Florida Water Plan; district water management plans**

The Water Resources Act of 1972 also included s.373.036, F.S. It addressed in very brief and general terms the “Florida Water Plan.” However, it was substantially rewritten in 1997 to its current wording to provide not only for the Florida water plan and but also for district water management plans (s. 3, ch. 97-160, Laws of Florida). While s. 373.036, F.S., addresses several water planning issues, it primarily addresses issues relating to water supply planning, both in the Florida water plan and the district water management plans.

### **Section 373.0361 Regional Water Supply Planning**

In 1997, a significant effort was made by the Legislature to address water supply planning, and that primarily at a regional level. Section 4 of chapter 97-160, Laws of Florida, created the regional water supply planning process that is still used today.

**Section 373.0391 Technical Assistance**

Section 373.0391, F.S., was created in 1989 and requires water management districts to provide a range of technical services to assist local governments in the preparation and implementation of their comprehensive plans and public facilities reports. It has never been amended.

**Section 373.0831 Water resource development; water supply development**

Along with the section on regional water supply planning (s.373.0361, F.S.), s. 373.0831, F.S., was another significant section added in 1997 by Chapter 97-160, Laws of Florida (s.11). This section provides for legislative findings and intent relating to the planning and development of water resources and the production of water supplies from those water resources.

Section 373.0831, F.S., was amended in 2004 to add (4)(c) dealing with permitting and funding for the development of alternative water sources (s. 10, ch. 2004-381, Laws of Florida).

**Section 373.196 Legislative findings**

Section 373.196 was created in 1974 (s. 1, ch. 74-114, Laws of Florida). It contains provisions regarding the need for cooperation between local governments and the water management districts in order to meet the needs of the increasing demand on water resources, and the need for the creation of regional water supply authorities. Subsection (2) of s. 373.196, F.S., was amended in 1998 (s. 2, ch. 98-88, Laws of Florida) to provide that water management districts are to have the power to engage in functions “that are related to water resource development pursuant to s. 373.0831.” This was done to conform to the powers given to the water management districts in 1997 that gave them the responsibility for water supply planning and water resource development.

**Section 373.1961 Water production**

Section 373.1961, F.S., was also created in 1974 (s.2, ch. 74-114, Laws of Florida), and has been amended several times since then. This section contains two subsections. Subsection (1) sets forth the powers and duties of the governing boards with respect to the production of water; and subsection (2) sets forth legislative findings and intent with regard to the need to develop alternative water supplies to meet the growing demand in Florida for water, and it provides a funding mechanism for the development of alternative water supplies.

**Section 373.1962 Regional water supply authorities**

In 1974 the Legislature established a process for the creation of regional water supply authorities in s. 373.1962 (s.7, ch. 74-114, Laws of Florida). Numerous minor amendments have been made to this section since then.

**Section 373.1963 Assistance to West Coast Regional Water Supply Authority**

Section 373.1963, F.S., was created in 1976 to address issues relating to the governance of the West Coast Regional Water Supply Authority (s. 13, ch. 76-243, Laws of Florida). The section has been substantially rewritten three times with the last rewrite coming in 1998

(s. 4, ch. 339, Laws of Florida, s. 30, ch. 97-160, Laws of Florida, and s. 2, ch. 98-402, Laws of Florida). It was under this last revision that the West Coast Regional Water Supply Authority became Tampa Bay Water.

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

The bill creates a new Part VII to Chapter 373, F.S., to include all those sections of Chapter 373, F.S., that address water supply policy, planning, and production.

#### **New Section 373.701 Declaration of Policy**

Those policy statements in s. **373.016, F.S.**, dealing with water supply planning and production are moved to a new s. **373.701, F.S., Declaration of Policy**. Subsection 373.701(3), F.S., has been reworded to emphasize the state policy with regard to the use of “local sources” first. **Section 373.196, F.S.**, is moved in its entirety to s. **373.701, F.S.**

#### **New Section 373.703 Definitions**

Those definitions in s. **373.019, F.S.**, dealing with water supply planning and production (i.e. subsections (2), (5), (14), (19), and (21), F.S.) are moved to a new s. **373.703, F.S., Definitions**. Revised definitions are provided for the “District water supply plan” and the “Florida water supply plan.”

#### **New Section 373.705 Powers and Duties**

**Subsection 373.1961(1), F.S.**, is moved in its entirety to s. **373.705, F.S., Powers and duties**.

#### **New Section 373.707 Florida water supply plan; district water management plans**

Except for paragraphs (1)(b) and (2)(d)7 (which deal with water quality), s. **373.036, F.S.**, is moved in its entirety to **Section 373.707, F.S., Florida water supply plan; district water management plans**. The references to “Florida water plan” and “district water management plans” are changed to “Florida water supply plan” and “district water supply plans.”

#### **New Section 373.709 Water resource development; water supply development**

**Section 373.0831, F.S.**, is moved in its entirety to s. **373.709, F.S., Water resource development; water supply development**. New language is added to require water management districts to include in their annual budgets the amount available to implement water supply projects.

#### **New Section 373.711 Alternative water supplies**

**Subsection 373.1961(2), F.S.**, is moved to s. **373.711, F.S., Alternative water supplies**.

#### **New Section 373.713 Regional Water Supply Planning**

**Section 373.0361, F.S.**, is moved in its entirety to **s. 373.713, F.S., Regional Water Supply Planning**. Subsection 373.0361(3), F.S., addresses requirements for regional water supplies completed before July 1, 1997 and, therefore, has no continuing effect and is deleted from s. 373.713, F.S.

#### **New Section 373.715 Technical Assistance**

Except for paragraphs (2)(d) (which deals with flooding and water quality) and (2)(f) (which deals with land acquisition), **s. 373.0391, F.S.**, is moved in its entirety to **s. 373.715, F.S., Technical Assistance**.

#### **New Section 373.717 Regional water supply authorities**

**Section 373.1962, F.S.**, is moved in its entirety to **s. 373.717, F.S., Regional water supply authorities**. References to “water rights” in paragraphs 373.1962(2)(b) and (e), F.S., are deleted from s. 373.717, F.S.

#### **New Section 373.719 West Coast Regional Water Supply Authority**

**Section 373.1963, F.S.**, is moved in its entirety to **s. 373.719, F.S., West Coast Regional Water Supply Authority**. Subsection 373.1963(3), F.S., addresses certain assistance from the Southwest Florida Water Management District to the water authority which was to have terminated on December 31, 1981. This subsection is obsolete and has been deleted from s. 373.719, F.S.

The bill amends s. 373.019, F.S., to delete those definitions moved to s. 373.703, F.S.

The bill amends s. 373.223, F.S., relating to the conditions for the issuance of a consumptive use permit (CUP) to provide that alternative water supply projects are presumed to have a use consistent with the public interest.

In conjunction with the creation of the new Part VII, the bill provides for the necessary conforming changes to current laws and repeals those provisions of existing ch. 373, F.S., that are being re-created.

#### **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:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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