

1 A bill to be entitled
2 An act relating to permitting of consumptive uses of
3 water; amending s. 373.236, F.S.; requiring consumptive
4 use permits to be issued for a period of 20 years;
5 providing exceptions; deleting legislative findings
6 requiring the Department of Environmental Protection to
7 provide certain information to agricultural applicants;
8 eliminating requirements for permit compliance reports;
9 removing the authority of the department and the water
10 management district governing boards to request permit
11 compliance reports and to modify or revoke consumptive use
12 permits; providing for the modification of existing
13 consumptive use permits under certain conditions; amending
14 s. 373.250, F.S.; providing requirements for water
15 management districts in evaluating applications for the
16 consumptive use of water in mandatory reuse zones;
17 providing applicability; creating s. 373.255, F.S.;
18 requiring water management districts to implement a
19 sustainable water use permit program for public water
20 utilities; providing program criteria; providing permit
21 application and issuance requirements; providing
22 requirements for permit monitoring, compliance, and
23 performance metrics; amending ss. 373.2234 and 373.243,
24 F.S.; conforming cross-references; directing each water
25 management district to consult with the Department of
26 Environmental Protection to examine options for improving
27 the coordination between the consumptive use permitting
28 process and the water supply planning process by extending

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29 and reconciling certain permitting provisions; requiring
 30 each water management district to provide a report to the
 31 Governor and the Legislature; providing an effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Section 373.236, Florida Statutes, is amended
 36 to read:

37 373.236 Duration of permits; ~~compliance reports.~~

38 (1) Permits shall be granted for a period of 20 years
 39 unless an applicant requests that the permit be issued for a
 40 shorter period of time, ~~if requested for that period of time, if~~
 41 ~~there is sufficient data to provide reasonable assurance that~~
 42 ~~the conditions for permit issuance will be met for the duration~~
 43 ~~of the permit; otherwise, permits may be issued for shorter~~
 44 ~~durations which reflect the period for which such reasonable~~
 45 ~~assurances can be provided. The governing board or the~~
 46 ~~department may base the duration of permits on a reasonable~~
 47 ~~system of classification according to source of supply or type~~
 48 ~~of use, or both.~~

49 ~~(2) The Legislature finds that some agricultural~~
 50 ~~landowners remain unaware of their ability to request a 20-year~~
 51 ~~consumptive use permit under subsection (1) for initial permits~~
 52 ~~or for renewals. Therefore, the water management districts shall~~
 53 ~~inform agricultural applicants of this option in the application~~
 54 ~~form.~~

55 (2) ~~(3)~~ The governing board or the department may authorize
 56 a permit of duration of up to 50 years in the case of a

57 municipality or other governmental body or of a public works or
 58 public service corporation where such a period is required to
 59 provide for the retirement of bonds for the construction of
 60 waterworks and waste disposal facilities.

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

81 (3)~~(5)~~ Permits approved for the development of alternative
 82 water supplies shall be granted for a term of at least 20 years.
 83 However, if the permittee issues bonds for the construction of
 84 the project, upon request of the permittee prior to the

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85 expiration of the permit, that permit shall be extended for such
86 additional time as is required for the retirement of bonds, not
87 including any refunding or refinancing of such bonds, provided
88 that the governing board determines that the use will continue
89 to meet the conditions for the issuance of the permit. ~~Such a~~
90 ~~permit is subject to compliance reports under subsection (4).~~

91 (4)(6)(a) The Legislature finds that the need for
92 alternative water supply development projects to meet
93 anticipated public water supply demands of the state is so
94 important that it is essential to encourage participation in and
95 contribution to these projects by private-rural-land owners who
96 characteristically have relatively modest near-term water
97 demands but substantially increasing demands after the 20-year
98 planning period in s. 373.709. Therefore, where such landowners
99 make extraordinary contributions of lands or construction
100 funding to enable the expeditious implementation of such
101 projects, the governing board ~~water management districts~~ and the
102 department may grant permits for such projects for a period of
103 up to 50 years to municipalities, counties, special districts,
104 regional water supply authorities, multijurisdictional water
105 supply entities, and publicly or privately owned utilities, with
106 the exception of any publicly or privately owned utilities
107 created for or by a private landowner after April 1, 2008, which
108 have entered into an agreement with the private landowner for
109 the purpose of more efficiently pursuing alternative public
110 water supply development projects identified in a district's
111 regional water supply plan and meeting water demands of both the
112 applicant and the landowner.

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113 ~~(b) A permit under paragraph (a) may be granted only for~~
114 ~~that period for which there is sufficient data to provide~~
115 ~~reasonable assurance that the conditions for permit issuance~~
116 ~~will be met. Such a permit shall require a compliance report by~~
117 ~~the permittee every 5 years during the term of the permit. The~~
118 ~~report shall contain sufficient data to maintain reasonable~~
119 ~~assurance that the conditions for permit issuance applicable at~~
120 ~~the time of district review of the compliance report are met.~~
121 ~~After review of this report, the governing board or the~~
122 ~~department may modify the permit to ensure that the use meets~~
123 ~~the conditions for issuance. This subsection does not limit the~~
124 ~~existing authority of the department or the governing board to~~
125 ~~modify or revoke a consumptive use permit.~~

126 (5)~~(7)~~ A permit approved for a renewable energy generating
127 facility or the cultivation of agricultural products on lands
128 consisting of 1,000 acres or more for use in the production of
129 renewable energy, as defined in s. 366.91(2)(d), shall be
130 granted for a term of at least 25 years at the applicant's
131 request based on the anticipated life of the facility if there
132 is sufficient data to provide reasonable assurance that the
133 conditions for permit issuance will be met for the duration of
134 the permit; otherwise, a permit may be issued for a shorter
135 duration if requested by the applicant ~~that reflects the longest~~
136 ~~period for which such reasonable assurances are provided. Such a~~
137 ~~permit is subject to compliance reports under subsection (4).~~

138 (6) If requested by an existing consumptive use permit
139 holder, the governing board shall modify the permit to bring it
140 into compliance with this section.

141 Section 2. Subsections (4), (5), and (6) of section
 142 373.250, Florida Statutes, are renumbered as subsections (5),
 143 (6), and (7), respectively, and a new subsection (4) is added to
 144 that section to read:

145 373.250 Reuse of reclaimed water.—

146 (4) (a) In evaluating an application for the consumptive
 147 use of water, a water management district shall recognize a
 148 mandatory reuse zone created by a local government or special
 149 district pursuant to applicable law that requires persons
 150 specified by the local government or special district to connect
 151 to a reclaimed water system for irrigation and other nonpotable
 152 uses, as follows:

153 1. If reclaimed water is available and technically and
 154 environmentally feasible for the proposed use, the water
 155 management district shall presume that reclaimed water is
 156 economically feasible in a mandatory reuse zone, and the
 157 applicant shall bear the burden of overcoming the presumption.

158 2. Any applicant in a mandatory reuse zone seeking
 159 authorization for a nonpotable use shall consider the
 160 feasibility of using available reclaimed water. This requirement
 161 applies to all regulated water uses, regardless of the type of
 162 permit or authorization, excluding exemptions from permitting.

163 3. In a mandatory reuse zone, the use of reclaimed water
 164 shall be prioritized over other water sources for nonpotable
 165 uses and shall be required if determined to be technically,
 166 environmentally, and economically feasible.

167 (b) This subsection does not limit the authority of a
 168 reuse utility, local government, or special district to restrict

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169 the use of potable water, supplied by the potable water
170 distribution system serving its customers, for the purposes of
171 irrigation or other nonpotable uses that may be met by reclaimed
172 water.

173 Section 3. Section 373.255, Florida Statutes, is created
174 to read:

175 373.255 Sustainable water use permit.-

176 (1) Each water management district shall implement a
177 sustainable water use permit program for public water utilities
178 that:

179 (a) Provides a single permitting process authorizing the
180 use of water from multiple water sources.

181 (b) Encourages and facilitates the use of alternative
182 water sources.

183 (c) Stores excess captured surface water flow in off-
184 stream reservoirs or aquifer storage and recovery wellfields.

185 (d) Recovers stored water in order to reliably meet public
186 demand.

187 (e) Provides for use of traditional groundwater as a
188 supplemental source during drought conditions when stored water
189 is reduced, to the extent necessary to meet the public demand
190 for water in a reliable and efficient manner.

191 (f) Preserves traditional water supply sources for use by
192 future generations.

193 (2) A public water utility applying for a sustainable
194 water use permit must identify each source from which water is
195 proposed to be withdrawn and demonstrate for each source that
196 the withdrawal is a reasonable-beneficial use as defined in s.

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197 373.019, is consistent with the public interest, and will not
 198 interfere with any presently existing legal use of water.

199 (3) A sustainable water use permit:

200 (a) Shall specify all sources from which water may be
 201 withdrawn and the conditions under which such withdrawals may be
 202 made in order to meet the reasonable public water supply demands
 203 of the utility.

204 (b) May be issued without specifying the quantity of water
 205 that is permitted to be withdrawn from any individual source.

206 (c) Shall be issued for a period of not less than 20
 207 years, with the reasonable expectation of renewal in the absence
 208 of readily quantifiable changed conditions.

209 (4) Monitoring, compliance, and performance metrics for
 210 sustainable water use permits shall acknowledge and accommodate
 211 the natural variability and inherent uncertainty of the climate,
 212 weather, and hydrology of the relevant region while
 213 simultaneously enabling public water supply utilities to meet
 214 the potable water demands of their customers in a reliable,
 215 efficient, and cost-effective manner.

216 Section 4. Section 373.2234, Florida Statutes, is amended
 217 to read:

218 373.2234 Preferred water supply sources.—The governing
 219 board of a water management district is authorized to adopt
 220 rules that identify preferred water supply sources for
 221 consumptive uses for which there is sufficient data to establish
 222 that a preferred source will provide a substantial new water
 223 supply to meet the existing and projected reasonable-beneficial
 224 uses of a water supply planning region identified pursuant to s.

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225 373.709(1), while sustaining existing water resources and
226 natural systems. At a minimum, such rules must contain a
227 description of the preferred water supply source and an
228 assessment of the water the preferred source is projected to
229 produce. If an applicant proposes to use a preferred water
230 supply source, that applicant's proposed water use is subject to
231 s. 373.223(1), except that the proposed use of a preferred water
232 supply source must be considered by a water management district
233 when determining whether a permit applicant's proposed use of
234 water is consistent with the public interest pursuant to s.
235 373.223(1)(c). A consumptive use permit issued for the use of a
236 preferred water supply source must be granted, when requested by
237 the applicant, for at least a 20-year period ~~and may be subject~~
238 ~~to the compliance reporting provisions of s. 373.236(4)~~. Nothing
239 in this section shall be construed to exempt the use of
240 preferred water supply sources from the provisions of ss.
241 373.016(4) and 373.223(2) and (3), or be construed to provide
242 that permits issued for the use of a nonpreferred water supply
243 source must be issued for a duration of less than 20 years or
244 that the use of a nonpreferred water supply source is not
245 consistent with the public interest. Additionally, nothing in
246 this section shall be interpreted to require the use of a
247 preferred water supply source or to restrict or prohibit the use
248 of a nonpreferred water supply source. Rules adopted by the
249 governing board of a water management district to implement this
250 section shall specify that the use of a preferred water supply
251 source is not required and that the use of a nonpreferred water
252 supply source is not restricted or prohibited.

253 Section 5. Subsection (4) of section 373.243, Florida
 254 Statutes, is amended to read:

255 373.243 Revocation of permits.—The governing board or the
 256 department may revoke a permit as follows:

257 (4) For nonuse of the water supply allowed by the permit
 258 for a period of 2 years or more, the governing board or the
 259 department may revoke the permit permanently and in whole unless
 260 the user can prove that his or her nonuse was due to extreme
 261 hardship caused by factors beyond the user's control. For a
 262 permit issued pursuant to s. 373.236~~(5)-(7)~~, the governing board
 263 or the department may revoke the permit only if the nonuse of
 264 the water supply allowed by the permit is for a period of 4
 265 years or more.

266 Section 6. In consultation with the Department of
 267 Environmental Protection, each water management district is
 268 directed to examine options for improving the coordination
 269 between the consumptive use permitting process under part II of
 270 chapter 373, Florida Statutes, and the water supply planning
 271 process under part VII of chapter 373, Florida Statutes, by
 272 extending and reconciling the duration of issued consumptive use
 273 permits to provide for the simultaneous expiration and renewal
 274 of the permits, at the request of an applicant, on a rolling
 275 basin-specific basis. Each water management district shall
 276 report its findings and recommendations to the Governor, the
 277 President of the Senate, and the Speaker of the House of
 278 Representatives by January 1, 2012. This section does not affect
 279 the term of any consumptive use permit issued in accordance with
 280 Florida law.

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Section 7. This act shall take effect July 1, 2011.