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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
11/04/2015	.	
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	.	
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The Committee on Environmental Preservation and Conservation
(Soto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 465 - 891

and insert:

(c) Minimum flow and water level for an Outstanding Florida Spring, as defined in s. 373.802. The minimum flow and water level is the limit and level, respectively, at which further withdrawals would be harmful to the water resources or ecology of the area. All minimum flow and water level projections produced by the department or a water management district for an



910196

11 Outstanding Florida Spring must include a statistically valid
12 assessment of uncertainty levels associated with those
13 projections. If an Outstanding Florida Spring is below, or is
14 projected within 20 years to fall below, the minimum flow or
15 minimum water level, the department or governing board shall, by
16 rule, reserve sufficient water from use by permit applicants
17 pursuant to s. 373.223 to maintain or restore the minimum flow
18 or minimum water level.

19
20 The minimum flow and minimum water level shall be calculated by
21 the department and the governing board using the best
22 information available. When appropriate, minimum flows and
23 minimum water levels may be calculated to reflect seasonal
24 variations. The department and the governing board shall ~~also~~
25 consider, and at their discretion may provide for, the
26 protection of nonconsumptive uses in the establishment of
27 minimum flows and minimum water levels.

28 (2) (a) If a minimum flow or minimum water level has not
29 been adopted for an Outstanding Florida Spring, a water
30 management district or the department shall use the emergency
31 rulemaking authority provided in paragraph (c) to adopt a
32 minimum flow or minimum water level no later than July 1, 2017,
33 except for the Northwest Florida Water Management District,
34 which shall use such authority to adopt minimum flows and
35 minimum water levels for Outstanding Florida Springs no later
36 than July 1, 2026.

37 (b) For Outstanding Florida Springs identified on a water
38 management district's priority list developed pursuant to
39 subsection (3) which have the potential to be affected by



910196

40 withdrawals in an adjacent district, the adjacent district or
41 districts and the department shall collaboratively develop and
42 implement a recovery or prevention strategy for an Outstanding
43 Florida Spring not meeting an adopted minimum flow or minimum
44 water level.

45 (c) The Legislature finds as provided in s. 373.801(3) (b)
46 that the adoption of minimum flows and minimum water levels or
47 recovery or prevention strategies for Outstanding Florida
48 Springs requires immediate action. The department and the
49 districts are authorized, and all conditions are deemed to be
50 met, to use emergency rulemaking provisions pursuant to s.
51 120.54(4) to adopt minimum flows and minimum water levels
52 pursuant to this subsection and to adopt recovery or prevention
53 strategies concurrently with a minimum flow or minimum water
54 level pursuant to s. 373.805(2). The emergency rules shall
55 remain in effect during the pendency of procedures to adopt
56 rules addressing the subject of the emergency rules.

57 (d) As used in this subsection, the term "Outstanding
58 Florida Spring" has the same meaning as in s. 373.802.

59 (3)~~(2)~~ By November 15, 1997, and annually thereafter, each
60 water management district shall submit to the department for
61 review and approval a priority list and schedule for the
62 establishment of minimum flows and minimum water levels for
63 surface watercourses, aquifers, and surface waters within the
64 district. The priority list and schedule shall identify those
65 listed water bodies for which the district will voluntarily
66 undertake independent scientific peer review; any reservations
67 proposed by the district to be established pursuant to s.
68 373.223(4); and those listed water bodies that have the



69 potential to be affected by withdrawals in an adjacent district
70 for which the department's adoption of a reservation pursuant to
71 s. 373.223(4) or a minimum flow or minimum water level pursuant
72 to subsection (1) may be appropriate. By March 1, 2006, and
73 annually thereafter, each water management district shall
74 include its approved priority list and schedule in the
75 consolidated annual report required by s. 373.036(7). The
76 priority list shall be based upon the importance of the waters
77 to the state or region and the existence of or potential for
78 significant harm to the water resources or ecology of the state
79 or region, and shall include those waters which are experiencing
80 or may reasonably be expected to experience adverse impacts.
81 Each water management district's priority list and schedule
82 shall include all first magnitude springs, and all second
83 magnitude springs within state or federally owned lands
84 purchased for conservation purposes. The specific schedule for
85 establishment of spring minimum flows and minimum water levels
86 shall be commensurate with the existing or potential threat to
87 spring flow from consumptive uses. Springs within the Suwannee
88 River Water Management District, or second magnitude springs in
89 other areas of the state, need not be included on the priority
90 list if the water management district submits a report to the
91 Department of Environmental Protection demonstrating that
92 adverse impacts are not now occurring nor are reasonably
93 expected to occur from consumptive uses during the next 20
94 years. The priority list and schedule is not subject to any
95 proceeding pursuant to chapter 120. Except as provided in
96 subsection (4) ~~(3)~~, the development of a priority list and
97 compliance with the schedule for the establishment of minimum



910196

98 flows and minimum water levels pursuant to this subsection
99 satisfies the requirements of subsection (1).

100 ~~(4)~~(3) Minimum flows or minimum water levels for priority
101 waters in the counties of Hillsborough, Pasco, and Pinellas
102 shall be established by October 1, 1997. Where a minimum flow or
103 minimum water level for the priority waters within those
104 counties has not been established by the applicable deadline,
105 the secretary of the department shall, if requested by the
106 governing body of any local government within whose jurisdiction
107 the affected waters are located, establish the minimum flow or
108 minimum water level in accordance with the procedures
109 established by this section. The department's reasonable costs
110 in establishing a minimum flow or minimum water level shall,
111 upon request of the secretary, be reimbursed by the district.

112 ~~(5)~~(4) A water management district shall provide the
113 department with technical information and staff support for the
114 development of a reservation, minimum flow or minimum water
115 level, or recovery or prevention strategy to be adopted by the
116 department by rule. A water management district shall apply any
117 reservation, minimum flow or minimum water level, or recovery or
118 prevention strategy adopted by the department by rule without
119 the district's adoption by rule of such reservation, minimum
120 flow or minimum water level, or recovery or prevention strategy.

121 ~~(6)~~(5)(a) Upon written request to the department or
122 governing board by a substantially affected person, or by
123 decision of the department or governing board, before ~~prior to~~
124 the establishment of a minimum flow or minimum water level and
125 before ~~prior to~~ the filing of any petition for administrative
126 hearing related to the minimum flow or minimum water level, all



910196

127 scientific or technical data, methodologies, and models,
128 including all scientific and technical assumptions employed in
129 each model, used to establish a minimum flow or minimum water
130 level shall be subject to independent scientific peer review.
131 Independent scientific peer review means review by a panel of
132 independent, recognized experts in the fields of hydrology,
133 hydrogeology, limnology, biology, and other scientific
134 disciplines, to the extent relevant to the establishment of the
135 minimum flow or minimum water level.

136 (b) If independent scientific peer review is requested, it
137 shall be initiated at an appropriate point agreed upon by the
138 department or governing board and the person or persons
139 requesting the peer review. If no agreement is reached, the
140 department or governing board shall determine the appropriate
141 point at which to initiate peer review. The members of the peer
142 review panel shall be selected within 60 days of the point of
143 initiation by agreement of the department or governing board and
144 the person or persons requesting the peer review. If the panel
145 is not selected within the 60-day period, the time limitation
146 may be waived upon the agreement of all parties. If no waiver
147 occurs, the department or governing board may proceed to select
148 the peer review panel. The cost of the peer review shall be
149 borne equally by the district and each party requesting the peer
150 review, to the extent economically feasible. The panel shall
151 submit a final report to the governing board within 120 days
152 after its selection unless the deadline is waived by agreement
153 of all parties. Initiation of peer review pursuant to this
154 paragraph shall toll any applicable deadline under chapter 120
155 or other law or district rule regarding permitting, rulemaking,



910196

156 or administrative hearings, until 60 days following submittal of
157 the final report. Any such deadlines shall also be tolled for 60
158 days following withdrawal of the request or following agreement
159 of the parties that peer review will no longer be pursued. The
160 department or the governing board shall give significant weight
161 to the final report of the peer review panel when establishing
162 the minimum flow or minimum water level.

163 (c) If the final data, methodologies, and models, including
164 all scientific and technical assumptions employed in each model
165 upon which a minimum flow or level is based, have undergone peer
166 review pursuant to this subsection, by request or by decision of
167 the department or governing board, no further peer review shall
168 be required with respect to that minimum flow or minimum water
169 level.

170 (d) No minimum flow or minimum water level adopted by rule
171 or formally noticed for adoption on or before May 2, 1997, shall
172 be subject to the peer review provided for in this subsection.

173 ~~(7)~~ ~~(6)~~ If a petition for administrative hearing is filed
174 under chapter 120 challenging the establishment of a minimum
175 flow or minimum water level, the report of an independent
176 scientific peer review conducted under subsection ~~(5)~~ ~~(4)~~ is
177 admissible as evidence in the final hearing, and the
178 administrative law judge must render the order within 120 days
179 after the filing of the petition. The time limit for rendering
180 the order shall not be extended except by agreement of all the
181 parties. To the extent that the parties agree to the findings of
182 the peer review, they may stipulate that those findings be
183 incorporated as findings of fact in the final order.

184 (8) The rules adopted pursuant to this section are not



910196

185 subject to s. 120.541(3).

186 Section 6. Section 373.0421, Florida Statutes, is amended
187 to read:

188 373.0421 Establishment and implementation of minimum flows
189 and minimum water levels.—

190 (1) ESTABLISHMENT.—

191 (a) *Considerations.*—When establishing minimum flows and
192 minimum water levels pursuant to s. 373.042, the department or
193 governing board shall consider changes and structural
194 alterations to watersheds, surface waters, and aquifers and the
195 effects such changes or alterations have had, and the
196 constraints such changes or alterations have placed, on the
197 hydrology of an affected watershed, surface water, or aquifer,
198 provided that nothing in this paragraph shall allow significant
199 harm as provided by s. 373.042(1) caused by withdrawals.

200 (b) *Exclusions.*—

201 1. The Legislature recognizes that certain water bodies no
202 longer serve their historical hydrologic functions. The
203 Legislature also recognizes that recovery of these water bodies
204 to historical hydrologic conditions may not be economically or
205 technically feasible, and that such recovery effort could cause
206 adverse environmental or hydrologic impacts. Accordingly, the
207 department or governing board may determine that setting a
208 minimum flow or minimum water level for such a water body based
209 on its historical condition is not appropriate.

210 2. The department or the governing board is not required to
211 establish minimum flows or minimum water levels pursuant to s.
212 373.042 for surface water bodies less than 25 acres in area,
213 unless the water body or bodies, individually or cumulatively,



910196

214 have significant economic, environmental, or hydrologic value.

215 3. The department or the governing board shall not set
216 minimum flows or minimum water levels pursuant to s. 373.042 for
217 surface water bodies constructed before ~~prior to~~ the requirement
218 for a permit, or pursuant to an exemption, a permit, or a
219 reclamation plan which regulates the size, depth, or function of
220 the surface water body under the provisions of this chapter,
221 chapter 378, or chapter 403, unless the constructed surface
222 water body is of significant hydrologic value or is an essential
223 element of the water resources of the area.

224
225 The exclusions of this paragraph shall not apply to the
226 Everglades Protection Area, as defined in s. 373.4592(2)(i).

227 (2) If the existing flow or water level in a water body is
228 below, or is projected to fall within 20 years below, the
229 applicable minimum flow or minimum water level established
230 pursuant to s. 373.042, the department or governing board,
231 concurrent with the adoption of the minimum flow or minimum
232 water level and as part of the regional water supply plan
233 described in s. 373.709, shall adopt and ~~expeditiously~~ implement
234 a recovery or prevention strategy, which includes the
235 development of additional water supplies and other actions,
236 consistent with the authority granted by this chapter, to:

237 (a) Achieve recovery to the established minimum flow or
238 minimum water level as soon as practicable; or

239 (b) Prevent the existing flow or water level from falling
240 below the established minimum flow or minimum water level.

241
242 The recovery or prevention strategy must ~~shall~~ include a phased-



910196

243 in approach ~~phasing~~ or a timetable which will allow for the
244 provision of sufficient water supplies for all existing and
245 projected reasonable-beneficial uses, including development of
246 additional water supplies and implementation of conservation and
247 other efficiency measures concurrent with and, to the maximum
248 extent practical, ~~and~~ to offset, reductions in permitted
249 withdrawals, consistent with ~~the provisions of~~ this chapter. The
250 recovery or prevention strategy may not depend solely on water
251 shortage restrictions declared pursuant to s. 373.175 or s.
252 373.246.

253 (3) To ensure that sufficient water is available for all
254 existing and future reasonable-beneficial uses and the natural
255 systems, the applicable regional water supply plan prepared
256 pursuant to s. 373.709 shall be amended to include any water
257 supply development project or water resource development project
258 identified in a recovery or prevention strategy. Such amendment
259 shall be approved concurrently with relevant portions of the
260 recovery or prevention strategy.

261 (4) The water management district shall notify the
262 department if an application for a water use permit is denied
263 based upon the impact that the use will have on an adopted
264 minimum flow or minimum water level. Upon receipt of such
265 notice, the department shall, as soon as practicable and in
266 cooperation with the water management district, conduct a review
267 of the applicable regional water supply plan prepared pursuant
268 to s. 373.709. Such review shall include an assessment by the
269 department of the adequacy of the plan in addressing the
270 legislative intent of s. 373.705(2)(b) which provides that
271 sufficient water be available for all existing and future



910196

272 reasonable-beneficial uses and natural systems and that the
273 adverse effects of competition for water supplies be avoided. If
274 the department determines, based upon this review, that the
275 regional water supply plan does not adequately address the
276 legislative intent of s. 373.705(2)(b), the water management
277 district shall immediately initiate an update of the plan
278 consistent with s. 373.709.

279 (5)~~(3)~~ The provisions of this section are supplemental to
280 any other specific requirements or authority provided by law.
281 Minimum flows and minimum water levels shall be reevaluated
282 periodically and revised as needed.

283 Section 7. Section 373.0465, Florida Statutes, is created
284 to read:

285 373.0465 Central Florida Water Initiative.-

286 (1) The Legislature finds that:

287 (a) Historically, the Floridan Aquifer system has supplied
288 the vast majority of the water used in the Central Florida
289 Coordination Area.

290 (b) Because the boundaries of the St. Johns River Water
291 Management District, the South Florida Water Management
292 District, and the Southwest Florida Water Management District
293 meet within the Central Florida Coordination Area, the three
294 districts and the Department of Environmental Protection have
295 worked cooperatively to determine that the Floridan Aquifer
296 system is locally approaching the sustainable limits of use and
297 are exploring the need to develop sources of water to meet the
298 long-term water needs of the area.

299 (c) The Central Florida Water Initiative is a collaborative
300 process involving the Department of Environmental Protection,



910196

301 the St. Johns River Water Management District, the South Florida
302 Water Management District, the Southwest Florida Water
303 Management District, the Department of Agriculture and Consumer
304 Services, regional public water supply utilities, and other
305 stakeholders. As set forth in the Central Florida Water
306 Initiative Guiding Document of January 30, 2015, the initiative
307 has developed an initial framework for a unified process to
308 address the current and long-term water supply needs of Central
309 Florida without causing harm to the water resources and
310 associated natural systems.

311 (d) Developing water sources as an alternative to continued
312 reliance on the Floridan Aquifer will benefit existing and
313 future water users and natural systems within and beyond the
314 boundaries of the Central Florida Water Initiative.

315 (2) (a) As used in this section, the term "Central Florida
316 Water Initiative Area" means all of Orange, Osceola, Polk, and
317 Seminole Counties, and southern Lake County, as designated by
318 the Central Florida Water Initiative Guiding Document of January
319 30, 2015.

320 (b) The department, the St. Johns River Water Management
321 District, the South Florida Water Management District, the
322 Southwest Florida Water Management District, and the Department
323 of Agriculture and Consumer Services shall:

324 1. Provide for a continuation of the collaborative process
325 in the Central Florida Water Initiative Area among the state
326 agencies, affected water management districts, regional public
327 water supply utilities, and other stakeholders;

328 2. Build upon the guiding principles and goals set forth in
329 the Central Florida Water Initiative Guiding Document of January



910196

330 30, 2015, and the work that has already been accomplished by the
331 Central Florida Water Initiative participants;

332 3. Develop and implement, as set forth in the Central
333 Florida Water Initiative Guiding Document of January 30, 2015, a
334 single multidistrict regional water supply plan, including any
335 needed recovery or prevention strategies and a list of water
336 supply development projects or water resource projects; and

337 4. Provide for a single hydrologic planning model to assess
338 the availability of groundwater in the Central Florida Water
339 Initiative Area.

340 (c) In developing the water supply planning program
341 consistent with the goals set forth in this subsection, the
342 department, the St. Johns River Water Management District, the
343 South Florida Water Management District, the Southwest Florida
344 Water Management District, and the Department of Agriculture and
345 Consumer Services shall:

346 1. Consider limitations on groundwater use together with
347 opportunities for new, increased, or redistributed groundwater
348 uses that are consistent with the conditions established under
349 s. 373.223;

350 2. Establish a coordinated process for the identification
351 of water resources requiring new or revised conditions. Any new
352 or revised condition must be consistent with s. 373.223;

353 3. Consider existing recovery or prevention strategies;

354 4. Include a list of water supply options sufficient to
355 meet the water needs of all existing and future reasonable-
356 beneficial uses consistent with the conditions established under
357 s. 373.223; and

358 5. Identify, as necessary, which of the water supply



910196

359 sources are preferred water supply sources pursuant to s.
360 373.2234.

361 (d) The department, in consultation with the St. Johns
362 River Water Management District, the South Florida Water
363 Management District, the Southwest Florida Water Management
364 District, and the Department of Agriculture and Consumer
365 Services, shall adopt uniform rules for application within the
366 Central Florida Water Initiative Area that include:

367 1. A single, uniform definition of the term "harmful to the
368 water resources" consistent with the term's usage in s. 373.219;

369 2. A single method for calculating residential per capita
370 water use;

371 3. A single process for permit reviews;

372 4. A single, consistent process, as appropriate, to set
373 minimum flows and minimum water levels and water reservations;

374 5. A goal for residential per capita water use for each
375 consumptive use permit; and

376 6. An annual conservation goal for each consumptive use
377 permit consistent with the regional water supply plan.

378
379 The uniform rules must include existing recovery strategies
380 within the Central Florida Water Initiative Area adopted before
381 July 1, 2016. The department may grant variances to the uniform
382 rules if there are unique circumstances or hydrogeological
383 factors that make application of the uniform rules unrealistic
384 or impractical.

385 (e) The department shall initiate rulemaking for the
386 uniform rules by December 31, 2016. The department's uniform
387 rules shall be applied by the water management districts only



910196

388 within the Central Florida Water Initiative Area. Upon adoption
389 of the rules, the water management districts shall implement the
390 rules without further rulemaking pursuant to s. 120.54. The
391 rules adopted by the department pursuant to this section are
392 considered the rules of the water management districts.

393 (f) Water management district planning programs developed
394 pursuant to this subsection shall be approved or adopted as
395 required under this chapter. However, such planning programs may
396 not serve to modify planning programs in areas of the affected
397 districts that are not within the Central Florida Water
398 Initiative Area, but may include interregional projects located
399 outside the Central Florida Water Initiative Area which are
400 consistent with planning and regulatory programs in the areas in
401 which they are located.

402 Section 8. Subsection (4) of section 373.1501, Florida
403 Statutes, is amended, present subsections (7) and (8) are
404 redesignated as subsections (8) and (9), respectively, and a new
405 subsection (7) is added to that section, to read:

406 373.1501 South Florida Water Management District as local
407 sponsor.—

408 (4) The district is authorized to act as local sponsor of
409 the project for those project features within the district as
410 provided in this subsection and subject to the oversight of the
411 department as further provided in s. 373.026. The district shall
412 exercise the authority of the state to allocate quantities of
413 water within its jurisdiction, including the water supply in
414 relation to the project, and be responsible for allocating water
415 and assigning priorities among the other water uses served by
416 the project pursuant to state law. The district may:



910196

417 (a) Act as local sponsor for all project features
418 previously authorized by Congress.~~†~~

419 (b) Continue data gathering, analysis, research, and design
420 of project components, participate in preconstruction
421 engineering and design documents for project components, and
422 further refine the Comprehensive Plan of the restudy as a guide
423 and framework for identifying other project components.~~†~~

424 (c) Construct pilot projects that will assist in
425 determining the feasibility of technology included in the
426 Comprehensive Plan of the restudy.~~†~~ and

427 (d) Act as local sponsor for project components.

428 (7) When developing or implementing water control plans or
429 regulation schedules required for the operation of the project,
430 the district shall provide recommendations to the United States
431 Army Corps of Engineers which are consistent with all district
432 programs and plans.

433 ===== T I T L E A M E N D M E N T =====

434 And the title is amended as follows:

435 Delete lines 26 - 66

436 and insert:

437 amending s. 373.042, F.S.; establishing minimum flow
438 and water level basis for Outstanding Florida Springs;
439 establishing methodology for determining minimum flow
440 and water levels for Outstanding Florida Springs;
441 requiring the department or district governing board
442 to reserve sufficient water for Outstanding Florida
443 Springs from consumptive use permit applicants under
444 certain conditions; requiring the department or the
445 governing board of a water management district to



910196

446 adopt a minimum flow or minimum water level for an
447 Outstanding Florida Spring using emergency rulemaking
448 authority under certain circumstances; requiring
449 collaboration in the development and implementation of
450 recovery or prevention strategies under certain
451 circumstances; revising the rulemaking authority of
452 the department; amending s. 373.0421, F.S.; directing
453 the department or the water management district
454 governing boards to adopt and implement certain
455 recovery or prevention strategies concurrent with the
456 adoption of minimum flows and minimum water levels;
457 providing criteria for such recovery or prevention
458 strategies; requiring certain amendments to regional
459 water supply plans to be concurrent with relevant
460 portions of the recovery or prevention strategy;
461 directing water management districts to notify the
462 department when water use permit applications are
463 denied for a specified reason; providing for the
464 review and update of regional water supply plans in
465 such cases; creating s. 373.0465, F.S.; providing
466 legislative intent; defining the term "Central Florida
467 Water Initiative Area"; requiring the department, the
468 St. Johns River Water Management District, the South
469 Florida Water Management District, the Southwest
470 Florida Water Management District, and the Department
471 of Agriculture and Consumer Services to develop and
472 implement a multidistrict regional water supply plan;
473 providing plan criteria and requirements; providing
474 applicability; requiring the department to adopt



910196

475 rules; amending s. 373.1501, F.S.; specifying
476 authority of the South Florida Water Management
477 District to allocate quantities of, and assign
478 priorities for the use of, water within its
479 jurisdiction; directing the district to provide
480 recommendations to the United States Army Corps of
481 Engineers when developing or implementing certain
482 water control plans or regulation schedules; amending
483 s. 373.223, F.S.;