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1                                   A bill to be entitled  
2       An act relating to water resources; amending s. 373.016,  
3       F.S.; revising provisions relating to the declaration of  
4       policy for the state water resource plan to include demand  
5       management; providing specified goals for the conservation  
6       of potable water and the use of reclaimed water;  
7       conforming a cross-reference; amending s. 373.019, F.S.;  
8       clarifying the definitions of "alternative water supplies"  
9       and "capital costs"; defining the terms "demand  
10      management" and "program costs"; amending s. 373.196,  
11      F.S.; revising provisions relating to alternative water  
12      supply development to include demand management; providing  
13      for the Secretary of Environmental Protection to exercise  
14      general supervisory authority regarding the construction  
15      and operation of certain alternative water supply  
16      projects; providing for the roles of water management  
17      districts, local governments, water supply authorities and  
18      entities, special districts, and water utilities with  
19      regard to demand management activities; providing for the  
20      inclusion of demand management activities in water  
21      management district annual budgets; requiring funds from  
22      the Water Protection and Sustainability Program to be made  
23      available for demand management activities; amending s.  
24      373.1961, F.S.; revising provisions relating to the  
25      identification of water supply needs and funding criteria  
26      for water supply projects to include demand management  
27      activities; clarifying provisions relating to projects and  
28      activities submitted to water management district

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 governing boards for financial assistance; requiring  
 30 certain rate structures for utilities receiving financial  
 31 assistance for demand management activities; providing for  
 32 the disbursement of specified revenues to fund the  
 33 implementation of demand management activities; providing  
 34 for the inclusion of demand management activities in water  
 35 management district consolidated annual reports; providing  
 36 for recovery of costs for the construction of certain  
 37 facilities; deleting obsolete appropriation provisions;  
 38 amending s. 373.223, F.S.; revising provisions relating to  
 39 conditions for issuance of a consumptive use of water  
 40 permit; prohibiting the issuance of permits under  
 41 specified conditions; defining the term "source water  
 42 body"; requiring water management district governing  
 43 boards and the Department of Environmental Protection to  
 44 consider specified criteria in evaluating permit  
 45 applications; authorizing governing boards and the  
 46 department to reserve waters for specified purposes;  
 47 providing that the continued use of groundwater sources is  
 48 in the public interest under certain conditions; amending  
 49 s. 403.890, F.S.; deleting obsolete appropriation  
 50 provisions; revising provisions relating to the Water  
 51 Protection and Sustainability Program to provide funding  
 52 for the implementation of demand management; amending ss.  
 53 373.036, 373.0361, 373.1962, 373.217, 373.2234, 373.229,  
 54 373.421, 403.813, and 556.102, F.S.; conforming cross-  
 55 references; providing an effective date.

57 Be It Enacted by the Legislature of the State of Florida:

58  
 59 Section 1. Paragraph (a) of subsection (4) of section  
 60 373.016, Florida Statutes, is amended, and subsection (7) is  
 61 added to that section, to read:

62 373.016 Declaration of policy.—

63 (4) (a) Because water constitutes a public resource  
 64 benefiting the entire state, it is the policy of the Legislature  
 65 that the waters in the state be managed on a state and regional  
 66 basis. Consistent with this directive, the Legislature  
 67 recognizes the need to allocate water throughout the state so as  
 68 to meet all reasonable-beneficial uses. However, the Legislature  
 69 acknowledges that such allocations have in the past adversely  
 70 affected the water resources of certain areas in this state. To  
 71 protect such water resources and to meet the current and future  
 72 needs of those areas with abundant water, the Legislature  
 73 directs the department and the water management districts to  
 74 encourage the use of water from sources nearest the area of use  
 75 or application whenever practicable. Such sources shall include  
 76 all naturally occurring water sources and all alternative water  
 77 sources, including, but not limited to, desalination,  
 78 conservation, reuse of nonpotable reclaimed water and  
 79 stormwater, and aquifer storage and recovery of surficial  
 80 groundwater, stormwater, and reclaimed water. Reuse of potable  
 81 reclaimed water and stormwater shall not be subject to the  
 82 evaluation described in s. 373.223(9) (a) - (g) ~~s. 373.223(3) (a) -~~  
 83 ~~(g)~~. However, this directive to encourage the use of water,  
 84 whenever practicable, from sources nearest the area of use or

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85 application shall not apply to the transport and direct and  
86 indirect use of water within the area encompassed by the Central  
87 and Southern Florida Flood Control Project, nor shall it apply  
88 anywhere in the state to the transport and use of water supplied  
89 exclusively for bottled water as defined in s. 500.03(1)(d), nor  
90 shall it apply to the transport and use of reclaimed water for  
91 electrical power production by an electric utility as defined in  
92 section 366.02(2).

93 (7) (a) The Legislature recognizes that managing the demand  
94 for water supplies, including surface water and groundwater, is  
95 critical to ensuring the availability of sufficient water for  
96 all existing and future reasonable-beneficial uses and natural  
97 systems and that two of the most important demand management  
98 tools are the conservation of potable water and the use of  
99 reclaimed wastewater.

100 (b) The Legislature strongly encourages the use of  
101 nonpotable water for nonpotable uses and recognizes that an  
102 unacceptable amount of potable water is used to irrigate  
103 residential and commercial landscapes. Therefore, the  
104 Legislature establishes a goal to eliminate the use of potable  
105 water for landscape irrigation in all new residential and  
106 commercial construction and in all redevelopment of existing  
107 residential and commercial construction by the year 2013. The  
108 Legislature further encourages the elimination of the use of  
109 potable water for nonpotable uses if it is economically and  
110 technologically feasible to use nonpotable water for such uses.

111 (c) The Legislature also recognizes that an unacceptable  
112 amount of highly treated domestic wastewater is discharged into

113 surface waters and underground aquifers and that such reclaimed  
 114 wastewater is a valuable resource that can be stored and used  
 115 for nonpotable uses. Therefore, the Legislature establishes a  
 116 goal to use all reclaimed wastewater for beneficial purposes by  
 117 the year 2030.

118 Section 2. Section 373.019, Florida Statutes, is amended  
 119 to read:

120 373.019 Definitions.—When appearing in this chapter or in  
 121 any rule, regulation, or order adopted pursuant thereto, the  
 122 term:

123 (1) "Alternative water supplies" means potential supplies  
 124 of water from nontraditional groundwater sources that may be  
 125 developed for potable uses, including, but not limited to,  
 126 desalinated surface and groundwater and treated fresh surface  
 127 waters. Such supplies do not include conservation measures or  
 128 waters that are used to reduce the demand for potable water  
 129 ~~supplies salt water; brackish surface and groundwater; surface~~  
 130 ~~water captured predominately during wet-weather flows; sources~~  
 131 ~~made available through the addition of new storage capacity for~~  
 132 ~~surface or groundwater, water that has been reclaimed after one~~  
 133 ~~or more public supply, municipal, industrial, commercial, or~~  
 134 ~~agricultural uses; the downstream augmentation of water bodies~~  
 135 ~~with reclaimed water; stormwater; and any other water supply~~  
 136 ~~source that is designated as nontraditional for a water supply~~  
 137 ~~planning region in the applicable regional water supply plan.~~

138 (2) "Capital costs" means planning, design, engineering,  
 139 and project construction costs for alternative water supply  
 140 projects and demand management activities.

141           (3) "Coastal waters" means waters of the Atlantic Ocean or  
142 the Gulf of Mexico within the jurisdiction of the state.

143           (4) "Demand management" means methods used by water  
144 utilities to reduce the demand for potable water supplies,  
145 including, but not limited to, programs that result in the  
146 conservation of potable water and construction projects that  
147 result in the beneficial use of reclaimed water for nonpotable  
148 uses.

149           ~~(5)-(4)~~ "Department" means the Department of Environmental  
150 Protection or its successor agency or agencies.

151           ~~(6)-(5)~~ "District water management plan" means the regional  
152 water resource plan developed by a governing board under s.  
153 373.036.

154           ~~(7)-(6)~~ "Domestic use" means the use of water for the  
155 individual personal household purposes of drinking, bathing,  
156 cooking, or sanitation. All other uses shall not be considered  
157 domestic.

158           ~~(8)-(7)~~ "Florida water plan" means the state-level water  
159 resource plan developed by the department under s. 373.036.

160           ~~(9)-(8)~~ "Governing board" means the governing board of a  
161 water management district.

162           ~~(10)-(9)~~ "Groundwater" means water beneath the surface of  
163 the ground, whether or not flowing through known and definite  
164 channels.

165           ~~(11)-(10)~~ "Impoundment" means any lake, reservoir, pond, or  
166 other containment of surface water occupying a bed or depression  
167 in the earth's surface and having a discernible shoreline.

168           ~~(12)-(11)~~ "Independent scientific peer review" means the

169 review of scientific data, theories, and methodologies by a  
 170 panel of independent, recognized experts in the fields of  
 171 hydrology, hydrogeology, limnology, and other scientific  
 172 disciplines relevant to the matters being reviewed under s.  
 173 373.042.

174 (13)~~(12)~~ "Multijurisdictional water supply entity" means  
 175 two or more water utilities or local governments that have  
 176 organized into a larger entity, or entered into an interlocal  
 177 agreement or contract, for the purpose of more efficiently  
 178 pursuing water supply development or alternative water supply  
 179 development projects listed pursuant to a regional water supply  
 180 plan.

181 (14)~~(13)~~ "Nonregulated use" means any use of water which  
 182 is exempted from regulation by the provisions of this chapter.

183 (15)~~(14)~~ "Other watercourse" means any canal, ditch, or  
 184 other artificial watercourse in which water usually flows in a  
 185 defined bed or channel. It is not essential that the flowing be  
 186 uniform or uninterrupted.

187 (16)~~(15)~~ "Person" means any and all persons, natural or  
 188 artificial, including any individual, firm, association,  
 189 organization, partnership, business trust, corporation, company,  
 190 the United States of America, and the state and all political  
 191 subdivisions, regions, districts, municipalities, and public  
 192 agencies thereof. The enumeration herein is not intended to be  
 193 exclusive or exhaustive.

194 (17) "Program costs" means costs associated with the  
 195 implementation of water conservation activities that result in  
 196 the conservation of potable water and reduce the need for the

197 construction of alternative water supply projects.

198 (18)~~(16)~~ "Reasonable-beneficial use" means the use of  
 199 water in such quantity as is necessary for economic and  
 200 efficient utilization for a purpose and in a manner which is  
 201 both reasonable and consistent with the public interest.

202 (19)~~(17)~~ "Regional water supply plan" means a detailed  
 203 water supply plan developed by a governing board under s.  
 204 373.0361.

205 (20)~~(18)~~ "Stream" means any river, creek, slough, or  
 206 natural watercourse in which water usually flows in a defined  
 207 bed or channel. It is not essential that the flowing be uniform  
 208 or uninterrupted. The fact that some part of the bed or channel  
 209 has been dredged or improved does not prevent the watercourse  
 210 from being a stream.

211 (21)~~(19)~~ "Surface water" means water upon the surface of  
 212 the earth, whether contained in bounds created naturally or  
 213 artificially or diffused. Water from natural springs shall be  
 214 classified as surface water when it exits from the spring onto  
 215 the earth's surface.

216 (22)~~(20)~~ "Water" or "waters in the state" means any and  
 217 all water on or beneath the surface of the ground or in the  
 218 atmosphere, including natural or artificial watercourses, lakes,  
 219 ponds, or diffused surface water and water percolating,  
 220 standing, or flowing beneath the surface of the ground, as well  
 221 as all coastal waters within the jurisdiction of the state.

222 (23)~~(21)~~ "Water management district" means any flood  
 223 control, resource management, or water management district  
 224 operating under the authority of this chapter.



225        (24)~~(22)~~ "Water resource development" means the  
 226 formulation and implementation of regional water resource  
 227 management strategies, including the collection and evaluation  
 228 of surface water and groundwater data; structural and  
 229 nonstructural programs to protect and manage water resources;  
 230 the development of regional water resource implementation  
 231 programs; the construction, operation, and maintenance of major  
 232 public works facilities to provide for flood control, surface  
 233 and underground water storage, and groundwater recharge  
 234 augmentation; and related technical assistance to local  
 235 governments and to government-owned and privately owned water  
 236 utilities.

237        (25)~~(23)~~ "Water resource implementation rule" means the  
 238 rule authorized by s. 373.036, which sets forth goals,  
 239 objectives, and guidance for the development and review of  
 240 programs, rules, and plans relating to water resources, based on  
 241 statutory policies and directives. The waters of the state are  
 242 among its most basic resources. Such waters should be managed to  
 243 conserve and protect water resources and to realize the full  
 244 beneficial use of these resources.

245        (26)~~(24)~~ "Water supply development" means the planning,  
 246 design, construction, operation, and maintenance of public or  
 247 private facilities for water collection, production, treatment,  
 248 transmission, or distribution for sale, resale, or end use.

249        (27)~~(25)~~ For the sole purpose of serving as the basis for  
 250 the unified statewide methodology adopted pursuant to s.  
 251 373.421(1), as amended, "wetlands" means those areas that are  
 252 inundated or saturated by surface water or groundwater at a

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253 frequency and a duration sufficient to support, and under normal  
254 circumstances do support, a prevalence of vegetation typically  
255 adapted for life in saturated soils. Soils present in wetlands  
256 generally are classified as hydric or alluvial, or possess  
257 characteristics that are associated with reducing soil  
258 conditions. The prevalent vegetation in wetlands generally  
259 consists of facultative or obligate hydrophytic macrophytes that  
260 are typically adapted to areas having soil conditions described  
261 above. These species, due to morphological, physiological, or  
262 reproductive adaptations, have the ability to grow, reproduce,  
263 or persist in aquatic environments or anaerobic soil conditions.  
264 Florida wetlands generally include swamps, marshes, bayheads,  
265 bogs, cypress domes and strands, sloughs, wet prairies, riverine  
266 swamps and marshes, hydric seepage slopes, tidal marshes,  
267 mangrove swamps and other similar areas. Florida wetlands  
268 generally do not include longleaf or slash pine flatwoods with  
269 an understory dominated by saw palmetto. Upon legislative  
270 ratification of the methodology adopted pursuant to s.  
271 373.421(1), as amended, the limitation contained herein  
272 regarding the purpose of this definition shall cease to be  
273 effective.

274 (28)~~(26)~~ "Works of the district" means those projects and  
275 works, including, but not limited to, structures, impoundments,  
276 wells, streams, and other watercourses, together with the  
277 appurtenant facilities and accompanying lands, which have been  
278 officially adopted by the governing board of the district as  
279 works of the district.

280 Section 3. Section 373.196, Florida Statutes, is amended  
 281 to read:

282 373.196 Alternative water supply development and demand  
 283 management.—

284 (1) The purpose of this section is to encourage  
 285 cooperation in the development of water supplies and to provide  
 286 for alternative water supply development and demand management.

287 (a) Demands on natural supplies of fresh water to meet the  
 288 needs of a rapidly growing population and the needs of the  
 289 environment, agriculture, industry, and mining will continue to  
 290 increase.

291 (b) There is a need for the development of alternative  
 292 water supplies for Florida to sustain its economic growth,  
 293 economic viability, and natural resources.

294 (c) Cooperative efforts between municipalities, counties,  
 295 special districts, water management districts, and the  
 296 Department of Environmental Protection are mandatory in order to  
 297 meet the water needs of rapidly urbanizing areas in a manner  
 298 that will supply adequate and dependable supplies of water where  
 299 needed without resulting in adverse effects upon the areas from  
 300 which such water is withdrawn. Such efforts should use all  
 301 practical means of obtaining water, including, but not limited  
 302 to, withdrawals of surface water and groundwater, reuse, and  
 303 desalinization, and will necessitate not only cooperation but  
 304 also well-coordinated activities. Municipalities, counties, and  
 305 special districts are encouraged to create regional water supply  
 306 authorities as authorized in s. 373.1962 or multijurisdictional  
 307 water supply entities. The Secretary of Environmental Protection

308 shall exercise general supervisory authority pursuant to s.  
 309 373.026(7) as necessary to ensure that such cooperative efforts  
 310 result in the timely construction and operation of alternative  
 311 water supply projects needed to meet the public water supply  
 312 demand.

313 (d) Alternative water supply development and demand  
 314 management must receive priority funding attention to decrease  
 315 demand for potable water and increase the available supplies of  
 316 water to meet all existing and future reasonable-beneficial uses  
 317 and to benefit the natural systems.

318 (e) Cooperation between counties, municipalities, regional  
 319 water supply authorities, multijurisdictional water supply  
 320 entities, special districts, and publicly owned and privately  
 321 owned water utilities in the development of countywide and  
 322 multicountywide alternative water supply projects will allow for  
 323 necessary economies of scale and efficiencies to be achieved in  
 324 order to accelerate the development of new, dependable, and  
 325 sustainable alternative water supplies.

326 (f) It is in the public interest that county, municipal,  
 327 industrial, agricultural, and other public and private water  
 328 users, the Department of Environmental Protection, and the water  
 329 management districts cooperate and work together in the  
 330 development of alternative water supplies and the implementation  
 331 of demand management activities to avoid the adverse effects of  
 332 competition for limited supplies of water. Public moneys or  
 333 services provided to private entities for alternative water  
 334 supply development and demand management may constitute public  
 335 purposes that also are in the public interest.

336 (2) (a) Sufficient water must be available for all existing  
 337 and future reasonable-beneficial uses and the natural systems,  
 338 and the adverse effects of competition for water supplies must  
 339 be avoided.

340 (b) Water supply development, ~~and~~ alternative water supply  
 341 development, and demand management must be conducted in  
 342 coordination with water management district regional water  
 343 supply planning.

344 (c) Funding for the development of alternative water  
 345 supplies and the implementation of demand management activities  
 346 shall be a shared responsibility of water suppliers and users,  
 347 the State of Florida, and the water management districts, with  
 348 water suppliers and users having the primary responsibility and  
 349 the State of Florida and the water management districts being  
 350 responsible for providing funding assistance.

351 (3) The primary roles of the water management districts in  
 352 water resource development as it relates to supporting  
 353 alternative water supply development and demand management are:

354 (a) The formulation and implementation of regional water  
 355 resource management strategies that support alternative water  
 356 supply development and demand management;

357 (b) The collection and evaluation of surface water and  
 358 groundwater data to be used for a planning level assessment of  
 359 the feasibility of alternative water supply development  
 360 projects;

361 (c) The construction, operation, and maintenance of major  
 362 public works facilities for flood control, surface and  
 363 underground water storage, and groundwater recharge augmentation

364 to support alternative water supply development and demand  
 365 management;

366 (d) Planning for alternative water supply development and  
 367 demand management as provided in regional water supply plans in  
 368 coordination with local governments, regional water supply  
 369 authorities, multijurisdictional water supply entities, special  
 370 districts, and publicly owned and privately owned water  
 371 utilities and self-suppliers;

372 (e) The formulation and implementation of structural and  
 373 nonstructural programs to protect and manage water resources in  
 374 support of alternative water supply projects and demand  
 375 management activities; and

376 (f) The provision of technical and financial assistance to  
 377 local governments and publicly owned and privately owned water  
 378 utilities for alternative water supply projects and demand  
 379 management activities.

380 (4) The primary roles of local government, regional water  
 381 supply authorities, multijurisdictional water supply entities,  
 382 special districts, and publicly owned and privately owned water  
 383 utilities in alternative water supply development and demand  
 384 management shall be:

385 (a) The planning, design, construction, operation, and  
 386 maintenance of alternative water supply development projects and  
 387 demand management activities;

388 (b) The formulation and implementation of alternative  
 389 water supply development and demand management strategies and  
 390 programs;

391 (c) The planning, design, construction, operation, and

392 maintenance of facilities to collect, divert, produce, treat,  
 393 transmit, and distribute water for sale, resale, or end use; and

394 (d) The coordination of alternative water supply  
 395 development projects and demand management activities with the  
 396 appropriate water management district having jurisdiction over  
 397 the activity.

398 (5) Nothing in this section shall be construed to preclude  
 399 the various special districts, municipalities, and counties from  
 400 continuing to operate existing water production and transmission  
 401 facilities or to enter into cooperative agreements with other  
 402 special districts, municipalities, and counties for the purpose  
 403 of meeting their respective needs for dependable and adequate  
 404 supplies of water; however, the obtaining of water through such  
 405 operations shall not be done in a manner that results in adverse  
 406 effects upon the areas from which such water is withdrawn.

407 (6) (a) The statewide funds provided pursuant to the Water  
 408 Protection and Sustainability Program serve to supplement  
 409 existing water management district or basin board funding for  
 410 alternative water supply development and demand management  
 411 assistance and should not result in a reduction of such funding.  
 412 Therefore, the water management districts shall include in the  
 413 annual tentative and adopted budget submittals required under  
 414 this chapter the amount of funds allocated for water resource  
 415 development that supports alternative water supply development  
 416 and demand management and the funds allocated for alternative  
 417 water supply projects and demand management activities selected  
 418 for inclusion in the Water Protection and Sustainability  
 419 Program. It shall be the goal of each water management district

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420 and basin boards that the combined funds allocated annually for  
 421 these purposes be, at a minimum, the equivalent of 100 percent  
 422 of the state funding provided to the water management district  
 423 for alternative water supply development and demand management.  
 424 If this goal is not achieved, the water management district  
 425 shall provide in the budget submittal an explanation of the  
 426 reasons or constraints that prevent this goal from being met, an  
 427 explanation of how the goal will be met in future years, and  
 428 affirmation of match is required during the budget review  
 429 process as established under s. 373.536(5). The Suwannee River  
 430 Water Management District and the Northwest Florida Water  
 431 Management District shall not be required to meet the match  
 432 requirements of this paragraph; however, they shall try to  
 433 achieve the match requirement to the greatest extent  
 434 practicable.

435 (b) State funds from the Water Protection and  
 436 Sustainability Program created in s. 403.890 shall be made  
 437 available for financial assistance for the project construction  
 438 costs of alternative water supply development projects and  
 439 demand management activities selected by a water management  
 440 district governing board for inclusion in the program.

441 Section 4. Subsections (2), (3), (5), and (6) of section  
 442 373.1961, Florida Statutes, are amended to read:

443 373.1961 Water production; general powers and duties;  
 444 identification of needs; funding criteria; economic incentives;  
 445 reuse funding.—

446 (2) IDENTIFICATION OF WATER SUPPLY NEEDS IN DISTRICT  
 447 BUDGET.—The water management district shall implement its



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448 | responsibilities as expeditiously as possible in areas subject  
 449 | to regional water supply plans. Each district's governing board  
 450 | shall include in its annual budget the amount needed for the  
 451 | fiscal year to assist in implementing alternative water supply  
 452 | development projects and demand management activities.

453 | (3) FUNDING.—

454 | (a) The water management districts and the state shall  
 455 | share a percentage of revenues with water providers and users,  
 456 | including local governments, water, wastewater, and reuse  
 457 | utilities, municipal, special district, industrial, and  
 458 | agricultural water users, and other public and private water  
 459 | users, to be used to supplement other funding sources in the  
 460 | development of alternative water supplies and the implementation  
 461 | of demand management activities.

462 | (b) Beginning in fiscal year 2005-2006, the state shall  
 463 | annually provide a portion of those revenues deposited into the  
 464 | Water Protection and Sustainability Program Trust Fund for the  
 465 | purpose of providing funding assistance for the development of  
 466 | alternative water supplies and the implementation of demand  
 467 | management activities pursuant to the Water Protection and  
 468 | Sustainability Program. At the beginning of each fiscal year,  
 469 | beginning with fiscal year 2005-2006, such revenues shall be  
 470 | distributed by the department into the alternative water supply  
 471 | and demand management trust fund accounts created by each  
 472 | district for the purpose of alternative water supply development  
 473 | and demand management under the following funding formula:

474 | 1. Thirty percent to the South Florida Water Management  
 475 | District;

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476           2. Twenty-five percent to the Southwest Florida Water  
477 Management District;

478           3. Twenty-five percent to the St. Johns River Water  
479 Management District;

480           4. Ten percent to the Suwannee River Water Management  
481 District; and

482           5. Ten percent to the Northwest Florida Water Management  
483 District.

484           (c) The financial assistance for alternative water supply  
485 projects and demand management projects allocated in each  
486 district's budget as required in s. 373.196(6) shall be combined  
487 with the state funds and used to assist in funding the ~~project~~  
488 construction costs of alternative water supply projects and the  
489 construction and program costs of demand management activities  
490 selected by the governing board. If the district has not  
491 completed any regional water supply plan, or the regional water  
492 supply plan does not identify the need for any alternative water  
493 supply projects or demand management activities, funds deposited  
494 in that district's trust fund may be used for water resource  
495 development projects, including, but not limited to, springs  
496 protection.

497           (d) All alternative water supply projects and demand  
498 management activities submitted to the governing board for  
499 consideration shall reflect the total capital costs ~~cost~~ for  
500 implementation. The costs shall be itemized ~~segregated~~ pursuant  
501 to the categories described in s. 373.019(2) ~~the definition of~~  
502 ~~capital costs~~. Demand management activities that do not involve  
503 construction projects shall reflect the total program costs

504 pursuant to s. 373.019(17).

505 (e) Applicants for alternative water supply projects and  
 506 demand management activities that may receive funding assistance  
 507 pursuant to the Water Protection and Sustainability Program  
 508 shall, at a minimum, be required to pay 60 percent of the  
 509 project's construction costs. The water management districts  
 510 may, at their discretion, totally or partially waive this  
 511 requirement for projects and activities sponsored by financially  
 512 disadvantaged small local governments as defined in former s.  
 513 403.885(5). The water management districts or basin boards may,  
 514 at their discretion, use ad valorem or federal revenues to  
 515 assist an ~~a project~~ applicant in meeting the requirements of  
 516 this paragraph.

517 (f) The governing boards shall determine those alternative  
 518 water supply projects and demand management activities that will  
 519 be selected for financial assistance. The governing boards may  
 520 establish factors to determine project and activity funding;  
 521 however, significant weight shall be given to the following  
 522 factors:

523 1. Whether the project or activity provides substantial  
 524 environmental benefits by preventing or limiting adverse water  
 525 resource impacts.

526 2. Whether the project or activity reduces competition for  
 527 water supplies.

528 3. Whether the project or activity brings about  
 529 replacement of traditional sources in order to help implement a  
 530 minimum flow or level or a reservation.

531 4. Whether the project or activity will be implemented by

532 a consumptive use permittee that has achieved the targets  
 533 contained in a goal-based water conservation program approved  
 534 pursuant to s. 373.227.

535 5. The quantity of water supplied by the project or  
 536 activity as compared to its cost.

537 6. Projects or activities in which the construction and  
 538 delivery to end users of reuse water is a major component.

539 7. Whether the project or activity will be implemented by  
 540 a multijurisdictional water supply entity or regional water  
 541 supply authority.

542 8. Whether the project or activity implements reuse that  
 543 assists in the elimination of domestic wastewater ocean outfalls  
 544 as provided in s. 403.086(9).

545 (g) Additional factors to be considered in determining  
 546 alternative water supply project and demand management activity  
 547 funding shall include:

548 1. Whether the project or activity is part of a plan to  
 549 implement two or more alternative water supply projects, all of  
 550 which will be operated to produce water at a uniform rate for  
 551 the participants in a multijurisdictional water supply entity or  
 552 regional water supply authority.

553 2. The percentage of project or activity costs to be  
 554 funded by the water supplier or water user.

555 3. Whether the project or activity proposal includes  
 556 sufficient preliminary planning and engineering to demonstrate  
 557 that the project can reasonably be implemented within the  
 558 timeframes provided in the regional water supply plan.

559 4. Whether the project or activity is a subsequent phase

560 of an alternative water supply project or demand management  
 561 activity that is underway.

562 5. Whether and in what percentage a local government or  
 563 local government utility is transferring water supply system  
 564 revenues to the local government general fund in excess of  
 565 reimbursements for services received from the general fund,  
 566 including direct and indirect costs and legitimate payments in  
 567 lieu of taxes.

568 (h) After conducting one or more meetings to solicit  
 569 public input on eligible projects, including input from those  
 570 entities identified pursuant to s. 373.036(2)(a)3.d. for  
 571 implementation of alternative water supply projects, the  
 572 governing board of each water management district shall select  
 573 projects for funding assistance based upon the criteria set  
 574 forth in paragraphs (f) and (g). The governing board may select  
 575 a project identified or listed as an alternative water supply  
 576 development project in the regional water supply plan, or  
 577 allocate up to 20 percent of the funding for alternative water  
 578 supply projects that are not identified or listed in the  
 579 regional water supply plan but are consistent with the goals of  
 580 the plan.

581 (i) Without diminishing amounts available through other  
 582 means described in this paragraph, the governing boards are  
 583 encouraged to consider establishing revolving loan funds to  
 584 expand the total funds available to accomplish the objectives of  
 585 this section. A revolving loan fund created under this paragraph  
 586 must be a nonlapsing fund from which the water management  
 587 district may make loans with interest rates below prevailing

588 market rates to public or private entities for the purposes  
 589 described in this section. The governing board may adopt  
 590 resolutions to establish revolving loan funds which must specify  
 591 the details of the administration of the fund, the procedures  
 592 for applying for loans from the fund, the criteria for awarding  
 593 loans from the fund, the initial capitalization of the fund, and  
 594 the goals for future capitalization of the fund in subsequent  
 595 budget years. Revolving loan funds created under this paragraph  
 596 must be used to expand the total sums and sources of cooperative  
 597 funding available for the development of alternative water  
 598 supplies. The Legislature does not intend for the creation of  
 599 revolving loan funds to supplant or otherwise reduce existing  
 600 sources or amounts of funds currently available through other  
 601 means.

602 (j) For each utility that receives financial assistance  
 603 from the state or a water management district for an alternative  
 604 water supply project or demand management activity, the water  
 605 management district shall require the appropriate rate-setting  
 606 authority to develop rate structures for water customers in the  
 607 service area of the funded utility that will:

- 608 1. Promote the conservation of water; ~~and~~
- 609 2. Promote the use of water from alternative water  
 610 supplies; and
- 611 3. Promote demand management.

612 (k) The governing boards shall establish a process for the  
 613 disbursement of revenues pursuant to this subsection.

614 (l) Sixty percent of revenues dispersed pursuant to this  
 615 subsection shall fund the development of alternative water

616 supplies and 40 percent of such revenues shall fund the  
 617 implementation of demand management activities.

618 (m)~~(l)~~ All revenues made available pursuant to this  
 619 subsection must be encumbered annually by the governing board  
 620 when it approves alternative water supply projects and demand  
 621 management activities sufficient to expend the available  
 622 revenues.

623 (n)~~(m)~~ This subsection is not subject to the rulemaking  
 624 requirements of chapter 120.

625 (o)~~(n)~~ By March 1 of each year, as part of the  
 626 consolidated annual report required by s. 373.036(7), each water  
 627 management district shall submit a report on the disbursement of  
 628 all budgeted amounts pursuant to this section. Such report shall  
 629 describe all alternative water supply projects and demand  
 630 management activities funded as well as the quantity of new  
 631 water to be created or saved as a result of such projects and  
 632 activities and shall account separately for any other moneys  
 633 provided through grants, matching grants, revolving loans, and  
 634 the use of district lands or facilities to implement regional  
 635 water supply plans.

636 (p)~~(o)~~ The Florida Public Service Commission shall allow  
 637 entities under its jurisdiction constructing or participating in  
 638 constructing facilities that provide alternative water supplies  
 639 or reduce the demand for potable water to recover their full,  
 640 prudently incurred cost of constructing such facilities through  
 641 their rate structure. If construction of a facility or  
 642 participation in construction is pursuant to or in furtherance  
 643 of a regional water supply plan, the cost shall be deemed to be

644 prudently incurred. Every component of an alternative water  
 645 supply or demand management facility constructed by an investor-  
 646 owned utility shall be recovered in current rates. Any state or  
 647 water management district cost-share is not subject to the  
 648 recovery provisions allowed in this paragraph.

649 ~~(5) FUNDING FOR ALTERNATIVE WATER SUPPLY. Notwithstanding~~  
 650 ~~subsection (3), and for the 2008-2009 fiscal year only,~~  
 651 ~~\$5,000,000 provided for alternative water supply shall be~~  
 652 ~~allocated as shown in the General Appropriations Act. This~~  
 653 ~~subsection expires July 1, 2009.~~

654 ~~(6) For the 2008-2009 fiscal year only, funds remaining to~~  
 655 ~~be distributed, after the distribution provided for in~~  
 656 ~~subsection (5), pursuant to paragraph (3) (b) shall be allocated~~  
 657 ~~as follows:~~

658 ~~(a) Fifty percent to the Northwest Florida Water~~  
 659 ~~Management District.~~

660 ~~(b) Fifty percent to the Suwannee River Water Management~~  
 661 ~~District.~~

662 Section 5. Section 373.223, Florida Statutes, is amended  
 663 to read:

664 373.223 Conditions for a permit.—

665 (1) To obtain a permit pursuant to the provisions of this  
 666 chapter, the applicant must establish that the proposed use of  
 667 water:

668 (a) Is a reasonable-beneficial use as defined in s.  
 669 373.019;

670 (b) Will not interfere with any presently existing legal  
 671 use of water; and



672 (c) Is consistent with the public interest.

673 (2) The governing board or the department may not issue a

674 permit if the proposed use would cause the source water body to

675 fall below the minimum flow or minimum water level established

676 pursuant to ss. 373.042 and 373.0421. As used in this section,

677 the term "source water body" means the water body, either

678 surface water or groundwater, from which an applicant is

679 proposing to withdraw water.

680 (3) In determining whether the proposed use of water is a

681 reasonable-beneficial use, the governing board or the department

682 shall consider and balance the following criteria:

683 (a) The quantity of water requested for the use;

684 (b) The demonstrated need for the use;

685 (c) The suitability of the source of water for the use;

686 (d) The purpose and value of the use;

687 (e) The method and efficiency of the use;

688 (f) Whether the use will cause or contribute to flood

689 damage; and

690 (g) Whether the use will adversely affect public health.

691 (4) In determining whether the proposed use of water will

692 interfere with an existing use of water, the governing board or

693 the department shall consider and balance the following

694 criteria:

695 (a) All existing permitted uses of water from the proposed

696 source;

697 (b) The quantity of water that each permit authorizes to

698 be withdrawn;

699 (c) The use of water that each permit authorizes; and

700        (d) The term of each permit.

701        (5) In determining whether the proposed use of water is  
 702 consistent with the public interest, the governing board or the  
 703 department shall consider and balance the following criteria:

704        (a) Whether the impact of the withdrawal to the source  
 705 water body extends to land not owned or legally controlled by  
 706 the user;

707        (b) The feasibility of using alternative sources to the  
 708 source water body such as reclaimed water, stormwater, aquifer  
 709 storage and recovery, brackish water, and salt water;

710        (c) The present and projected demand for the source water  
 711 body;

712        (d) The long-term yield available from the source water  
 713 body;

714        (e) The extent of water quality degradation caused to the  
 715 source water body;

716        (f) Whether the use will significantly induce or increase  
 717 saltwater intrusion to the source water body; and

718        (g) The water conservation measures implemented and the  
 719 water conservation measures available for implementation.

720        (6) If a minimum flow or minimum water level has not been  
 721 established for the source water body, in determining whether  
 722 the proposed use is consistent with the public interest, the  
 723 governing board or the department, in addition to the criteria  
 724 listed in subsection (5), shall consider and balance the  
 725 following criteria:

726        (a) The extent and amount of harm caused to the fish and  
 727 wildlife resources of the source water body;

728           (b) The practicality of mitigating any harm caused to the  
 729 source water body by adjusting the quantity or method of use;  
 730 and

731           (c) The amount of water that can be withdrawn from the  
 732 source water body without causing harm to the resource.

733           (7) Reservations of water may be established pursuant to  
 734 subsection (10) by the governing board or the department for the  
 735 purpose of reserving certain quantities of water from use. Such  
 736 reservations may be needed in order to provide for additional  
 737 protection of fish and wildlife or the public health and safety,  
 738 beyond that which can be provided by minimum flows and minimum  
 739 water levels. The governing board or the department may not  
 740 issue a permit if the proposed withdrawal would adversely impact  
 741 a reservation of water established for the source water body.

742           (8)~~(2)~~ The governing board or the department may authorize  
 743 the holder of a use permit to transport and use ground or  
 744 surface water beyond overlying land, across county boundaries,  
 745 or outside the watershed from which it is taken if the governing  
 746 board or department determines that such transport and use is  
 747 consistent with the public interest, and no local government  
 748 shall adopt or enforce any law, ordinance, rule, regulation, or  
 749 order to the contrary.

750           (9)~~(3)~~ Except for the transport and use of water supplied  
 751 by the Central and Southern Florida Flood Control Project, and  
 752 anywhere in the state when the transport and use of water is  
 753 supplied exclusively for bottled water as defined in s.  
 754 500.03(1) (d), any water use permit applications pending as of  
 755 April 1, 1998, with the Northwest Florida Water Management

756 District and self-suppliers of water for which the proposed  
 757 water source and area of use or application are located on  
 758 contiguous private properties, when evaluating whether a  
 759 potential transport and use of ground or surface water across  
 760 county boundaries is consistent with the public interest,  
 761 pursuant to paragraph (1)(c), the governing board or department  
 762 shall consider:

763 (a) The proximity of the proposed water source to the area  
 764 of use or application.

765 (b) All impoundments, streams, groundwater sources, or  
 766 watercourses that are geographically closer to the area of use  
 767 or application than the proposed source, and that are  
 768 technically and economically feasible for the proposed transport  
 769 and use.

770 (c) All economically and technically feasible alternatives  
 771 to the proposed source, including, but not limited to,  
 772 desalination, conservation, reuse of nonpotable reclaimed water  
 773 and stormwater, and aquifer storage and recovery.

774 (d) The potential environmental impacts that may result  
 775 from the transport and use of water from the proposed source,  
 776 and the potential environmental impacts that may result from use  
 777 of the other water sources identified in paragraphs (b) and (c).

778 (e) Whether existing and reasonably anticipated sources of  
 779 water and conservation efforts are adequate to supply water for  
 780 existing legal uses and reasonably anticipated future needs of  
 781 the water supply planning region in which the proposed water  
 782 source is located.

783 (f) Consultations with local governments affected by the

784 proposed transport and use.

785 (g) The value of the existing capital investment in water-  
786 related infrastructure made by the applicant.

787  
788 Where districtwide water supply assessments and regional water  
789 supply plans have been prepared pursuant to ss. 373.036 and  
790 373.0361, the governing board or the department shall use the  
791 applicable plans and assessments as the basis for its  
792 consideration of the applicable factors in this subsection.

793 (10)~~(4)~~ The governing board or the department, by  
794 regulation, may reserve from use by permit applicants, water in  
795 such locations and quantities, and for such seasons of the year,  
796 as in its judgment may be required for the protection of fish  
797 and wildlife or the public health and safety. Such reservations  
798 shall be subject to periodic review and revision in the light of  
799 changed conditions. However, all presently existing legal uses  
800 of water shall be protected so long as such use is not contrary  
801 to the public interest.

802 (11)~~(5)~~ In evaluating an application for consumptive use  
803 of water which proposes the use of an alternative water supply  
804 project as described in the regional water supply plan and  
805 provides reasonable assurances of the applicant's capability to  
806 design, construct, operate, and maintain the project, the  
807 governing board or department shall presume that the alternative  
808 water supply use is consistent with the public interest under  
809 paragraph (1) (c). However, where the governing board identifies  
810 the need for a multijurisdictional water supply entity or  
811 regional water supply authority to develop the alternative water

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812 supply project pursuant to s. 373.0361(2)(a)2., the presumption  
 813 shall be accorded only to that use proposed by such entity or  
 814 authority. This subsection does not effect evaluation of the use  
 815 pursuant to the provisions of paragraphs (1)(a) and (b),  
 816 subsections (8) ~~(2)~~ and (9) ~~(3)~~, and ss. 373.2295 and 373.233.

817 (12) If a proposed alternative water supply project is  
 818 part of an integrated public water supply system that uses water  
 819 from both alternative sources and traditional groundwater  
 820 sources, and the alternative water supply is unreliable due to  
 821 rainfall patterns, the continued use of more reliable  
 822 groundwater sources shall be presumed to be consistent with the  
 823 public interest as a means of providing for the public health,  
 824 safety, and welfare of the water supply system customers.

825 Section 6. Section 403.890, Florida Statutes, is amended  
 826 to read:

827 403.890 Water Protection and Sustainability Program;  
 828 intent; goals; purposes.—

829 ~~(1) Effective July 1, 2006, revenues transferred from the~~  
 830 ~~Department of Revenue pursuant to s. 201.15(1)(c)2. shall be~~  
 831 ~~deposited into the Water Protection and Sustainability Program~~  
 832 ~~Trust Fund in the Department of Environmental Protection. These~~  
 833 ~~revenues and any other additional revenues deposited into or~~  
 834 ~~appropriated to the Water Protection and Sustainability Program~~  
 835 ~~Trust Fund shall be distributed by the Department of~~  
 836 ~~Environmental Protection in the following manner:~~

837 ~~(a) Sixty percent to the Department of Environmental~~  
 838 ~~Protection for the implementation of an alternative water supply~~  
 839 ~~program as provided in s. 373.1961.~~

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840       ~~(b) Twenty percent for the implementation of best~~  
841 ~~management practices and capital project expenditures necessary~~  
842 ~~for the implementation of the goals of the total maximum daily~~  
843 ~~load program established in s. 403.067. Of these funds, 85~~  
844 ~~percent shall be transferred to the credit of the Department of~~  
845 ~~Environmental Protection Water Quality Assurance Trust Fund to~~  
846 ~~address water quality impacts associated with nonagricultural~~  
847 ~~nonpoint sources. Fifteen percent of these funds shall be~~  
848 ~~transferred to the Department of Agriculture and Consumer~~  
849 ~~Services General Inspection Trust Fund to address water quality~~  
850 ~~impacts associated with agricultural nonpoint sources. These~~  
851 ~~funds shall be used for research, development, demonstration,~~  
852 ~~and implementation of the total maximum daily load program under~~  
853 ~~s. 403.067, suitable best management practices or other measures~~  
854 ~~used to achieve water quality standards in surface waters and~~  
855 ~~water segments identified pursuant to s. 303(d) of the Clean~~  
856 ~~Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.~~  
857 ~~Implementation of best management practices and other measures~~  
858 ~~may include cost share grants, technical assistance,~~  
859 ~~implementation tracking, and conservation leases or other~~  
860 ~~agreements for water quality improvement. The Department of~~  
861 ~~Environmental Protection and the Department of Agriculture and~~  
862 ~~Consumer Services may adopt rules governing the distribution of~~  
863 ~~funds for implementation of capital projects, best management~~  
864 ~~practices, and other measures. These funds shall not be used to~~  
865 ~~abrogate the financial responsibility of those point and~~  
866 ~~nonpoint sources that have contributed to the degradation of~~  
867 ~~water or land areas. Increased priority shall be given by the~~

868 ~~department and the water management district governing boards to~~  
 869 ~~those projects that have secured a cost sharing agreement~~  
 870 ~~allocating responsibility for the cleanup of point and nonpoint~~  
 871 ~~sources.~~

872 ~~(c) Ten percent shall be disbursed for the purposes of~~  
 873 ~~funding projects pursuant to ss. 373.451-373.459 or surface~~  
 874 ~~water restoration activities in water management district-~~  
 875 ~~designated priority water bodies. The Secretary of Environmental~~  
 876 ~~Protection shall ensure that each water management district~~  
 877 ~~receives the following percentage of funds annually:~~

878 ~~1. Thirty-five percent to the South Florida Water~~  
 879 ~~Management District;~~

880 ~~2. Twenty-five percent to the Southwest Florida Water~~  
 881 ~~Management District;~~

882 ~~3. Twenty-five percent to the St. Johns River Water~~  
 883 ~~Management District;~~

884 ~~4. Seven and one-half percent to the Suwannee River Water~~  
 885 ~~Management District; and~~

886 ~~5. Seven and one-half percent to the Northwest Florida~~  
 887 ~~Water Management District.~~

888 ~~(d) Ten percent to the Department of Environmental~~  
 889 ~~Protection for the Disadvantaged Small Community Wastewater~~  
 890 ~~Grant Program as provided in s. 403.1838.~~

891 ~~(2) Applicable beginning in the 2007-2008 fiscal year,~~  
 892 ~~revenues transferred from the Department of Revenue pursuant to~~  
 893 ~~s. 201.15(1)(c)2. shall be deposited into the Water Protection~~  
 894 ~~and Sustainability Program Trust Fund in the Department of~~  
 895 ~~Environmental Protection. These revenues and any other~~



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896 ~~additional~~ Revenues deposited into or appropriated to the Water  
 897 Protection and Sustainability Program Trust Fund shall be  
 898 distributed by the Department of Environmental Protection in the  
 899 following manner:

900 (1) ~~(a)~~ Sixty-five percent to the Department of  
 901 Environmental Protection for the implementation of ~~an~~  
 902 alternative water supply projects and demand management  
 903 activities program as provided in s. 373.1961.

904 (2) ~~(b)~~ Twenty-two and five-tenths percent for the  
 905 implementation of best management practices and capital project  
 906 expenditures necessary for the implementation of the goals of  
 907 the total maximum daily load program established in s. 403.067.  
 908 Of these funds, 83.33 percent shall be transferred to the credit  
 909 of the Department of Environmental Protection Water Quality  
 910 Assurance Trust Fund to address water quality impacts associated  
 911 with nonagricultural nonpoint sources. Sixteen and sixty-seven  
 912 hundredths percent of these funds shall be transferred to the  
 913 Department of Agriculture and Consumer Services General  
 914 Inspection Trust Fund to address water quality impacts  
 915 associated with agricultural nonpoint sources. These funds shall  
 916 be used for research, development, demonstration, and  
 917 implementation of the total maximum daily load program under s.  
 918 403.067, suitable best management practices or other measures  
 919 used to achieve water quality standards in surface waters and  
 920 water segments identified pursuant to s. 303(d) of the Clean  
 921 Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.  
 922 Implementation of best management practices and other measures  
 923 may include cost-share grants, technical assistance,

924 implementation tracking, and conservation leases or other  
 925 agreements for water quality improvement. The Department of  
 926 Environmental Protection and the Department of Agriculture and  
 927 Consumer Services may adopt rules governing the distribution of  
 928 funds for implementation of capital projects, best management  
 929 practices, and other measures. These funds shall not be used to  
 930 abrogate the financial responsibility of those point and  
 931 nonpoint sources that have contributed to the degradation of  
 932 water or land areas. Increased priority shall be given by the  
 933 department and the water management district governing boards to  
 934 those projects that have secured a cost-sharing agreement  
 935 allocating responsibility for the cleanup of point and nonpoint  
 936 sources.

937 (3)~~(e)~~ Twelve and five-tenths percent to the Department of  
 938 Environmental Protection for the Disadvantaged Small Community  
 939 Wastewater Grant Program as provided in s. 403.1838.

940 (4)~~(d)~~ On June 30, 2009, and every 24 months thereafter,  
 941 the Department of Environmental Protection shall request the  
 942 return of all unencumbered funds distributed pursuant to this  
 943 section. These funds shall be deposited into the Water  
 944 Protection and Sustainability Program Trust Fund and  
 945 redistributed pursuant to the provisions of this section.

946 ~~(3) For the 2008-2009 fiscal year only, moneys in the~~  
 947 ~~Water Protection and Sustainability Program Trust Fund shall be~~  
 948 ~~transferred to the Ecosystem Management and Restoration Trust~~  
 949 ~~Fund for grants and aids to local governments for water projects~~  
 950 ~~as provided in the General Appropriations Act. This subsection~~  
 951 ~~expires July 1, 2009.~~

952           ~~(4) For fiscal year 2005-2006, funds deposited or~~  
 953 ~~appropriated into the Water Protection and Sustainability~~  
 954 ~~Program Trust Fund shall be distributed as follows:~~

955           ~~(a) One hundred million dollars to the Department of~~  
 956 ~~Environmental Protection for the implementation of an~~  
 957 ~~alternative water supply program as provided in s. 373.1961.~~

958           ~~(b) Funds remaining after the distribution provided for in~~  
 959 ~~subsection (1) shall be distributed as follows:~~

960           ~~1. Fifty percent for the implementation of best management~~  
 961 ~~practices and capital project expenditures necessary for the~~  
 962 ~~implementation of the goals of the total maximum daily load~~  
 963 ~~program established in s. 403.067. Of these funds, 85 percent~~  
 964 ~~shall be transferred to the credit of the Department of~~  
 965 ~~Environmental Protection Water Quality Assurance Trust Fund to~~  
 966 ~~address water quality impacts associated with nonagricultural~~  
 967 ~~nonpoint sources. Fifteen percent of these funds shall be~~  
 968 ~~transferred to the Department of Agriculture and Consumer~~  
 969 ~~Services General Inspection Trust Fund to address water quality~~  
 970 ~~impacts associated with agricultural nonpoint sources. These~~  
 971 ~~funds shall be used for research, development, demonstration,~~  
 972 ~~and implementation of suitable best management practices or~~  
 973 ~~other measures used to achieve water quality standards in~~  
 974 ~~surface waters and water segments identified pursuant to s.~~  
 975 ~~303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss.~~  
 976 ~~1251 et seq. Implementation of best management practices and~~  
 977 ~~other measures may include cost-share grants, technical~~  
 978 ~~assistance, implementation tracking, and conservation leases or~~  
 979 ~~other agreements for water quality improvement. The Department~~

980 ~~of Environmental Protection and the Department of Agriculture~~  
 981 ~~and Consumer Services may adopt rules governing the distribution~~  
 982 ~~of funds for implementation of best management practices. These~~  
 983 ~~funds shall not be used to abrogate the financial responsibility~~  
 984 ~~of those point and nonpoint sources that have contributed to the~~  
 985 ~~degradation of water or land areas. Increased priority shall be~~  
 986 ~~given by the department and the water management district~~  
 987 ~~governing boards to those projects that have secured a cost-~~  
 988 ~~sharing agreement allocating responsibility for the cleanup of~~  
 989 ~~point and nonpoint sources.~~

990 ~~2. Twenty-five percent for the purposes of funding~~  
 991 ~~projects pursuant to ss. 373.451-373.459 or surface water~~  
 992 ~~restoration activities in water-management-district-designated~~  
 993 ~~priority water bodies. The Secretary of Environmental Protection~~  
 994 ~~shall ensure that each water management district receives the~~  
 995 ~~following percentage of funds annually:~~

996 ~~a. Thirty-five percent to the South Florida Water~~  
 997 ~~Management District;~~

998 ~~b. Twenty-five percent to the Southwest Florida Water~~  
 999 ~~Management District;~~

1000 ~~c. Twenty-five percent to the St. Johns River Water~~  
 1001 ~~Management District;~~

1002 ~~d. Seven and one-half percent to the Suwannee River Water~~  
 1003 ~~Management District; and~~

1004 ~~e. Seven and one-half percent to the Northwest Florida~~  
 1005 ~~Water Management District.~~

1006 ~~3. Twenty-five percent to the Department of Environmental~~  
 1007 ~~Protection for the Disadvantaged Small Community Wastewater~~

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1008 ~~Grant Program as provided in s. 403.1838.~~  
 1009  
 1010 ~~Prior to the end of the 2008 Regular Session, the Legislature~~  
 1011 ~~must review the distribution of funds under the Water Protection~~  
 1012 ~~and Sustainability Program to determine if revisions to the~~  
 1013 ~~funding formula are required. At the discretion of the President~~  
 1014 ~~of the Senate and the Speaker of the House of Representatives,~~  
 1015 ~~the appropriate substantive committees of the Legislature may~~  
 1016 ~~conduct an interim project to review the Water Protection and~~  
 1017 ~~Sustainability Program and the funding formula and make written~~  
 1018 ~~recommendations to the Legislature proposing necessary changes,~~  
 1019 ~~if any.~~  
 1020 ~~(5) For the 2009-2010 fiscal year only, funds shall be~~  
 1021 ~~distributed as follows:~~  
 1022 ~~(a) Thirty-one and twenty-one hundredths percent to the~~  
 1023 ~~Department of Environmental Protection for the implementation of~~  
 1024 ~~an alternative water supply program as provided in s. 373.1961.~~  
 1025 ~~(b) Twenty-six and eighty-seven hundredths percent for the~~  
 1026 ~~implementation of best management practices and capital project~~  
 1027 ~~expenditures necessary for the implementation of the goals of~~  
 1028 ~~the total maximum daily load program established in s. 403.067.~~  
 1029 ~~Of these funds, 86 percent shall be transferred to the credit of~~  
 1030 ~~the Water Quality Assurance Trust Fund of the Department of~~  
 1031 ~~Environmental Protection to address water quality impacts~~  
 1032 ~~associated with nonagricultural nonpoint sources. Fourteen~~  
 1033 ~~percent of these funds shall be transferred to the General~~  
 1034 ~~Inspection Trust Fund of the Department of Agriculture and~~  
 1035 ~~Consumer Services to address water quality impacts associated~~

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1036 ~~with agricultural nonpoint sources. These funds shall be used~~  
 1037 ~~for research, development, demonstration, and implementation of~~  
 1038 ~~the total maximum daily load program under s. 403.067, suitable~~  
 1039 ~~best management practices, or other measures used to achieve~~  
 1040 ~~water quality standards in surface waters and water segments~~  
 1041 ~~identified pursuant to s. 303(d) of the Clean Water Act, Pub. L.~~  
 1042 ~~No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best~~  
 1043 ~~management practices and other measures may include cost-share~~  
 1044 ~~grants, technical assistance, implementation tracking, and~~  
 1045 ~~conservation leases or other agreements for water quality~~  
 1046 ~~improvement. The Department of Environmental Protection and the~~  
 1047 ~~Department of Agriculture and Consumer Services may adopt rules~~  
 1048 ~~governing the distribution of funds for implementation of~~  
 1049 ~~capital projects, best management practices, and other measures.~~  
 1050 ~~These funds may not be used to abrogate the financial~~  
 1051 ~~responsibility of those point and nonpoint sources that have~~  
 1052 ~~contributed to the degradation of water or land areas. Increased~~  
 1053 ~~priority shall be given by the department and the water~~  
 1054 ~~management district governing boards to those projects that have~~  
 1055 ~~secured a cost-sharing agreement that allocates responsibility~~  
 1056 ~~for the cleanup of point and nonpoint sources.~~

1057 ~~(c) Forty-one and ninety-two hundredths percent to the~~  
 1058 ~~Department of Environmental Protection for the Disadvantaged~~  
 1059 ~~Small Community Wastewater Grant Program as provided in s.~~  
 1060 ~~403.1838.~~

1061  
 1062 ~~This subsection expires July 1, 2010.~~

1063 Section 7. Paragraph (d) of subsection (1) and paragraph

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1064 (b) of subsection (7) of section 373.036, Florida Statutes, are  
 1065 amended to read:

1066 373.036 Florida water plan; district water management  
 1067 plans.—

1068 (1) FLORIDA WATER PLAN.—In cooperation with the water  
 1069 management districts, regional water supply authorities, and  
 1070 others, the department shall develop the Florida water plan. The  
 1071 Florida water plan shall include, but not be limited to:

1072 (d) Goals, objectives, and guidance for the development  
 1073 and review of programs, rules, and plans relating to water  
 1074 resources, based on statutory policies and directives. The state  
 1075 water policy rule, renamed the water resource implementation  
 1076 rule pursuant to s. 373.019(25) ~~s. 373.019(23)~~, shall serve as  
 1077 this part of the plan. Amendments or additions to this part of  
 1078 the Florida water plan shall be adopted by the department as  
 1079 part of the water resource implementation rule. In accordance  
 1080 with s. 373.114, the department shall review rules of the water  
 1081 management districts for consistency with this rule. Amendments  
 1082 to the water resource implementation rule must be adopted by the  
 1083 secretary of the department and be submitted to the President of  
 1084 the Senate and the Speaker of the House of Representatives  
 1085 within 7 days after publication in the Florida Administrative  
 1086 Weekly. Amendments shall not become effective until the  
 1087 conclusion of the next regular session of the Legislature  
 1088 following their adoption.

1089 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

1090 (b) The consolidated annual report shall contain the  
 1091 following elements, as appropriate to that water management

1092 district:

1093 1. A district water management plan annual report or the

1094 annual work plan report allowed in subparagraph (2)(e)4.

1095 2. The department-approved minimum flows and levels annual

1096 priority list and schedule required by s. 373.042(2).

1097 3. The annual 5-year capital improvements plan required by

1098 s. 373.536(6)(a)3.

1099 4. The alternative water supplies annual report required

1100 by s. 373.1961(3)(o) ~~s. 373.1961(3)(n)~~.

1101 5. The final annual 5-year water resource development work

1102 program required by s. 373.536(6)(a)4.

1103 6. The Florida Forever Water Management District Work Plan

1104 annual report required by s. 373.199(7).

1105 7. The mitigation donation annual report required by s.

1106 373.414(1)(b)2.

1107 Section 8. Paragraph (h) of subsection (2) and subsection

1108 (7) of section 373.0361, Florida Statutes, are amended to read:

1109 373.0361 Regional water supply planning.—

1110 (2) Each regional water supply plan shall be based on at

1111 least a 20-year planning period and shall include, but need not

1112 be limited to:

1113 (h) Reservations of water adopted by rule pursuant to s.

1114 373.223(10) ~~s. 373.223(4)~~ within each planning region.

1115 (7) Nothing contained in the water supply development

1116 component of a regional water supply plan shall be construed to

1117 require local governments, government-owned or privately owned

1118 water utilities, special districts, self-suppliers, regional

1119 water supply authorities, multijurisdictional water supply



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1120 entities, or other water suppliers to select a water supply  
 1121 development project identified in the component merely because  
 1122 it is identified in the plan. Except as provided in s.  
 1123 373.223(9) and (11) ~~s. 373.223(3) and (5)~~, the plan may not be  
 1124 used in the review of permits under part II unless the plan or  
 1125 an applicable portion thereof has been adopted by rule. However,  
 1126 this subsection does not prohibit a water management district  
 1127 from employing the data or other information used to establish  
 1128 the plan in reviewing permits under part II, nor does it limit  
 1129 the authority of the department or governing board under part  
 1130 II.

1131 Section 9. Subsection (9) of section 373.1962, Florida  
 1132 Statutes, is amended to read:

1133 373.1962 Regional water supply authorities.—

1134 (9) Where a water supply authority exists pursuant to this  
 1135 section or s. 373.1963 under a voluntary interlocal agreement  
 1136 that is consistent with requirements in s. 373.1963(1)(b) and  
 1137 receives or maintains consumptive use permits under this  
 1138 voluntary agreement consistent with the water supply plan, if  
 1139 any, adopted by the governing board, such authority shall be  
 1140 exempt from consideration by the governing board or department  
 1141 of the factors specified in s. 373.223(3)(a)-(g) and the  
 1142 submissions required by s. 373.229(9) ~~s. 373.229(3)~~. Such  
 1143 exemptions shall apply only to water sources within the  
 1144 jurisdictional areas of such voluntary water supply interlocal  
 1145 agreements.

1146 Section 10. Subsection (2) of section 373.217, Florida  
 1147 Statutes, is amended to read:

1148 373.217 Superseded laws and regulations.—

1149 (2) It is the further intent of the Legislature that Part  
 1150 II of the Florida Water Resources Act of 1972, as amended, as  
 1151 set forth in ss. 373.203-373.249, shall provide the exclusive  
 1152 authority for requiring permits for the consumptive use of water  
 1153 and for authorizing transportation thereof pursuant to s.  
 1154 373.223(8) ~~s. 373.223(2)~~.

1155 Section 11. Section 373.2234, Florida Statutes, is amended  
 1156 to read:

1157 373.2234 Preferred water supply sources.—The governing  
 1158 board of a water management district is authorized to adopt  
 1159 rules that identify preferred water supply sources for  
 1160 consumptive uses for which there is sufficient data to establish  
 1161 that a preferred source will provide a substantial new water  
 1162 supply to meet the existing and projected reasonable-beneficial  
 1163 uses of a water supply planning region identified pursuant to s.  
 1164 373.0361(1), while sustaining existing water resources and  
 1165 natural systems. At a minimum, such rules must contain a  
 1166 description of the preferred water supply source and an  
 1167 assessment of the water the preferred source is projected to  
 1168 produce. If an applicant proposes to use a preferred water  
 1169 supply source, that applicant's proposed water use is subject to  
 1170 s. 373.223(1), except that the proposed use of a preferred water  
 1171 supply source must be considered by a water management district  
 1172 when determining whether a permit applicant's proposed use of  
 1173 water is consistent with the public interest pursuant to s.  
 1174 373.223(1)(c). A consumptive use permit issued for the use of a  
 1175 preferred water supply source must be granted, when requested by

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1176 the applicant, for at least a 20-year period and may be subject  
 1177 to the compliance reporting provisions of s. 373.236(4). Nothing  
 1178 in this section shall be construed to exempt the use of  
 1179 preferred water supply sources from the provisions of ss.  
 1180 373.016(4) and 373.223(8) and (9) ~~373.223(2) and (3)~~, or be  
 1181 construed to provide that permits issued for the use of a  
 1182 nonpreferred water supply source must be issued for a duration  
 1183 of less than 20 years or that the use of a nonpreferred water  
 1184 supply source is not consistent with the public interest.  
 1185 Additionally, nothing in this section shall be interpreted to  
 1186 require the use of a preferred water supply source or to  
 1187 restrict or prohibit the use of a nonpreferred water supply  
 1188 source. Rules adopted by the governing board of a water  
 1189 management district to implement this section shall specify that  
 1190 the use of a preferred water supply source is not required and  
 1191 that the use of a nonpreferred water supply source is not  
 1192 restricted or prohibited.

1193 Section 12. Subsection (3) of section 373.229, Florida  
 1194 Statutes, is amended to read:

1195 373.229 Application for permit.—

1196 (3) In addition to the information required in subsection  
 1197 (1), all permit applications filed with the governing board or  
 1198 the department which propose the transport and use of water  
 1199 across county boundaries shall include information pertaining to  
 1200 factors to be considered, pursuant to s. 373.223(9) ~~s.~~  
 1201 ~~373.223(3)~~, unless exempt under s. 373.1962(9).

1202 Section 13. Subsection (1) of section 373.421, Florida  
 1203 Statutes, is amended to read:

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1204 373.421 Delineation methods; formal determinations.-  
 1205 (1) The Environmental Regulation Commission shall adopt a  
 1206 unified statewide methodology for the delineation of the extent  
 1207 of wetlands as defined in s. 373.019(27) ~~s. 373.019(25)~~. This  
 1208 methodology shall consider regional differences in the types of  
 1209 soils and vegetation that may serve as indicators of the extent  
 1210 of wetlands. This methodology shall also include provisions for  
 1211 determining the extent of surface waters other than wetlands for  
 1212 the purposes of regulation under s. 373.414. This methodology  
 1213 shall not become effective until ratified by the Legislature.  
 1214 Subsequent to legislative ratification, the wetland definition  
 1215 in s. 373.019(27) ~~s. 373.019(25)~~ and the adopted wetland  
 1216 methodology shall be binding on the department, the water  
 1217 management districts, local governments, and any other  
 1218 governmental entities. Upon ratification of such wetland  
 1219 methodology, the Legislature preempts the authority of any water  
 1220 management district, state or regional agency, or local  
 1221 government to define wetlands or develop a delineation  
 1222 methodology to implement the definition and determines that the  
 1223 exclusive definition and delineation methodology for wetlands  
 1224 shall be that established pursuant to s. 373.019(27) ~~s.~~  
 1225 ~~373.019(25)~~ and this section. Upon such legislative  
 1226 ratification, any existing wetlands definition or wetland  
 1227 delineation methodology shall be superseded by the wetland  
 1228 definition and delineation methodology established pursuant to  
 1229 this chapter. Subsequent to legislative ratification, a  
 1230 delineation of the extent of a surface water or wetland by the  
 1231 department or a water management district, pursuant to a formal

1232 determination under subsection (2), or pursuant to a permit  
 1233 issued under this part in which the delineation was field-  
 1234 verified by the permitting agency and specifically approved in  
 1235 the permit, shall be binding on all other governmental entities  
 1236 for the duration of the formal determination or permit. All  
 1237 existing rules and methodologies of the department, the water  
 1238 management districts, and local governments, regarding surface  
 1239 water or wetland definition and delineation shall remain in full  
 1240 force and effect until the common methodology rule becomes  
 1241 effective. However, this shall not be construed to limit any  
 1242 power of the department, the water management districts, and  
 1243 local governments to amend or adopt a surface water or wetland  
 1244 definition or delineation methodology until the common  
 1245 methodology rule becomes effective.

1246 Section 14. Paragraphs (r) and (u) of subsection (1) of  
 1247 section 403.813, Florida Statutes, are amended to read:

1248 403.813 Permits issued at district centers; exceptions.—

1249 (1) A permit is not required under this chapter, chapter  
 1250 373, chapter 61-691, Laws of Florida, or chapter 25214 or  
 1251 chapter 25270, 1949, Laws of Florida, for activities associated  
 1252 with the following types of projects; however, except as  
 1253 otherwise provided in this subsection, nothing in this  
 1254 subsection relieves an applicant from any requirement to obtain  
 1255 permission to use or occupy lands owned by the Board of Trustees  
 1256 of the Internal Improvement Trust Fund or any water management  
 1257 district in its governmental or proprietary capacity or from  
 1258 complying with applicable local pollution control programs  
 1259 authorized under this chapter or other requirements of county

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1260 and municipal governments:

1261 (r) The removal of aquatic plants, the removal of  
 1262 tussocks, the associated replanting of indigenous aquatic  
 1263 plants, and the associated removal from lakes of organic  
 1264 detrital material when such planting or removal is performed and  
 1265 authorized by permit or exemption granted under s. 369.20 or s.  
 1266 369.25, provided that:

1267 1. Organic detrital material that exists on the surface of  
 1268 natural mineral substrate shall be allowed to be removed to a  
 1269 depth of 3 feet or to the natural mineral substrate, whichever  
 1270 is less;

1271 2. All material removed pursuant to this paragraph shall  
 1272 be deposited in an upland site in a manner that will prevent the  
 1273 reintroduction of the material into waters in the state except  
 1274 when spoil material is permitted to be used to create wildlife  
 1275 islands in freshwater bodies of the state when a governmental  
 1276 entity is permitted pursuant to s. 369.20 to create such islands  
 1277 as a part of a restoration or enhancement project;

1278 3. All activities are performed in a manner consistent  
 1279 with state water quality standards; and

1280 4. No activities under this exemption are conducted in  
 1281 wetland areas, as defined by s. 373.019(27) ~~s. 373.019(25)~~,  
 1282 which are supported by a natural soil as shown in applicable  
 1283 United States Department of Agriculture county soil surveys,  
 1284 except when a governmental entity is permitted pursuant to s.  
 1285 369.20 to conduct such activities as a part of a restoration or  
 1286 enhancement project.

1287

1288 The department may not adopt implementing rules for this  
 1289 paragraph, notwithstanding any other provision of law.

1290 (u) Notwithstanding any provision to the contrary in this  
 1291 subsection, a permit or other authorization under chapter 253,  
 1292 chapter 369, chapter 373, or this chapter is not required for an  
 1293 individual residential property owner for the removal of organic  
 1294 detrital material from freshwater rivers or lakes that have a  
 1295 natural sand or rocky substrate and that are not Aquatic  
 1296 Preserves or for the associated removal and replanting of  
 1297 aquatic vegetation for the purpose of environmental enhancement,  
 1298 providing that:

1299 1. No activities under this exemption are conducted in  
 1300 wetland areas, as defined by s. 373.019(27) ~~s. 373.019(25)~~,  
 1301 which are supported by a natural soil as shown in applicable  
 1302 United States Department of Agriculture county soil surveys.

1303 2. No filling or peat mining is allowed.

1304 3. No removal of native wetland trees, including, but not  
 1305 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

1306 4. When removing organic detrital material, no portion of  
 1307 the underlying natural mineral substrate or rocky substrate is  
 1308 removed.

1309 5. Organic detrital material and plant material removed is  
 1310 deposited in an upland site in a manner that will not cause  
 1311 water quality violations.

1312 6. All activities are conducted in such a manner, and with  
 1313 appropriate turbidity controls, so as to prevent any water  
 1314 quality violations outside the immediate work area.

1315 7. Replanting with a variety of aquatic plants native to

1316 the state shall occur in a minimum of 25 percent of the  
 1317 preexisting vegetated areas where organic detrital material is  
 1318 removed, except for areas where the material is removed to bare  
 1319 rocky substrate; however, an area may be maintained clear of  
 1320 vegetation as an access corridor. The access corridor width may  
 1321 not exceed 50 percent of the property owner's frontage or 50  
 1322 feet, whichever is less, and may be a sufficient length  
 1323 waterward to create a corridor to allow access for a boat or  
 1324 swimmer to reach open water. Replanting must be at a minimum  
 1325 density of 2 feet on center and be completed within 90 days  
 1326 after removal of existing aquatic vegetation, except that under  
 1327 dewatered conditions replanting must be completed within 90 days  
 1328 after reflooding. The area to be replanted must extend waterward  
 1329 from the ordinary high water line to a point where normal water  
 1330 depth would be 3 feet or the preexisting vegetation line,  
 1331 whichever is less. Individuals are required to make a reasonable  
 1332 effort to maintain planting density for a period of 6 months  
 1333 after replanting is complete, and the plants, including  
 1334 naturally recruited native aquatic plants, must be allowed to  
 1335 expand and fill in the revegetation area. Native aquatic plants  
 1336 to be used for revegetation must be salvaged from the  
 1337 enhancement project site or obtained from an aquatic plant  
 1338 nursery regulated by the Department of Agriculture and Consumer  
 1339 Services. Plants that are not native to the state may not be  
 1340 used for replanting.

1341 8. No activity occurs any farther than 100 feet waterward  
 1342 of the ordinary high water line, and all activities must be  
 1343 designed and conducted in a manner that will not unreasonably



1344 restrict or infringe upon the riparian rights of adjacent upland  
 1345 riparian owners.

1346 9. The person seeking this exemption notifies the  
 1347 applicable department district office in writing at least 30  
 1348 days before commencing work and allows the department to conduct  
 1349 a preconstruction site inspection. Notice must include an  
 1350 organic-detrital-material removal and disposal plan and, if  
 1351 applicable, a vegetation-removal and revegetation plan.

1352 10. The department is provided written certification of  
 1353 compliance with the terms and conditions of this paragraph  
 1354 within 30 days after completion of any activity occurring under  
 1355 this exemption.

1356 Section 15. Subsection (6) of section 556.102, Florida  
 1357 Statutes, is amended to read:

1358 556.102 Definitions.—As used in this act:

1359 (6) "Excavate" or "excavation" means any manmade cut,  
 1360 cavity, trench, or depression in the earth's surface, formed by  
 1361 removal of earth, intended to change the grade or level of land,  
 1362 or intended to penetrate or disturb the surface of the earth,  
 1363 including land beneath the waters of the state, as defined in s.  
 1364 373.019(22) ~~s. 373.019(20)~~, and the term includes pipe bursting  
 1365 and directional drilling or boring from one point to another  
 1366 point beneath the surface of the earth, or other trenchless  
 1367 technologies.

1368 Section 16. This act shall take effect July 1, 2010.