

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 10-13 Water Supply
SPONSOR(S): Agriculture & Natural Resources Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee		Kliner	Reese
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill amends state policy regarding alternative water supply development. The bill isolates conservation measures (or programs) that reduce the need for potable water, and construction projects that result in the beneficial use of reclaimed water and calls these measures "demand management." On the other hand, programs or projects that include desalinization, aquifer storage and recovery, reservoirs, and treated surface water or stormwater will comprise alternative water supply development.

The bill also:

- Sets goals to eliminate the use of potable water for landscape irrigation in all new residential and commercial construction and in all redevelopment of existing residential and commercial construction by the year 2013, and to use all reclaimed wastewater for beneficial purposes by the year 2030. Water management districts (WMDs) are directed to include demand management activities in their annual budgets and consolidated annual reports. Like alternative water supply development projects, Water Protection and Sustainability Program funds must be available for demand management activities.
- Directs the Department of Environmental Protection (DEP) Secretary to exercise general supervisory authority to ensure cooperative efforts between the DEP, WMDs, counties, municipalities, and special districts result in the construction and operation of certain alternative water supply projects. The Public Service Commission is required to provide for costs recovery for the construction of certain facilities and the applicable rate-setting authority is required to provide a specific rate structure for a utility that receives financial assistance from a WMD for demand management activities.
- Amends provisions relating to conditions for the issuance of a consumptive use permit (CUP) and prohibits the DEP or WMD board from issuing a CUP if the use will cause the source water body to fall below an established minimum flow or minimum level (MFL), and defines "source water body" as either surface water or groundwater. The bill also amends the "three-prong test" and directs the DEP or WMD board to consider and balance the specific factors to determine whether the proposed use of water is a reasonable-beneficial use, will not interfere with a present, existing legal use of water, and is consistent with the public interest.
- Provides that a public water supply system that uses traditional groundwater and alternative sources may continue to use groundwater sources if the alternative water supply is unreliable due to rainfall patterns. Such groundwater use will be considered to be in the public interest.
- Corrects several statutory cross references and deletes obsolete appropriations language.

See Fiscal Comments regarding the fiscal impact of the bill. At the state government level, there may be costs associated with rulemaking by the DEP. The bill has an effective date of July 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

State Water Supply Planning

In response to concerns about comprehensive water supply planning, the Florida Legislature in 1997 amended Chapter 373, F.S., to include a new process for regional water supply planning. The process requires each water management district (WMD) to assess whether existing and anticipated sources of water are sufficient to serve projected future population needs over a 20-year planning period. Based on the assessments, WMDs are required to develop and update regional water supply plans for those areas where water supplies are determined to be inadequate to supply projected demand over the planning period. The WMDs are required to develop their regional water supply plans in an open public process. They share the data and modeling tools with all affected parties during this process and consider input and comments.¹

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

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

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

¹ Section 373.0361(5), F.S.

² Section 373.019(19), F.S.

³ Section 373.019(21), F.S.

Alternative Water Supply Development

The Florida Water Protection and Sustainability Program was created through passage of Senate Bill 444 during the 2005 Legislative Session. The law encourages cooperation between municipalities, counties, and the state's five WMDs in the protection and development of water supplies. More specifically, the law requires the regional water supply planning function of WMDs to promote alternative water supply projects. For example, a project that traps and treats stormwater accommodates growth and serves to reduce the use of traditional ground and surface water supplies, such as aquifers and lakes.⁴ The overarching purpose of the program is to provide cost-share funding for construction of alternative water supply projects.

Cost-sharing occurs on a reimbursement basis for construction costs of alternative water supply development projects. To be considered eligible for the cost-share funding program, projects must first be identified in the WMD District Water Supply Plan (DWSP). After projects are incorporated into the DWSP, they are evaluated as to their suitability for the funding program. The identification of water supply development projects in the DWSP does not guarantee funding assistance through this funding program. Projects are evaluated for cost-share funding based on consideration of the 13 factors described in 373.1961(3)(f) and (g), F.S. WMD staff evaluates potential projects and recommends projects to the WMD's governing board, which selects projects for inclusion in the program. The cost-share reimbursement caps at 40 percent of construction costs, although projects selected for the program may be allocated less than 40 percent reimbursement. The WMD determines the percentage of reimbursement typically on a case-by-case basis. The entity constructing the project is required to pay at least 60 percent of the project construction costs.

Although the law allows the governing board some flexibility to consider its own factors, it lists specific criteria for evaluating and selecting priority projects, to wit:

- Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.
- Whether the project reduces competition for water supplies.
- Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.
- Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.
- The quantity of water supplied by the project as compared to its cost.
- Projects in which the construction and delivery to end users of reuse water is a major component.
- Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.
- Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(9).
- Whether the project is part of a plan to implement two or more alternative water supply projects, all of which will be operated to produce water at a uniform rate for the participants in a multijurisdictional water supply entity or regional water supply authority.
- The percentage of project costs to be funded by the water supplier or water user.
- Whether the project proposal includes sufficient preliminary planning and engineering to demonstrate that the project can reasonably be implemented within the timeframes provided in the regional water supply plan.
- Whether the project is a subsequent phase of an alternative water supply project that is underway.

⁴ Other examples of alternative water supply projects that will be considered for funding include the use of saline water sources, Aquifer Storage and Recovery (storing water deep in an aquifer system during times of excess and recovering the stored water during dry times when it is needed), and Reclaimed Water Use (utilizing reclaimed water for a beneficial purpose, including irrigation of residential lots, golf courses and other green space, ground water recharge, and industrial use).

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

Beginning in fiscal year 2005-2006, the state annually provides a portion of those revenues deposited into the Water Protection and Sustainability Program Trust Fund for the purpose of providing funding assistance for the development of alternative water supplies pursuant to the Water Protection and Sustainability Program.⁶ The Water Protection and Sustainability Program was established in 2005 to support water-related programs such as Total Maximum Daily Loads, Surface Water Improvement Management and Disadvantaged Small Community Wastewater Grants.⁷ When available, the program also includes funding for alternative water supply development projects such as desalination, reuse and reservoirs. Statutorily these revenues are distributed into the alternative water supply trust fund accounts created by each WMD for the purpose of alternative water supply development under the following formula:

- Thirty percent to the South Florida Water Management District;
- Twenty-five percent to the Southwest Florida Water Management District;
- Twenty-five percent to the St. Johns River Water Management District;
- Ten percent to the Suwannee River Water Management District; and
- Ten percent to the Northwest Florida Water Management District.

The statewide funds provided pursuant to the Water Protection and Sustainability Program serve to supplement existing WMD funding for alternative water supply development assistance. The WMDs are required to include the amount of funds allocated for water resource development that supports alternative water supply development and the funds allocated for alternative water supply projects selected for inclusion in the Water Protection and Sustainability Program in their annual tentative and adopted budget submittals. The goal of each WMD is to match the state funding provided to the WMD for alternative water supply development. Only the Suwannee River and the Northwest Florida WMDs are not required to meet the match requirements, but they are encouraged to try to achieve the match requirement to the greatest extent practicable.

Consumptive Use Permits and the “Three-prong Test”

A consumptive use permit (CUP), also called a water use permit, constitutes authorization to withdraw a specified amount of water for a specified time either from the ground or from a surface water body. CUPs are generally issued by the WMDs under Part II of Chapter 373, specifically s. 373.223, F.S. State law allows the DEP to issue CUPs where an applicant proposes an “inter-district transfer” of water (i.e. from a source within one water management district to a user in another district).

The water permitted to be withdrawn under a CUP is most often used for agricultural and other types of irrigation, for drinking water for public consumption, and in the manufacturing processes of various products. CUPs were created as the key mechanism by which the WMDs and the state can regulate the consumption of water for the most beneficial uses and in the best interest of the public. People or entities wishing to utilize a water supply – whether an aquifer, a river or lake, or an “alternative supply” such as stormwater or seawater – must obtain a CUP if they exceed certain thresholds. For example, persons who propose withdrawing water through a well whose diameter exceeds 6 inches, or who would withdraw more than 100,000 gallons a day, or who are supplying more than their domestic needs, must obtain a CUP.

A CUP may be issued only if the applicant can establish that the proposed use of the water meets the “three prong test” specified in s. 373. 223(1), F.S., that states:

⁵ Section 373.1961(3)(f) and (g), F.S.

⁶ In 2009 funding for that program ended in the 2009 Special Session “A” and the trust fund was swept. Currently, no funds are flowing into that trust fund.

⁷Section 403.890, F.S.

- (1) To obtain a permit pursuant to the provisions of this chapter, the applicant must establish that the proposed use of water:
 - (a) Is a reasonable-beneficial use as defined in s. 373.019;
 - (b) Will not interfere with any presently existing legal use of water; and
 - (c) Is consistent with the public interest.

The three-prong test actually has two “public interest” tests. Paragraph (c) requires the CUP applicant establish that the proposed use of water is consistent with the public interest. In paragraph (a), the term “reasonable-beneficial use” is defined in subsection 373.019(16), F.S., to mean “the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.”

In order to discern the reason why there are two public interest tests in the “three prong test”, one may turn to A Model Water Code (“Code”), the legislative proposal drafted by law professors at the University of Florida, upon which the Florida Water Resources Act of 1972 was patterned.⁸ The authors published the Code with a Commentary that helps explain the complex and nuanced model law. The Commentary note on Section 2.02 of the Code helps to explain the reason for two public interest tests:

. . . . Subpart (a) requires that the proposed use meet the requirements of the reasonable-beneficial standard. Subpart (b) requires that the proposed use not interfere with presently existing uses of water. This category would include domestic uses exempted under Sec. 2.01(1) of the Model Code, as well as existing uses exercised under the authority of a valid permit. Subpart (c) requires that the use not conflict with the public interest. For example, a proposed use otherwise valid, which would have an unreasonably harmful effect on fish and wildlife might well be rejected as being inconsistent with the express statement of public interest in the protection of fish and wildlife found in Sec. 1.02(3). . . .

Sec. 1.02(3) of the Code provides that “adequate provision shall be made for the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the state for navigation, public recreation, municipal uses, and public water supply; such objectives are declared to be in the public interest.”

Under paragraph (a), the evaluation of the public interest component of the reasonable-beneficial use test concerns whether the proposed utilization of water is consistent with the public interest. This evaluation may turn on how much water is proposed to be used and how that water is going to be used. The public interest test under paragraph (c) is used, therefore, to evaluate any adverse impacts to the waterbody from which the water is proposed to be withdrawn, including whether there are adverse environmental impacts that would conflict with the public interest in providing protection from these impacts.

Administrative Rules and the “Three-prong Test”

The DEP administrative rule for water supply protection and management is found at Rule 62-40.410, F.A.C., and is applicable to the regulated use of water pursuant to Part II of Chapter 373, F.S. Subsection (2) of that rule provides eighteen factors to consider in determining whether the proposed water use is a reasonable-beneficial use. The administrative rule does not list factors that specifically address consistency with “the public interest.” Subsection (2) states:

- (2) In determining whether a water use is a reasonable-beneficial use, the following factors will be considered:
 - (a) The quantity of water requested for the use;
 - (b) The demonstrated need for the use;
 - (c) The suitability of the use to the source of water;

⁸ Frank E. Maloney, Professor of Law and former Dean, Holland Law Center, University of Florida, Richard C. Ausness, Associate professor of Law, Holland Law Center, and J. Scott Morris, Associate Professor of Law, Law Center, Southern Methodist University. In addition to the Code, House staff acknowledges Tampa Bay Water’s General Counsel, Rick Lotspiech, who generously shared his thoughts and notes on the “three-prong test” issue.

- (d) The purpose and value of the use;
- (e) The extent and amount of harm caused;
- (f) The practicality of mitigating any harm by adjusting the quantity or method of use;
- (g) Whether the impact of the withdrawal extends to land not owned or legally controlled by the user;
- (h) The method and efficiency of use;
- (i) Water conservation measures taken and available to be taken;
- (j) The feasibility of alternative sources such as reclaimed water, stormwater, aquifer storage and recovery, brackish water and salt water;
- (k) The present and projected demand for the source of water;
- (l) The long-term yield available from the source of water;
- (m) The extent of water quality degradation caused;
- (n) Whether the proposed use would cause or contribute to flood damage;
- (o) Whether the proposed use would significantly induce or increase saltwater intrusion;
- (p) The amount of water which can be withdrawn without causing harm to the resource;
- (q) Whether the proposed use would adversely affect public health; and
- (r) Whether the proposed use would significantly affect natural systems.

Of the listed “reasonable-beneficial use” factors in the DEP rule, it is clear that several paragraphs address how much water is proposed to be used and how that water is going to be used, and several paragraphs address impacts of the withdrawal of water from the source waterbody.

Water Management District Rules

Currently, Northwest Florida WMD and Suwannee River WMD require that the CUP applicant meet the three-prong test and “comply with the provisions of Rule 62-40.210, F.A.C.”⁹ The Southwest Florida WMD administrative rule 40D-2.301, F.A.C., lists conditions for the issuance of water use permits that reiterates the three-prong rule of s. 373. 223(1), F.S., and provides 14 additional criteria that relate to the amount of water to be used, how it is to be used, and possible adverse impacts to the water body. The St. Johns River and the South Florida WMDs do not have administrative rules that mirror the DEP Rule. The Southwest Florida, St. Johns River and the South Florida WMDs have also published guidelines for navigating the CUP procedure that may be found online.¹⁰

Effect of Proposed Changes

The bill amends state policy regarding alternative water supply development. In short, the bill isolates conservation measures (or programs) that reduce the need for potable water, and construction projects that result in the beneficial use of reclaimed water, and calls these measures “demand management.” On the other hand, programs or projects that include desalinization, aquifer storage and recovery, reservoirs, and treated surface water or stormwater will comprise alternative water supply development.

The bill identifies the conservation of potable water and the use of reclaimed wastewater as two demand management tools and sets two goals in this conservation effort: to eliminate the use of potable water for landscape irrigation in all new residential and commercial construction and in all redevelopment of existing residential and commercial construction by the year 2013, and to use all reclaimed wastewater for beneficial purposes by the year 2030. Current state policy for resource allocation continues to encourage “local sources first” to meet a geographic area’s need for water and the bill adds *recovery and storage of surface groundwater, stormwater, and reclaimed water* to the list of alternative water supply sources that should be considered.

The bill provides the following definitions:

"Alternative water supplies" means potential supplies of water from nontraditional groundwater sources that may be developed for potable uses, including, but not limited to, desalinated surface and

⁹ (FN Northwest Florida WMD rules are found in Rule 40A-2.301, F.A.C. Suwannee River WMD rules are found in Rule 40B-2.301, F.A.C.).

¹⁰ St. John’s 137 page Guide may be found at <http://www.sjrwmd.com/handbooks/cuphandbook.html>, while South Florida’s 128 page Guide is here: <http://my.sfwmd.gov/portal/page/portal/xweb%20-%20release%202/water%20use%20permits>. Southwest Florida’s 103 page guide may be found at: <http://www.swfwmd.state.fl.us/permits/wup/#manual>.

groundwater and treated fresh surface waters. Such supplies do not include conservation measures or waters that are used to reduce the demand for potable water supplies.

"Capital costs" means planning, design, engineering, and project construction costs for alternative water supply projects and demand management activities.

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

"Program costs" means costs associated with the implementation of water conservation activities that result in the conservation of potable water and reduce the need for the construction of alternative water supply projects.

The bill amends current statutory roles of WMDs, local governments, water supply authorities and entities, special districts, and water utilities with regard to alternative water supply development to include demand management activities. Current law directs WMD's to provide technical and financial assistance to local governments and publicly-owned water utilities regarding alternative water supply development, and directs WMDs to support the development and implementation of regional water resource management strategies, the construction, operation, and maintenance of public works facilities, and the formulation of structural and non-structural programs for alternative water supply projects. The bill requires WMDs to do all of the above for demand management activities as well. The bill directs the DEP Secretary to exercise general supervisory authority to ensure cooperative efforts between the DEP, WMDs, counties, municipalities, and special districts result in the timely construction and operation of certain alternative water supply projects.

The bill directs local governments, regional water supply authorities, multijurisdictional water supply entities, special districts, and publicly-owned and privately owned water utilities to work cooperatively to formulate and implement strategies for demand management as well as alternative water supply development. These entities are directed further to cooperatively plan, design, construct, operate, and maintain projects for both.

The bill includes demand management activities in provisions relating to the identification of water supply needs and funding criteria. WMDs are directed to include demand management activities in their annual budgets and consolidated annual reports. Water Protection and Sustainability Program funds must be available for demand management activities as they are currently for alternative water supply development projects.¹¹ Demand management activities may be included in projects and activities submitted to WMD governing boards for financial assistance. The Public Service Commission is required to provide for cost recovery for the construction of certain facilities and to provide a specific rate structure for a utility that receives financial assistance from a WMD for demand management activities.

The bill amends provisions relating to conditions for the issuance of a CUP. The DEP or WMD board is prohibited from issuing a CUP if the use will cause the source water body to fall below an established MFL, and the term "source water body" is defined to mean either surface water or groundwater. The bill also amends the "three-prong test" and directs the DEP or WMD board to consider and balance the following factors to determine whether the proposed use of water is a reasonable-beneficial use, will not interfere with a present, existing legal use of water, and is consistent with the public interest.

Under the reasonable-beneficial use test:

- (a) The quantity of water requested for the use;
- (b) The demonstrated need for the use;
- (c) The suitability of the source of water for the use;
- (d) The purpose and value of the use;
- (e) The method and efficiency of the use;

¹¹ The bill directs sixty percent of revenues to fund alternative water supply projects with the remainder funding demand management activities.

- (f) Whether the use will cause or contribute to flood damage; and
- (g) Whether the use will adversely affect public health.

Under the test determining an interference with an existing use of water:

- (a) All existing permitted uses of water from the proposed source;
- (b) The quantity of water that each permit authorizes to be withdrawn;
- (c) The use of water that each permit authorizes; and
- (d) The term of each permit.

Under the consistent with the public interest test:

- (a) Whether the impact of the withdrawal to the source water body extends to land not owned or legally controlled by the user;
- (b) The feasibility of using alternative sources to the source water body such as reclaimed water, stormwater, aquifer storage and recovery, brackish water, and salt water;
- (c) The present and projected demand for the source water body;
- (d) The long-term yield available from the source water body;
- (e) The extent of water quality degradation caused to the source water body;
- (f) Whether the use will significantly induce or increase saltwater intrusion to the source water body; and
- (g) The water conservation measures implemented and the water conservation measures available for implementation.

The bill provides additional factors for the public interest test, in addition to the ones above, if a MFL has not been established for the source water body:

- (a) The extent and amount of harm caused to the fish and wildlife resources of the source water body;
- (b) The practicality of mitigating any harm caused to the source water body by adjusting the quantity or method of use; and
- (c) The amount of water that can be withdrawn from the source water body without causing harm to the resource.

The bill authorizes the DEP or WMD to reserve water for specified purposes but restricts their authority to issue a CUP if the proposed withdrawal would adversely affect the reservation of water.

The bill provides that a public water supply system that uses traditional groundwater and alternative sources may continue to use groundwater sources if the alternative water supply is unreliable due to rainfall patterns. Such groundwater use will be considered to be in the public interest.

Finally, the bill makes several statutory cross references and deletes obsolete appropriations language.

B. SECTION DIRECTORY:

Section 1. Amends s. 373.016, F.S., revising provisions relating to the declaration of policy for the state water resource plan to include demand management, and providing specified goals for the conservation of potable water and the use of reclaimed water. Also conforms a statutory cross-reference.

Section 2. Amends s. 373.019, F.S., clarifying the definitions of "alternative water supplies" and "capital costs", and defining the terms "demand management" and "program costs".

Section 3. Amends s. 373.196, F.S., revising provisions relating to alternative water supply development to include demand management, and directing the Secretary of the Department of Environmental Protection to exercise general supervisory authority regarding the construction and operation of certain alternative water supply projects. This section provides direction for the roles of WMDs, local governments, water supply authorities and entities, special districts, and water utilities with regard to demand management activities. This section requires the inclusion of demand management activities in WMD annual budgets and requires funds from the Water Protection and Sustainability Program be made available for demand management activities.

Section 4. Amends s. 373.1961, F.S., revising provisions relating to the identification of water supply needs and funding criteria for water supply projects to include demand management activities, clarifying provisions relating to projects and activities submitted to WMD governing boards for financial assistance, requiring certain rate structures for utilities receiving financial assistance for demand management activities, providing for the disbursal of specified revenues to fund the implementation of demand management activities, requiring WMDs to include demand management activities in consolidated annual reports, and providing for recovery of costs for the construction of certain facilities. This section also deletes obsolete appropriation provisions.

Section 5. Amends s. 373.223, F.S., revising provisions relating to conditions for issuance of a consumptive use of water permit and prohibiting the issuance of permits under specified conditions. The bill directs WMD boards and the DEP to consider specified criteria in evaluating permit applications and authorizes WMD boards and the DEP to reserve waters for specified purposes. This section provides authority to a water supplier that relies upon traditional groundwater and an alternative supply to use groundwater if the alternative supply is unreliable due to rainfall patterns and provides the continued use of groundwater sources to be in the public interest.

Section 6. Amends s. 403.890, F.S., deleting obsolete appropriation provisions and revising provisions relating to the Water Protection and Sustainability Program to provide funding for the implementation of demand management.

Sections 7 - 15. Amends ss. 373.036, 373.0361, 373.1962, 373.217, 373.2234, 373.229, 373.421, 403.813, and 556.102, F.S., conforming statutory cross-references.

Section 16. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There may be costs associated with rulemaking by the DEP and the WMDs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local government public water supply utilities may benefit from the conservation measures in the same manner as private utilities. See, Part II, C., below.

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The implementation of demand management activities may inure to the benefit of utilities that provide public water resources and implement demand management practices. In theory, demand management activities will "flatten" the demand curve for the subject resource. In practice, one of the activities that might be used is "cost-reflective pricing" in which the cost of water is increased to incentivize conservation. A utility that increases its prices to reduce demand for water may be able to sell to a greater number of customers who will use less but pay more per gallon.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

None is provided. Existing law grants broad rulemaking authority to the DEP for the amended subsections in s. 373.227, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill directs the DEP Secretary to exercise general supervisory authority to ensure cooperative efforts between the DEP, WMDs, counties, municipalities, and special districts result in the timely construction and operation of certain alternative water supply projects. The DEP Secretary does not have supervisory authority over counties, municipalities or other special districts and only has statutory authorization to exercise general supervisory authority over WMDs. Section 373.026(7), F.S

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES