

MEMORANDUM

To: SEFLUC

From: Kristin Melton

Date: November 9, 2015

RE: 2016 Legislation – Water Policy Legislation Update

Introduction

The Florida House and Senate introduced identical water policy bills (SB 552 and HB 7005), which are very similar to the versions passed by the House and Senate during the 2015 legislative session. The most notable change from the 2016 bills is the lack of any proposal to establish a statewide water advisory council, which was one of the major areas of disagreement between the House and Senate in the final versions of their respective 2015 legislative proposals.

The following is a short summary of the proposed 2016 identical bills highlighting those provisions which may be of particular interest to SEFLUC and its members.

Summary

Section 1 – 259.032 Conservation and recreation lands

- Requires the DEP to publish, update, and maintain a database of conservation lands within certain time frames. It also requires DEP to annually report to the Governor, Senate, and House on the percentage of state-acquired lands and efforts to increase public access to those lands.

Section 2 – 373.019 Definitions

- Revises the definition of “water resource development” to include self-suppliers within the groups for which water management districts may provide technical assistance in the formulation and implementation of regional water resource management strategies to the extent the assistance promotes the state water policy objectives.

Section 3 – 373.036 Florida water plan; district water management plans

- Requires water management districts to include as part of the 5 year work program for all projects related to water quality or water quantity a list of specific projects identified to

implement a BMAP or recovery or prevention strategy and related priority ranking, cost, completion date, financial contributions, quantitative estimate of each listed project's benefit to the watershed, water body or water segment.

Section 4 – 373.037 Pilot program for alternative water supply development in restricted allocation areas

- Establishes the pilot program for alternative water supply pilot program. This program authorizes the SJRWMD, SWFWMD, and SFWMD to designate one alternative water supply pilot project in a restricted allocation area by July 1, 2017 that will be not be subject to rulemaking requirements of chapter 120 or subject to legal challenge.
- The legislation identifies the powers and restrictions on the water management districts in implementing a pilot project. The governing board is restricted from developing the project on privately owned land without consent or engaging in local water supply distribution or sale of water to the pilot project. The governing board may join with others to carry out its powers and may contract with other entities to finance or otherwise implement acquisition, construction and operation and maintenance if within the public interest. The water management district may provide up to 50 percent funding for each project.
- If a water management district implements a project, it is required to submit a report containing specified information to the Governor, the President of the Senate and the Speaker of the House of Representatives by July 1, 2019 on the effectiveness of the project.

New Language:

- New legislative finding that each pilot project provides water supply and environmental benefits. Consideration should be given to projects that provide reductions in damaging discharges to tide or that are part of a recovery or prevention strategy for MFLs

Section 5 – 373.042 Minimum flows and minimum water levels

- Requires the water management district or department to use emergency rulemaking authority to adopt minimum flows and levels and associated recovery/prevention strategies for Outstanding Florida Springs outside the NFWFMD no later than July 1, 2017 and inside NFWFMD by July 1, 2019.

Comment – The 2016 legislation imposes the same deadlines as proposed in the 2015 legislation. Therefore, WMDs have only one year to adopt MFLs and associated recovery/prevention strategies outside of NFWFMD. SFWMD may wish to lobby for a one year extension in the deadlines. Emergency rulemaking means the MFLs and strategies will take legal effect without workshops, statements of estimated regulatory costs or stakeholder input. Therefore, there is extremely limited ability to challenge these rules. Furthermore, there is uncertainty in permitting if final rules differ from these adopted emergency rules.

- Requires water management districts to collaboratively develop and implement recovery/prevention strategies where the withdrawals in one district may affect the OFS in another district.
- **MFLs adopted under this section are exempt from legislative ratification.**

Comment – While SEFLUC is not typically impacted by MFL legislation or regulations, this is a significant provision because it eliminates the significant protections afforded to those financially impacted by MFLs via the legislative ratification process.

New Language:

- Provides that emergency rules shall remain in effect during the pendency of procedures to adopt rules addressing the subject of the emergency rules.
- Clarifies the term “Outstanding Florida Spring” has the same meaning as in s. 373.802.

Section 6 – 373.0421 Establishment and implementation of MFLs

- Requires a recovery or prevention plan to be adopted concurrent with the adoption of the MFL and cannot depend on a water shortage order.
- Requires WMDs to amend the applicable regional water supply plan to include any water supply development project or water resource development project identified in a recovery or prevention strategy.
- Requires WMDs to notify DEP if water use permit application is denied based upon the impact the use will have on an adopted MFL. The WMD and DEP must then reassess the adequacy of the plan and determine whether it needs to be updated.

Section 7 – 373.0465 Central Florida Water Initiative

- Creates 373.0465, F.S. regarding the Central Florida Water Initiative (CFWI).
- It provides legislative findings regarding the water supply in the Central Florida Coordination Area and recognizes the finding of the SFWMD, SWFWMD, SJRWMD and DEP that the Floridan Aquifer system is locally approaching sustainable limits of use and the need to develop sources of water to meet long term water needs of the area.
- Requires DEP, SJRWMD, SFWMD, SWFWMD and FDACS to
 - o continue the collaborative process of the CFWI Area among state agencies, affected WMDs, regional public water supply utilities and other stakeholders
 - o build upon the guiding principles and goals set forth in the CFWI Guiding Document
 - o develop and implement a single multidistrict regional water supply plan
 - o provide for single hydrologic planning model to assess the availability of groundwater in the CFWI
- Requires DEP, in consultation with SJRWMD, SFWMD, SWFWMD, and DACS, to adopt uniform rules for application in the CFWI Area that include:
 - o a single, uniform definition of "harmful to the water resources," consistent with the term's usage in s. 373.219, F.S.114
 - o a single method for calculating residential per capita water use;
 - o a single process for permit reviews;

- a single, consistent process, as appropriate, to set MFLs and water reservations;
- a goal for residential per capita water use for each CUP; and
- an annual conservation goal for each CUP consistent with the RWSP.
- Requires DEP to initiate rulemaking for the uniform rules by December 31, 2016
- Provides the WMD planning programs developed under this section shall not serve to modify planning programs in areas of the affected districts that are not within the CFWI

Comment: Encourage WMD to keep language providing the CFWI programs developed under this legislation will not modify planning programs outside of the CFWI.

Section 8 – 373.1501 SFWMD as a local sponsor

Requires the SFWMD, as local sponsor of the Central and Southern Florida Project, to:

- Exercise the authority of the state to allocate water quantities within its jurisdiction, including water supply in relation to the Project, and to be responsible for allocating water and assigning priorities among other water users served by the Project.
- Provide recommendations to the U.S. Army Corps of Engineers that are consistent with all of the SFWMD’s programs and plans, when developing or implementing water control plans or regulation schedules required for operation of the Project.

Section 9- 373.219 Permits required

- Adds a new subsection (3) requiring the DEP to adopt uniform rules for issuing permits in Outstanding Florida Springs areas which prevent groundwater withdrawals that are harmful to the water resources of the adopt by rule a uniform definition of the term “harmful to the water resources.”
- Reserves the right for WMDs to adopt a definition that is more protective of the water resources with local or regional conditions or objectives.

Section 10 – 373.223 Conditions for a permit

- Adds a new subsection (6) which requires monitoring and reporting requirements for a new consumptive use permit, or the renewal or modification of a consumptive use permit, that authorizes 100,000 gallons or more per day *from a well with an inside diameter of 8 inches or more*

New Language – restriction that well have an inside diameter of 8 inches or more

Comment: The 8 inch limitation would likely eliminate many self-suppliers from the monitoring requirement. SB 918 (2015) did not include the 8 inch diameter requirement. Draft committee substitutes for SB 918 proposed to include this restriction, but the ultimate CS2 of SB 918 did not include any reference to the minimum 8 inch diameter. However, this limitation has now been incorporated into the 2016 legislation. If SEFLUC wants to ensure self-suppliers are included within the monitoring and reporting requirements, it should encourage SFWMD to lobby against the minimum 8 inch diameter language.

Section 11 – 373.2234 Preferred water supply sources

- Section 11 amends s. 373.2234, F.S., regarding preferred water supply sources to require the governing board of a WMD to give priority consideration of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible.

Comment: While most utilities have been supportive of this language in the past, it warrants comment that this new preference has a potential impact on SEFLUC's members who are not located in areas where development of new water supplies is technically and financially feasible because those areas would now have priority for preferred water sources.

Section 12 – 373.227 Water conservation; legislative findings and intent; objectives; comprehensive statewide water conservation program requirements

- Protects consumptive use permit holders from having their water allocations reduced due to documented implementation of water conservation measures during the term of a permit

Comment – In the past, utilities have criticized the requirement for demonstrating reduced use through “documented” implementation of water conservation measures. SEFLUC may wish to have SFWMD explain what it would require utilities provide in order to demonstrate “documented implementation of water conservation measures.”

- Requires WMDs adopt rules providing water conservation incentives, which may include permit extensions
- Prohibits WMDs from reducing permitted allocation amounts during the term of a CUP for agricultural irrigation if actual water use is less than permitted water use due to weather events, crop diseases, nursery stock availability, market conditions or change in crop type.

Section 13 – 373.223 Competing applications

- Provides that if two or more competing applications qualify equally and neither application is a renewal, preference is given to the application for the use where the source is nearest to the area of use or application.

Comment – While this scenario is very unlikely to occur, this language likely gives advantage to agricultural uses over utilities because ag is likely to withdraw at or very near the area of use or application. SFWMD would be unlikely to take this issue on as it would be criticized by Ag lobbyists.

Section 14 – 373.4591 Improvements on private agricultural lands

- Provides a new priority consideration for certain public-private partnerships that

- store or treat water on private lands for purposes of enhancing hydrologic improvement, improving water quality, or assisting in water supply;
- provide critical groundwater recharge;
- or provide for changes in land use to activities that minimize nutrient loads and maximize water conservation.

Section 15 – 373.4595 Northern Everglades and Estuaries Protection Program

- Include definitions for the terms “biosolids” and “soil amendment.”
- Specifies the component of the Lake Okeechobee Watershed Protection Program (LOWPP) responsible for achieving phosphorus reductions in Lake Okeechobee is the Lake Okeechobee BMAP. It requires SFWMD to update the LOWPP every 5 years beginning March 1, 2020 to be consistent with the Lake Okeechobee BMAP.
- Requires implementation of Lake Okeechobee Watershed Research and Water Quality Monitoring Program.
- Require DEP to initiate development of BMAPs for the Lake Okeechobee watershed, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary.
- Requires DEP to report on 5 year assessments the status of the Lake Okeechobee BMAP, the Caloosahatchee River Watershed BMAP, and the St. Lucie River Watershed BMAP, and for DACS to report on the status of the implementation of agricultural nonpoint source BMPs, and compliance with BMPs in the Lake Okeechobee, Caloosahatchee, and St. Lucie watersheds. The report will be included in the SFWMD’s annual report required pursuant to s. 373.036(7), F.S.
- Provides that owners and operators of existing structures that discharge into or from Lake Okeechobee that were subject to certain DEP consent orders and are subject to s. 373.4592(4)(a), F.S., 142 do not require a permit under this section and must be governed by permits issued under ss. 373.413143 and 373.416, F.S., 144 and the Lake Okeechobee BMAP.
- Requires the SFWMD to submit to DEP, by January 1, 2017, a complete application for permit modification to the Lake Okeechobee structure permits to incorporate proposed changes necessary to ensure that discharges through the structures are consistent with the BMAP. The bill deletes the provision that these changes must be designed to achieve compliance with WQS by January 1, 2015.
- Directs DEP to require permits for SFWMD regional projects that are part of the Lake Okeechobee Watershed Construction Project. The bill requires SFWMD to demonstrate reasonable assurances that the regional projects will achieve the design objectives for phosphorous.

Section 16 – s. 373.467, F.S. regarding Harris Chain of Lakes Restoration Council

- Revises the required councilmember credentials, the process for seating members and resignation impacts on the Harris Chan of Lakes Restoration Council.

Section 17 –373.563 District budget and hearing thereon

- Requires each WMD to include an annual funding plan for each of the 5 years included in the plan for the 5-year water resource development work program
- Requires the WMD to include development components within the annual funding plan.
- Requires the work program to address all water supply projects proposed for district funding and assessment
- Requires WMD annual funding plan to identify both anticipated and available district funding and additional funding needs for the second through fifth years of the funding plan.
- Requires WMD to identify projects in plan which support MFL implementation and avoid adverse effects of competition for water supplies
- Requires WMDs to post work plans to websites.

Change from SB 918 (2015):

- Deletes the requirement that funding requests for Florida Water Resource Advisory Council funding be identified separately and related language since the 2016 legislation does not propose establishment of such a council.

Section 18 –373.703 Water production, general powers and duties

- Authorizes water management districts to partner with private landowners in carrying out its general powers and duties.

Section 19 – 373.705 Water resource development; water supply development

- Includes identification of regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users or support the provision of new water supplies in order to meet a MFL or implement a recovery or prevention strategy or water reservation within the legislative intent of projects the WMD must take the lead in identifying.
- Requires governing board to include in its annual budget submittals the amount of funds for each project in the annual funding plan for the 5 year work program
- Gives priority funding consideration for a project that reduces or eliminates the adverse effects of competition between legal users and the natural system.
- Requires the WMDs to promote expanded cost-share criteria for additional conservation practices

Section 20 – 373.707 Alternative water supply development

- Authorizes WMDs to provide technical and financial assistance to self-suppliers for alternative water supply projects to the extent assistance promotes the policies of the WMD
- Requires WMD to identify WMD funding contribution for each project identified in the annual funding plans prepared for the 5 year work program

- Authorizes WMD so providing funding to water users for projects determined by the governing board to be in the public interest if the projects are not otherwise financially feasible.

Comment – public interest funding component is a type of catchall that appears to open the door for additional projects to be funded

Section 21 – 373.709 Regional Water Supply Planning

- Requires water supply development project options in a WMD’s RWSP to be technically and financially feasible.
- New Language:
Requires the water resource development component of the RWSP to:
 - o Include a listing of water resource development projects that support water supply development for all existing and future reasonable-beneficial uses and for the natural systems as identified in the recovery or prevention strategies for adopted MFLs or water reservations.
 - o Include for each listed project an estimate of the amount of water to become available through the project for all existing and future reasonable-beneficial uses and for the natural systems as identified in the recovery or prevention strategies for adopted MFLs or water reservations.
- New Language:
Requires an assessment of how the RWSP and the projects identified in the RWSP’s funding plans for water supply and water resource development projects support the recovery or prevention strategies for implementation of adopted MFLs or water reservations, including MFLs for OFSs, while ensuring that sufficient water will be available for all existing and future reasonable-beneficial uses and the natural systems identified in the RWSP and avoiding the adverse effects of competition for water supplies.
- Requires DEP to include in its annual status report to the Governor and Legislature an analysis of the sufficiency of potential funding from all sources for water resource development and water supply development projects identified in each of the WMD’s RWSPs, and an explanation of how each project identified in the 5-year water resource development work program will contribute to additional water for MFLs or water reservations.

Section 22 creates Part VIII of Chapter 373, F.S. regarding the Florida Springs and Aquifer Act, which is contained in Sections 23-29 of the Bill

Comment: Given SEFLUC’s location, members will likely not be impacted by these portions of the bill.

Section 23 – 373.801 Legislative findings and intent

- Recognizes springs unique features and source of habitat and water.

- Finds that the water quantity and quality in springs may be related and establishes regulatory responsibilities amount responsible entities designated to coordinate to restore and maintain the water quantity and water quality of Outstanding Florida Springs.
- Recognizes relationship between health of spring and groundwater supply, runoff, discharges and other variable influences.
- Recognizes that action is urgently needed and, as additional data is acquired action must be modified.

Section 24 – 373.802 Definitions

- Defines terms used within the Act including ‘onsite sewage treatment and disposal system,’ ‘Outstanding Florida Spring,’ ‘priority focus area,’ and ‘springshed.’

Section 25 – 373.803 Delineation of priority focus areas for Outstanding Florida Springs

- Requires DEP, in coordination with water management districts, to delineate priority focus areas for each Outstanding Florida Spring by July 1, 2018 and outlines list of considerations the DEP must consider.

Comment: The deadline for delineating priority focus areas is the same as the deadline proposed in the 2015 legislation.

Section 26 – 373.805 Minimum flows and minimum water levels for Outstanding Florida Springs

- Requires WMD or DEP to concurrently adopt or modify a recovery or prevention strategy at the time an MFL is adopted or modified for an OFS. A WMD or DEP may adopt revised MFLs before adoption of a recovery or prevention strategy if the revised MFL is less constraining on existing or projected future consumptive use.
- For an OFS without an adopted recovery or prevention strategy, WMD or DEP must expeditiously adopt a recovery or prevention strategy if the spring has fallen below or is projected within 20 years to fall below and adopted MFL.
- Outlines minimum requirements for each OFS recovery or prevention strategy, including an implementation plan designed with a target to achieve the adopted MFL.
 - o Requires the WMD or DEP to develop a schedule establishing 5-year, 10-year and 15-year *targets* for achieving adopted MFLs. Provides the schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120.
- Authorizes a local government to apply for a single extension of up to 5 years for any project adopted in the recovery or prevention strategy.

Change from SB 918:

- SB 918 required the schedule to be included as part of the implementation plan and referred to “measurable milestones” rather than “targets” for achieving MFLs. The change to the term “targets” is likely an attempt to address concerns that “measurable

milestones” would act as hard and steady numbers that would be required to be met every 5 years.

Section 27 – 373.807 Protection of water quality in Outstanding Florida Springs

- Requires DEP to initiate assessment of OFS or spring systems for which an impairment determination has not been made under the numeric nutrient standards in effect for spring vents by July 1, 2016 and complete assessment by July 1, 2018.
- Requires concurrent with adoption of TMDLs for OFS, the initiation of development of basin management action plans. Requires initiation of BMAP by July 1, 2016 for TMDLs adopted before July 1, 2016.
 - o Requires BMAP to include an onsite sewage treatment and disposal system remediation plan where the DEP determines the system is a contributor of at least 20 percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL.
 - Specifies minimum requirements for remediation plan
- Requires adoption of BMAP for OFS within 2 years after its initiation and identifies minimum requirements for inclusion within BMAP, including an implementation designed to achieve the TMDL.
 - o Requires the WMD or DEP to develop a schedule establishing 5-year, 10-year and 15-year *targets* for achieving adopted MFLs. Provides the schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120.
- Requires BMAPs adopted before July 1, 2016 which address an OFS be revised by July 1, 2018 as necessary to comply with the minimum requirements within this section.
- Authorizes local government to apply for a single extension of up to 5 years for any project in an adopted basin management action plan, except that a local government in a rural area of opportunity may have an extension of up to 10 years.
- Requires any local government within the boundaries of an OFS or any part of a springshed or delineated priority focus area of an OFS to adopt and implement an ordinance pursuant to the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes by July 1, 2017
- Requires the DEP to provide notice to a local government of all general ERP permit applicants in a priority focus area of an OFS over which the local government has full or partial jurisdiction.

Comment: Same deadline for completion of assessment as proposed in 2015 legislation. This results in only 2 years from initiation to completion of assessment.

Section 28 – 373.811 Prohibited activities within a priority focus area

- Lists prohibited activities within a priority focus area including:
 - o new domestic wastewater disposal facilities except for those facilities that meet an advance wastewater treatment standard of no more than 3 mg/L total nitrogen on an annual permitted basis or a more stringent standard if the DEP deems necessary

- New onsite sewage treatment and disposal systems on lots less than 1 acre if the addition conflicts with the onsite remediation plan incorporated into the BMAP.
- New facilities for disposal of hazardous waste
- Land application of Class A or Class B domestic wastewater biosolids not in accordance with approved DEP nutrient management plan
- New agriculture applications that do not implement best management practices, measures necessary to achieve pollution reduction levels established by the DEP, or groundwater monitoring plans approved by a WMD or the DEP.

Section 29 – 373.813 Rules

- Requires the DEP to adopt rules to improve water quantity and water quality as necessary to administer the Springs Act.
- Establishes DACS as the lead agency coordinating reduction of agricultural nonpoint sources of pollution and protection of OFS. And requires DACS to study new or revised best management practices for improving and protecting OFS and initiating rulemaking as required.
- Requires DEP, DACS and IFAASS to cooperate in conducting research and demonstration projects to develop improve or additional nutrient management tools.

***2016 Legislation does NOT include proposed water resource advisory council or requirement to establish web-based interactive map, which 2015 legislation included at this location in the bill.**

Section 30 - 403.061 Department; powers and duties.

- Authorizes DEP to adopt by rule a specific surface water classification to protect surface water used for treated potable water supply.
- Requires these designated water sources to have the same water quality criteria protections as surface waters designated for fish consumption, recreation, and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife.
- Requires these designated water sources be free from discharged substances at a concentration that, alone or in combination with other discharged substances, would require significant alteration of permitted treatment processes at the permitted treatment facility, or which would otherwise prevent compliance with applicable state drinking water standards. Notwithstanding this classification, a surface water used for treated potable water supply may be reclassified as waters designated for potable water supply.

Section 31 – 403.0617 Innovative nutrient and sediment reduction and conservation pilot project program

- Allows DEP to fund pilot projects, contingent upon a specific appropriation, to test the effectiveness of innovative or existing nutrient reduction or water conservation technologies, programs, or practices designed to minimize nutrient pollution or restore flows in waterbodies.

- DEP must initiate rulemaking, by October 1, 2016, to establish criteria for the evaluation and ranking of pilot projects for funding.
 - o The criteria must include a determination by DEP that the pilot project will not be harmful to the ecological resources in the study area, and preference must be given to projects that will result in the greatest improvement to water quality and water quantity for the dollars to be expended for the project.
 - o DEP must also consider certain other items relating to level of impairment, costs and benefits, timelines funding, and impact on restoring flow.

Section 32 – 403.0623 Environmental data; quality assurance

- Requires DEP to establish uniform standards for collecting and analyzing water quality, water quantity, and related data.
- Requires DEP, to the extent practicable, to coordinate with federal agencies to ensure that its collection and analysis of water data may be used by any state agency, WMD, or local government.
- Requires WMDs and state agencies to show that they follow DEP’s collection and analysis standards in order to receive state funds for land acquisition or water resource projects.

Section 33 – 403.067 Establishment and implementation of total maximum daily loads

- Requires each new or revised BMAP to include:
 - o Appropriate management strategies to achieve TMDLs;
 - o A description of BMPs adopted by rule;
 - o A prioritized list of projects with a cost estimate and estimated date of completion;
 - o The source and amount of financial assistance by DEP, WMD, or other entity for each project; and
 - o An estimate of each project’s expected load reduction.
- Specifies that BMAPs, BMPs, and water quality monitoring are enforceable.
- Requires that, by January 1, 2017:
 - o DEP initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of the implementation of BMPs or other measures;
 - o DEP initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, BMPs, or other measures; and o DACS initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, BMPs, or other measures.
 - o The rules must include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including BMPs or water quality monitoring as a result of noncompliance.

Section 34 – 403.0675 Progress Reports

- Creates s. 403.0675, F.S., regarding progress reports, requiring that, on or before July 1, 2018, and annually thereafter:
 - o DEP post on its website and submit electronically to the Governor and the Legislature an annual progress report on the status of each adopted TMDL, BMAP, MFL, and recovery or prevention strategy. The report must include the status of each project identified to achieve the TMDL or MFL. If any of the 5-year milestones will not be met, the report must include an explanation of the possible causes and potential solutions. The report must also include project descriptions, estimated costs, proposed priority ranking for project implementation, and funding needed to achieve the TMDL or MFL by the target date. Each WMD must also post the report on its website; and
 - o DACS post on its website and submit to the Governor and the Legislature an annual progress report on the status of the implementation of the agricultural nonpoint source BMPs, including an implementation assurance report summarizing survey responses and response rates, site inspections and other methods used to verify implementation of and compliance with BMPs pursuant to BMAPs.

Section 35 – 403.861 Department; Powers and duties

- Requiring DEP to add treated potable water supply as a designated use of a surface water:
 - o Upon issuance of a construction permit to construct a new public water system drinking water treatment facility to provide potable water supply using a surface water that, at the time of the permit application, is not being used as a potable water supply system, the classification of which does not include potable water supply as a designated use.
 - o For existing public water system drinking water treatment facilities that use a surface water as a treated potable water supply, which surface water classification does not include potable water supply as a designated use.

Section 36 – 403.928 Assessment of Water Resources and Conservation Lands

Entirely New Section From 2015

- Requires Office of Economic and Demographic Research to conduct an annual assessment of water resources and conservation lands.
- The assessment must include all of the following related to water resources:
 - o Historical and current expenditures and projections of future expenditures by federal, state, regional, and local governments and public and private utilities based upon historical trends and ongoing projects or initiatives associated with:
 - Water supply and demand; and
 - Water quality protection and restoration.
 - o An analysis and estimates of future expenditures by federal, state, regional, and local governments and public and private utilities necessary to comply with

federal and state laws and regulations governing water supply and demand, and water quality protection and restoration. The analysis and estimates must address future expenditures by federal, state, regional, and local governments and public and private utilities necessary to achieve the legislature's intent that sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that adverse effects of competition for water supplies be avoided. The assessment must include a compilation of projected water supply and demand data developed by each WMD pursuant to ss. 373.036 and 373.709, F.S., with notations regarding any significant differences between the methods used by the WMDs to calculate the data.

- Forecasts of federal, state, regional, and local government revenues dedicated in current law to the purposes of water supply and demand, and water quality protection and restoration, or that have been historically allocated for these purposes, as well as public and private utility revenues.
- Identification of gaps between projected revenues and projected and estimated expenditures.
- In addition, the assessment must include the following related to conservation lands:
 - Historical and current expenditures and projections of future expenditures by federal, state, regional, and local governments based upon historical trends and ongoing projects or initiatives associated with real property interests eligible for funding under the s. 259.105, F.S
 - An analysis and estimates of future expenditures by federal, state, regional, and local governments necessary to purchase lands identified in plans set forth by state agencies or WMDs.
 - An analysis of the ad valorem tax impacts by county resulting from public ownership of conservation lands.
 - Forecasts of federal, state, regional, and local government revenues dedicated in current law to maintain conservation lands and the gap between projected expenditures and revenues.
 - The total percentage of real property that is publicly owned for conservation purposes.
 - A comparison of the cost of acquiring and maintaining conservation lands under fee simple and less than fee ownership.
- The assessment must include analyses on a statewide, regional and geographic basis as appropriate and identify analytical challenges in assessing information across the different regions of the state. It must identify overlap in the expenditures for water resources and conservation lands.
- The bill requires WMDs, DEP, DACS, the Fish and Wildlife Conservation Commission, counties, municipalities, and special districts to provide assistance to EDR related to their respective areas of expertise. In addition, EDR must be given access to all data necessary to complete the assessment, including confidential data.
- The bill requires EDR to submit the assessment to the Legislature by January 1, 2017, and by January 1 of each year thereafter.

Comment – This new section appears to be the compromise on not requiring establishment of a state water resources advisory council. The EDR will be used to monitor spending on

conservation lands, water supply and water quality protection and restoration projects. This is an improvement from the establishment of a state water resources advisory council.

Section 37 requires the DEP to evaluate the feasibility and cost of creating and maintaining a web-based interactive map that includes information on water restoration and protection programs and projects across Florida.

Comment – The 2015 bills required implementation of the web-based interactive map.

Section 38 provides a legislative finding that a proper and legitimate state purpose is served when protecting the environmental resources of this state. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 39 provides an effective date of July 1, 2016.