

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 4007 Powers and Duties of Department of Environmental Protection

SPONSOR(S): Agriculture & Natural Resources Subcommittee, Nelson

TIED BILLS: None **IDEN./SIM. BILLS:** SB 326

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------------|----------|--|
| 1) Agriculture & Natural Resources Subcommittee | 12 Y, 0 N, As CS | Renner | Blalock |
| 2) Appropriations Committee | 22 Y, 0 N | Helpling | Leznoff |
| 3) State Affairs Committee | 15 Y, 0 N | Renner | Camechis |

SUMMARY ANALYSIS

The Cross Florida Barge Canal Project began in 1933. Thousands of acres of land were acquired to create a commercial shipping channel across the Florida peninsula connecting the Atlantic Ocean to the Gulf of Mexico. There were two major efforts to construct the canal, first from 1933 to 1935, and then from 1964 to 1990. The canal was never completed due to insufficient funds and concerns over potential environmental impacts. Congress officially de-authorized the project in 1990 and all federal canal lands and structures were transferred to the state to be managed as a conservation and recreation area. The canal land was officially named the Marjorie Harris Carr Cross Florida Greenway (CFG) and is now managed by the Office of Greenways and Trails. The CFG is a multi-use area and provides natural resource-based recreation, including fishing, camping, hunting, boating, bicycling, and horseback riding.

CFG lands are subject to the following specific surplus procedures that were created to generate funds needed to refund counties the ad valorem taxes that the counties paid to the Cross Florida Canal Navigation District:

- The county where the surplus land is located has the first right of refusal to acquire the land at current appraised value by buying it or subtracting the value from its reimbursement;
- The original owner of the land or the original owner's heirs have second right of refusal to acquire the land at current appraised value;
- Any person having a leasehold interest in the land has the third right of refusal to acquire the land at current appraised value;
- Surplus land that is not acquired as stated above is offered in a public sale to the highest bidder. The minimum acceptable bid is the current appraised value;
- Proceeds from the sale of CFG land are refunded to the counties for ad valorem taxes paid by the counties to the Cross Florida Canal Navigation District;
- Interest refunded to the counties is compounded annually at rates specified in s. 253.783(2)(f), F.S.; and
- Any excess funds from the sale of surplus lands *may* be used for the maintenance of the greenway corridor.

The bill repeals the specific CFG surplus and exchange procedures, which will allow the Department of Environmental Protection's (DEP) Office of Greenways and Trails to follow current DEP Division of State Lands procedures for the surplus and exchange of conservation lands.

The bill appears to have an indeterminate positive fiscal impact on DEP by not having a separate procedure for surplus CFG lands. The bill does not have a fiscal impact on local governments or the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Cross Florida Greenway

The Cross Florida Barge Canal Project began in 1933. Thousands of acres of land were acquired to create a commercial shipping channel across the Florida peninsula connecting the Atlantic Ocean to the Gulf of Mexico. There were two major efforts to construct the canal, first from 1933 to 1935, and then from 1964 to 1990. The canal was never completed due to insufficient funds and concerns over potential environmental impacts. Congress officially de-authorized the project in 1990, and all federal canal lands and structures were transferred to the state to be managed as a conservation and recreation area. The canal land was officially named the Marjorie Harris Carr Cross Florida Greenway (CFG) and is now managed by the Office of Greenways and Trails. The CFG is a multi-use area and provides natural resource-based recreation including fishing, camping, hunting, boating, bicycling, and horseback riding.¹

The CFG extends through portions of Marion County, requiring that Marion County receive right-of-way access across portions of the CFG. Section 253.7827(3), F.S., provides that Marion County may purchase right-of-way access at fair market value, or that the value of the right-of-way be subtracted from the amount of reimbursement due to the county, pursuant to s. 253.783, F.S.

Water Resource Development Act of 1990

Section 402 of the Water Resources Development Act of 1990 (Act) amended sec. 1114(b)(5) of the Water Resources Development Act of 1986.² In addition to de-authorizing the project, the Act transferred all federal lands, interests, and facilities to the state without consideration, provided the state:

- Holds the federal government harmless for claims arising from operation of federal lands and facilities;
- Maintains the corridor as a public greenway for compatible recreation purposes, including specified areas;
- Agrees to preserve, enhance, interpret, and manage the natural and cultural resources contained in specified areas;
- Pays Citrus, Clay, Duval, Levy, Marion, and Putnam Counties a minimum aggregate sum of \$32 million, or at the option of the counties, payment by conveyance of surplus barge canal lands selected by the state at current appraised values;
- Uses any remaining funds generated from the sale of surplus CFG lands to acquire fee title or easements to other lands along the project route. Any remaining funds generated from the sale of surplus CFG lands *must* be used for the improvement and management of the greenway corridor. It does not dictate the procedures the state must use to surplus CFG lands, only how the funds from the sale of surplus land are to be managed.

The Act provides for certain legal remedies if the state fails to comply with the above requirements.³

¹ DEP, *Marjorie Harris Carr Cross Florida Greenway Management Plan*, (June 15, 2007), http://www.dep.state.fl.us/gwt/cfg/Plan_PDF/CFG_LMP_Final.pdf.

² U.S. Fish & Wildlife Service, *Water Resource Development Acts*, <http://www.fws.gov/habitatconservation/Omnibus/WRDA1990.pdf>.

³ See Sec. 1114(d) of the Water Resource Development Act of 1986 as amended by Sec. 402 of the Water Resource Development Act of 1990, available at <http://www.fws.gov/habitatconservation/Omnibus/WRDA1990.pdf>.

Cross Florida Greenway Surplus Procedures

CFG lands are subject to specific surplus procedures that were created to generate funds needed to refund counties the ad valorem taxes that the counties paid to the Cross Florida Canal Navigation District. Section 253.783(2), F.S., provides the following CFG-specific surplus procedures:⁴

- The county where the surplus land is located has the first right of refusal to acquire the land at current appraised value by buying it or subtracting the value from its reimbursement;
- The original owner of the land or the original owner's heirs have second right of refusal to acquire the land at current appraised value;
- Any person having a leasehold interest in the land has the third right of refusal to acquire the land at current appraised value;
- Surplus land that is not acquired as stated above is offered in a public sale to the highest bidder. The minimum acceptable bid is the current appraised value;
- Proceeds from the sale of CFG land are refunded to the counties for ad valorem taxes paid by the counties to the Cross Florida Canal Navigation District;
- Interest refunded to the counties is compounded annually at rates specified in s. 253.783(2)(f), F.S.; and
- Any excess funds from the sale of surplus lands *may* be used for the maintenance of the greenway corridor.

The last bulleted provision is in conflict with the requirements of the Act.

Conservation Land Surplus Procedures

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) has the authority to surplus conservation land if it is determined that the land is no longer needed for conservation purposes. Section 253.034(6), F.S., outlines the surplus procedures for conservation lands as follows:⁵

- The Acquisition and Restoration Council must first confirm that the request to surplus conservation land is consistent with the resource values and management objectives of the land;
- The Board of Trustees approves the surplus by a vote of at least three members;
- State agencies, colleges, and universities are given priority to lease the surplus land;
- State, county, or local governments are offered second right of refusal to purchase the surplus land;
- If government agencies, colleges, and universities opt out of purchasing surplus land, then the land is available for sale on the private market;
- The sale price is negotiated or competitively bid (determined by market value) pursuant to s. 253.034(6)(g), F.S., and Rule 18-2.020, F.A.C.; and
- Proceeds from the sale of surplus land are deposited into the fund from which the lands were acquired. If the trust fund from which the lands were acquired no longer exists, the funds are deposited into an appropriate account to be used for land management.

Effect of Proposed Changes

The bill amends s. 253.7827, F.S., conforming cross-references.

The bill repeals s. 253.783(2), F.S., which will allow the surplus of the CFG lands to occur under the Board of Trustees land surplus procedures described above. This provides for better management of CFG lands and will close ownership gaps within the CFG boundary. The repeal will also provide consistency between the federal requirements for funds acquired from the surplus of CFG lands and the manner in which the state manages funds.

⁴ See s. 253.783, F.S.

⁵ See s. 253.034, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 253.7827, F.S., conforming cross-references.

Section 2. Repeals s. 253.783(2), F.S., relating to the powers and duties of DEP to dispose of surplus lands acquired for the construction, operation, or promotion of a canal across the peninsula of the state and refund payments to counties.

Section 3. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There may be an indeterminate positive fiscal impact on DEP by not having a separate procedure for surplusting CFG lands.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 20, 2013, the Agriculture & Natural Resources Subcommittee amended and reported HB 4007 favorably as a committee substitute (CS). The CS repeals subsection (2) of s. 253.783, F.S., instead of the entire section, to conform the bill to SB 326.