

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/SB 10	<b>FINAL HOUSE FLOOR ACTION:</b>		
<b>SUBJECT/SHORT TITLE</b>	Water Resources	99	Y's 19	N's
<b>SPONSOR(S):</b>	Appropriations; Bradley and others	<b>GOVERNOR'S ACTION:</b>	Approved	
<b>COMPANION BILLS:</b>	HB 761			

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**SUMMARY ANALYSIS**

CS/SB 10 passed the Senate on April 12, 2017. The bill was amended in the House on May 2, 2017. The Senate concurred in the bill as amended by the House and subsequently passed the bill as amended on May 2, 2017.

The bill establishes options for providing additional water storage south of Lake Okeechobee (lake), including the Everglades Agricultural Area (EAA) reservoir project and the C-51 reservoir project.

The bill authorizes land acquisition to implement the EAA reservoir project, but prohibits the use of eminent domain, and authorizes the state and the South Florida Water Management District (district) to negotiate the amendment or termination of leases on land for the EAA reservoir project.

The bill requires the district, by July 1, 2017, to request the United States Army Corps of Engineers (corps) to jointly develop a post-authorization change report (report) for the Central Everglades Planning Project (CEPP) to revise the EAA reservoir project component. Upon congressional approval of the report, the construction of the EAA reservoir project must be completed parallel with the construction of other CEPP project components, subject to the availability of funding. If the report does not receive approval from the corps or Congress, then the bill requires the district to request the corps to initiate a project implementation report for the EAA reservoir project. Upon completion of the project implementation report, the district, in coordination with the corps, must seek congressional authorization for the EAA reservoir project. The bill also requires the district to request the corps to reevaluate the lake regulation schedule as expeditiously as possible.

The bill creates the Everglades Restoration Agricultural Community Employment Training Program within the Department of Economic Opportunity. The bill also creates a water storage facility revolving loan fund to provide assistance to local governments or water supply entities for development and construction of water storage facilities.

The bill authorizes the use of up to \$800 million in Florida Forever bonds for the EAA reservoir project and the C-51 reservoir project; however, the district must seek additional sources of funding for the EAA reservoir project, including federal funding. For fiscal year (FY) 2017-2018, the bill appropriates \$30 million in nonrecurring funds from the General Revenue Trust Fund to provide a loan for Phase I of the C-51 reservoir project, and \$34 million in nonrecurring funds from the Land Acquisition Trust Fund (LATF) to acquire land and negotiate leases, develop the report, and negotiate Phase II of the C-51 reservoir project. For FY 2018-2019, and each FY thereafter, the bill appropriates \$64 million from the LATF for the EAA reservoir project.

The bill was approved by the Governor on May 9, 2017, ch. 2017-10, L.O.F., and became effective on that date.

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

**STORAGE NAME:** s0010z.NRPL

**DATE:** May 19, 2017

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

Lake Okeechobee (lake) is the largest lake in the southeastern United States with an approximate surface area of 730 square miles and is at the center of a much larger watershed, known as the Greater Everglades.<sup>1</sup> The watershed encompasses the Kissimmee River, the Everglades, and Florida Bay. The lake is the largest lake in the southeastern United States with an approximate surface area of 730 square miles.<sup>2</sup> Historically, water coming into the lake from the Kissimmee River basin overflowed the southern rim of the lake and was carried south into the Everglades as sheet flow.<sup>3</sup> Because of efforts to drain the marshland for flood control, agriculture, and development, the Everglades today is half the size it was a century ago. These drainage efforts were largely achieved by the Central & Southern Florida (C&SF) Project authorized by Congress in 1948.<sup>4</sup>

#### Central & Southern Florida Project

The C&SF Project extends south from Orlando to the Florida Keys and is composed of a network of canals, levees, storage areas, and water control structures. Urban and suburban development are located along the eastern and western margins of the historic Everglades, and a 700,000 acre agricultural production area is located south of the lake known as the Everglades Agricultural Area (EAA).<sup>5</sup>

The C&SF Project is designed to primarily release water from the lake east to the St. Lucie River, and west to the Caloosahatchee River, through the C-44 and C-43 Canals, respectively. The primary canals that deliver water south from the lake are the Miami Canal through the S-354 Gated Spillway, the North New River Canal and the Hillsboro Canal through the S-351 Gated Spillway, and the West Palm Beach Canal through the S-352 Gated Spillway. Water levels in these canals leading south of the lake are maintained to achieve optimum crop growth in the EAA, flood control, and water supply. The size of the canals limit the volume of water that can be moved south from the lake.<sup>6</sup>

Directly east and south of the EAA are three water conservation areas (WCAs). The WCAs cover approximately 878,000 acres and largely consist of sawgrass marshes and tree islands. The WCAs were created to store water for the lower east coast and provide for water deliveries to the Everglades National Park.<sup>7</sup> WCA 1 is designated as the Arthur R. Marshall Loxahatchee National Wildlife Refuge and is managed by the United States Fish and Wildlife Service. WCAs 2 and 3 comprise the

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<sup>1</sup> District. *Lake Okeechobee*, <https://www.sfwmd.gov/our-work/lake-okeechobee> (last visited May 9, 2017).

<sup>2</sup> District. *Lake Okeechobee*, <https://www.sfwmd.gov/our-work/lake-okeechobee> (last visited May 9, 2017).

<sup>3</sup> University of Florida. *Options to Reduce High Volume of Freshwater Flows to the St. Lucie and Caloosahatchee Estuaries and Move More Water from Lake Okeechobee to the Southern Everglades* (Mar. 2015), <http://www.flsenate.gov/UserContent/Topics/WLC/UF-WaterInstituteFinalReportMarch2015.pdf> (last visited Oct. 2, 2016).

<sup>4</sup> Flood Control Act of 1948, P.L. 80-858, June 30, 1948.

<sup>5</sup> University of Florida. *Options to Reduce High Volume of Freshwater Flows to the St. Lucie and Caloosahatchee Estuaries and Move More Water from Lake Okeechobee to the Southern Everglades* (Mar. 2015), <http://www.flsenate.gov/UserContent/Topics/WLC/UF-WaterInstituteFinalReportMarch2015.pdf> (last visited Oct. 2, 2016).

<sup>6</sup> *Id.*

<sup>7</sup> Corps and district. *C&S Project CERP Project Management Plan EAA Storage Reservoirs Phase 1 Project* (Jan. 2002), [http://141.232.10.32/pm/pmp/pmp\\_docs/pmp\\_08\\_eaa/pmp\\_eaa\\_main\\_current.pdf](http://141.232.10.32/pm/pmp/pmp_docs/pmp_08_eaa/pmp_eaa_main_current.pdf) (last visited Nov. 12, 2016).

Everglades Wildlife Management Area and are maintained by the Florida Fish and Wildlife Conservation Commission. The Seminole and Miccosukee Tribes have tribal lands within WCA 3.<sup>8</sup>

The C&SF Project, while serving as a flood control and water delivery system for south Florida's urban and agricultural operations, has adversely affected the natural ecosystem in South Florida, including the lake, the St. Lucie and Caloosahatchee estuaries, the Everglades, and Florida Bay. As a result, various planning efforts have been conducted looking at options to balance the needs of these natural systems with the purposes of the C&SF Project, beginning with the *Central and Southern Florida Comprehensive Review Study Final Integrated Feasibility Report and Programmatic Environmental Impact Statement*, completed in April 1999 (Restudy).

### Comprehensive Everglades Restoration Project

The Restudy looked at the physical features and operations of the C&SF Project with a view towards recommending structural and operational changes to better meet the goals of south Florida's ecosystem restoration, while continuing to provide safe, reliable water supply and flood protection.<sup>9</sup> The restoration plan resulting from the Restudy is known as the Comprehensive Everglades Restoration Plan (CERP).<sup>10</sup>

CERP is composed of a series of projects designed to address four major characteristics of water flow: quantity, quality, timing, and distribution.<sup>11</sup> The primary goal is to capture freshwater that flows unused to the Atlantic Ocean and the Gulf of Mexico, through the C-44 and C-43 Canals respectively, and to deliver it when and where it is needed most. Eighty percent of this "new water" is to be devoted to environmental restoration, and the other 20 percent is to benefit cities and farmers, enhance water supplies, and support a strong sustainable south Florida.<sup>12</sup>

CERP was submitted to Congress in 1999 and received congressional authorization in 2000.<sup>13</sup> Under CERP, the federal government and the state equally fund the costs of restoration. The United States Army Corps of Engineers (corps) is the lead federal agency, and the South Florida Water Management District (district) is the lead state agency.<sup>14</sup>

CERP originally included more than 60 projects, and was estimated to be completed in roughly 30 years at an estimated cost of \$8.2 billion. In 2010, CERP was estimated to take more than 50 years and \$13.5 billion to complete.<sup>15</sup> As of October 2014, the estimated cost was projected to be \$16.4 billion.<sup>16</sup> Currently, more than 50 projects are included in CERP. For each project, a recommended plan and a project implementation report (PIR)<sup>17</sup> are developed, which include engineering and

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<sup>8</sup> Corps and district. *Central and Southern Florida Comprehensive Review Study Final Integrated Feasibility Report and Programmatic Environmental Impact Statement* (April 1999), [http://141.232.10.32/docs/comp\\_plan\\_apr99/sect9.pdf](http://141.232.10.32/docs/comp_plan_apr99/sect9.pdf) (last visited Oct. 5, 2016).

<sup>9</sup> Corps and district. *C&S Project CERP Project Management Plan EAA Storage Reservoirs Phase 1 Project* (Jan. 2002), [http://141.232.10.32/pm/pmp/pmp\\_docs/pmp\\_08\\_eaa/pmp\\_eaa\\_main\\_current.pdf](http://141.232.10.32/pm/pmp/pmp_docs/pmp_08_eaa/pmp_eaa_main_current.pdf) (last visited Oct. 5, 2016).

<sup>10</sup> Corps. *Getting the Water Right: The Restudy and Enactment of CERP, 1996-2000*, [http://141.232.10.32/docs/river\\_interest/031512\\_river\\_interests\\_2012\\_chap\\_18.pdf](http://141.232.10.32/docs/river_interest/031512_river_interests_2012_chap_18.pdf) (last visited Oct. 4, 2016).

<sup>11</sup> Corps. *CERP Overview* (Mar. 2015), [http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CERP\\_FS\\_March2015\\_revised.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CERP_FS_March2015_revised.pdf) (last visited May 31, 2016).

<sup>12</sup> Corps. *C&SF Comprehensive Review Study Update and Background Fact Sheet* (July 1999), <http://141.232.10.32/docs/backgd.pdf> (last visited May 31, 2016).

<sup>13</sup> Water Resources Development Act of 2000, P.L. 106-541, Dec. 11, 2000.

<sup>14</sup> Corps. *CERP Overview* (Mar. 2015), [http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CERP\\_FS\\_March2015\\_revised.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CERP_FS_March2015_revised.pdf) (last visited May 31, 2016); s. 373.026(8)(b), F.S.

<sup>15</sup> Corps. *Comprehensive Everglades Restoration Plan Central and Southern Florida Project 2010 Report to Congress*, [https://www.evergladesrestoration.gov/content/cerpreports/cerp\\_2010\\_rpt\\_to\\_congress.pdf](https://www.evergladesrestoration.gov/content/cerpreports/cerp_2010_rpt_to_congress.pdf) (last visited May 9, 2017).

<sup>16</sup> Corps. *Comprehensive Everglades Restoration Plan, 2015 Report to Congress*, [http://www.evergladesrestoration.gov/content/cerpreports/cerp\\_2015\\_rpt\\_to\\_congress.pdf](http://www.evergladesrestoration.gov/content/cerpreports/cerp_2015_rpt_to_congress.pdf) (last visited May 9, 2017).

<sup>17</sup> Section 373.470(2)(i), F.S., defines "project implementation report" as the *Final Integrated Feasibility Report and Programmatic Environmental Impact Statement*, April 1999 submitted to Congress on July 1, 1999.

environmental studies, project alternatives, evaluation and testing results, and summaries of public input. The PIR is sent for state and federal approvals, authorizations, and funding.<sup>18</sup>

Three groups or generations of projects have been authorized under CERP, and are in various planning, designing, and construction phases. CERP Generation 1 was authorized in 2007;<sup>19</sup> CERP Generation 2 was authorized in 2014;<sup>20</sup> and a third generation, the Central Everglades Planning Project (CEPP), was authorized in 2016.<sup>21</sup>

### *Central Everglades Planning Project*

In 2011, the United States Department of the Interior (DOI), the corps, and the state initiated CEPP to accelerate the planning for restoration projects located in the heart of the Everglades to improve and restore the natural quantity, quality, timing, and distribution of water into and through the central Everglades, Everglades National Park, Florida Bay, and estuaries.<sup>22</sup> The plan would achieve these benefits by reducing east and west releases from the lake and redirecting approximately 210,000 acre-feet annually to the historical southerly flow path.<sup>23</sup>

### *Component G - EAA Storage Reservoir*

Component G is a CERP project to construct a reservoir in the EAA to improve the timing of water deliveries to the WCAs, including reducing lake releases to the estuaries, meeting EAA irrigation and Everglades water demands, increasing flood protection in the EAA, and reducing damaging flood releases from the EAA to the WCAs. The initial design assumed 60,000 acres, divided into three, equally sized compartments with water levels fluctuating up to 6 feet above grade in each compartment.<sup>24</sup>

As originally planned, runoff from the EAA, Miami, and North New River Canal Basins and regulatory releases from the lake would be pumped into the reservoir. Compartment 1 would be used to meet EAA irrigation demands only. Compartment 2 would be used to meet environmental demands as a priority and could be used to supply a portion of agricultural demands if the environmental demands were met. Compartment 3 would be used to meet environmental demands. The compartments could also be designed to provide a water quality treatment function. However, the final size, depth, and configuration of the project would be determined through more detailed planning and design.<sup>25</sup>

The project was revised in 2006 to provide 360,000 acre-feet of above-ground storage, consisting of two cells, Cell 1 and Cell 2, approximately 17,000 and 14,000 acres in size, respectively. Each cell was

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<sup>18</sup> Corps. *CERP Overview* (Mar. 2015), [http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CERP\\_FS\\_March2015\\_revised.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CERP_FS_March2015_revised.pdf) (last visited May 31, 2016).

<sup>19</sup> Water Resources Development Act, P.L. 110-114, Nov. 8, 2007.

<sup>20</sup> Water Resources Reform and Development Act, P.L. 113-121, June 10, 2014.

<sup>21</sup> Water Infrastructure Improvements for the Nation Act, P.L. 114-322, Dec. 16, 2016.

<sup>22</sup> Corps and district. *Central Everglades Planning Project Draft Integrated Project Implementation Report and Environmental Impact Statement* (July 2014, Revised Dec. 2014),

[http://www.saj.usace.army.mil/Portals/44/docs/Environmental/CEPP/01\\_CEPP%20Final%20PIR-EIS%20Main%20Report.pdf](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/CEPP/01_CEPP%20Final%20PIR-EIS%20Main%20Report.pdf); Corps and district. *CEPP Facts and Information* (Mar. 2015),

[http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CEPP\\_FS\\_March2015\\_revised.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CEPP_FS_March2015_revised.pdf) (last visited April 12, 2017).

<sup>23</sup> Corps and district. *Central Everglades Planning Project Draft Integrated Project Implementation Report and Environmental Impact Statement* (July 2014, Revised Dec. 2014),

[http://www.saj.usace.army.mil/Portals/44/docs/Environmental/CEPP/01\\_CEPP%20Final%20PIR-EIS%20Main%20Report.pdf](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/CEPP/01_CEPP%20Final%20PIR-EIS%20Main%20Report.pdf) (last visited May 4, 2017).

<sup>24</sup> Corps and district. *Central and Southern Florida Comprehensive Review Study Final Integrated Feasibility Report and Programmatic Environmental Impact Statement* (April 1999), [http://141.232.10.32/docs/comp\\_plan\\_apr99/sect9.pdf](http://141.232.10.32/docs/comp_plan_apr99/sect9.pdf) (last visited May 4, 2017).

<sup>25</sup> *Id.*

anticipated to be 12 feet deep and be located on lands previously acquired for restoration activities in the Everglades by the DOI and the district.<sup>26</sup>

As part of CEPP, certain CERP components related to the central Everglades were reexamined, including component G. CEPP recommended an alternative plan, Alternative 4R2, because it was more cost effective for the environmental benefit received. Alternative 4R2 consists of two flow equalization basins (FEB). A FEB provides a steady flow of water to a stormwater treatment area (STA) to provide optimal performance of an STA. One FEB would consist of 14,000 acres located on parcel A-2 and connect with the second FEB, which is an existing 14,000 acre FEB located on parcel A-1 that was constructed as part of Restoration Strategies. It is estimated that the project would provide approximately 200,000 acre-feet of water annually to the Everglades system.<sup>27</sup>

### *Loxahatchee River Watershed Restoration Project Component - C-51 Reservoir*

The Loxahatchee River Watershed Restoration Project is a CERP component that aims to restore and sustain the overall quantity, quality, timing, and distribution of freshwater to the federally designated “National Wild and Scenic” Northwest Fork of the Loxahatchee River and seeks to restore, sustain, and reconnect the area’s wetlands and watersheds that form the historic headwaters for the river and its tributaries. The project area includes approximately 753 square miles located in central and northern Palm Beach County and southern Martin County.<sup>28</sup> Currently, five alternative plans are being evaluated to develop a PIR for congressional authorization.<sup>29</sup> Planning efforts, as of December 2016, include the C-51 reservoir in two of the five alternatives.<sup>30</sup>

Since 2006, Broward County, Palm Beach County, and other lower east coast area water providers have been collaborating on the development of the C-51 reservoir to serve as a regional alternative water supply project<sup>31</sup> that would store excess wet-season stormwater runoff otherwise discharged to the Lake Worth Lagoon estuary for later distribution and use during the dry season.<sup>32</sup>

In 2013, the district entered into a Memorandum of Understanding (MOU) with Palm Beach Aggregates, Inc. (PBA) in Palm Beach County, the property owner of the project location for Phase I of the C-51 reservoir (C-51 Phase I). Under the MOU, PBA is responsible for designing, developing, securing permits, financing, and constructing the project. PBA is also responsible for securing sufficient water allocation capacity agreements to support the construction and operation of the C-51 Phase I. PBA has sought and acquired environmental resource and consumptive use permits for the project and

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<sup>26</sup> Corps and district. *Central and Southern Florida Project Everglades Agricultural Area Storage Reservoirs Revised Draft Integrated Project Implementation Report Environmental Impact Statement* (Feb. 2006), [http://141.232.10.32/pm/projects/project\\_docs/pdp\\_08\\_eaa\\_store/revised\\_draft\\_pir/022206\\_eaa\\_pir\\_mainbody.pdf](http://141.232.10.32/pm/projects/project_docs/pdp_08_eaa_store/revised_draft_pir/022206_eaa_pir_mainbody.pdf) (last visited Oct. 5, 2016).

<sup>27</sup> Corps and district. *Central Everglades Planning Project Draft Integrated Project Implementation Report and Environmental Impact Statement*, (July 2014, Revised Dec. 2014), [http://www.saj.usace.army.mil/PortalAlternate4Ras/44/docs/Environmental/CEPP/01\\_CEPP%20Final%20PIR-EIS%20Main%20Report.pdf](http://www.saj.usace.army.mil/PortalAlternate4Ras/44/docs/Environmental/CEPP/01_CEPP%20Final%20PIR-EIS%20Main%20Report.pdf) (last visited April 12, 2017).

<sup>28</sup> Corps. *Loxahatchee River Watershed Restoration Project Facts & Information* (Jan. 2017), [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Loxahatchee%20WRP/Loxahatchee\\_FS\\_January2017.pdf?ver=2017-04-17-100529-770](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Loxahatchee%20WRP/Loxahatchee_FS_January2017.pdf?ver=2017-04-17-100529-770) (last visited May 5, 2017).

<sup>29</sup> Corps. *Loxahatchee River Watershed Restoration Project*, <http://www.saj.usace.army.mil/Missions/Environmental/Ecosystem-Restoration/Loxahatchee-River-Watershed-Restoration-Project/> (last visited May 5, 2017).

<sup>30</sup> Corps. *Loxahatchee River Watershed Restoration Project, Project Delivery Team Meeting* (Dec. 14, 2016), <http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Loxahatchee%20WRP/14December2016/PDT-06-20161214-Alternatives.pdf?ver=2016-12-14-081137-820> (last visited April 18, 2017).

<sup>31</sup> Section 373.019(1), F.S., defines “alternative water supplies” as salt water; brackish surface and groundwater; surface water captured predominately during wet-weather flows; sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; stormwater; and any other water supply source that is designated as nontraditional for a water supply planning region in the applicable regional water supply plan.

<sup>32</sup> District. *Alternative Water Supply Pilot Project Designation Request - C-51 Reservoir Phase I*, <https://www.sfwmd.gov/sites/default/files/documents/C-51%20Reservoir%20Ph%201.pdf> (last visited Mar. 14, 2017).

has acquired letters of intent totaling 14 to 19 million gallons per day (mgd). The district is responsible for operating and maintaining the C-51 Phase I. The estimated construction cost of the project is \$161 million and the estimated annual cost for operation and maintenance of the project is \$1.1 million.<sup>33</sup>

In January 2017, the district designated the C-51 Phase 1 as a pilot project for alternative water supply development in the restricted allocation area of the Lower East Coast Regional Water Supply Planning Area.<sup>34</sup> The project involves the construction of a 14,000 acre-foot in-ground reservoir at the PBA site immediately adjacent to the existing L-8 FEB that could provide up to 35,000 mgd for public water supply.<sup>35</sup>

Phase II of the C-51 reservoir (C-51 Phase II) would provide 46,000 acre-feet storage, approximately 120 mgd for water supply. It is projected to take seven years to construct at an estimated cost of \$286 million, excluding excavation.<sup>36</sup>

## Non-CERP and Foundation Projects

### *River of Grass Planning Process and Land Acquisition*

In 2008, the district began negotiating an agreement to acquire agricultural land owned by the United States Sugar Corporation (U.S. Sugar) and others to achieve a continuous corridor through the EAA for storage, treatment, and conveyance of water to the Everglades. Various stakeholders were asked to provide concepts for how land in the EAA could be used to construct storage, treatment, and conveyance projects to reduce harmful discharges of water to the estuaries and increase the amount of freshwater delivered to the Everglades (River of Grass Planning Process). The River of Grass Planning Process did not progress past the planning stage or result in any planned construction projects outside of CERP.<sup>37</sup>

In August 2010, the district, U.S. Sugar, and others entered into an agreement, *Second Amended and Restated Agreement for Sale and Purchase*, for the district to purchase lands in the EAA for Everglades restoration. In October 2010, the district acquired 26,800 acres of U.S. Sugar land while preserving options to acquire additional lands. The first option for an additional 46,800 acres expired in October 2015. The second and final option for 153,200 acres expires in October 2020, and requires an all or nothing land purchase.<sup>38</sup>

### *Herbert Hoover Dike*

The Herbert Hoover Dike (dike) extends 140 miles around the lake and was originally constructed using materials from the surrounding area, including sand, limestone, and organic soils. While the dike is a component of the C&SF Project, federal participation in local flood control efforts in the lake area

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<sup>33</sup> District. *C-51 Reservoir Update* (Nov. 3, 2016), <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/10191>.

<sup>34</sup> Section 373.037, F.S.; district. *Governing Board Monthly Meeting Minutes* (Jan. 12, 2017), <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/10483> (last visited Mar. 14, 2017).

<sup>35</sup> District. *Alternative Water Supply Pilot Project Designation Request - C-51 Reservoir Phase 1*, <https://www.sfwmd.gov/sites/default/files/documents/C-51%20Reservoir%20Ph%201.pdf> (last visited Mar. 14, 2017).

<sup>36</sup> District. *C-51 Reservoir Update* (Nov. 3, 2016), <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/10191> (last visited Mar. 14, 2017).

<sup>37</sup> University of Florida. *Options to Reduce High Volume of Freshwater Flows to the St. Lucie and Caloosahatchee Estuaries and Move More Water from Lake Okeechobee to the Southern Everglades* (Mar. 2015), <http://www.flsenate.gov/UserContent/Topics/WLC/UF-WaterInstituteFinalReportMarch2015.pdf>; district. *Reviving the River of Grass Acquisition Timeline 2008-2010*, [http://my.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/jtf\\_rog\\_acquisition\\_timeline\\_2008\\_2010.pdf](http://my.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/jtf_rog_acquisition_timeline_2008_2010.pdf) (last visited June 3, 2016).

<sup>38</sup> *Second Amended and Restated Agreement for Sale and Purchase*, [http://my.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/rog\\_0\\_amended\\_restated\\_agt\\_for\\_sale\\_and\\_purchase.pdf](http://my.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/rog_0_amended_restated_agt_for_sale_and_purchase.pdf) (last visited June 3, 2016).

started much earlier in response to hurricanes in 1926 and 1928. The Rivers and Harbors Act of 1930 authorized the construction of levees for protection from storm surge induced flooding along the north and south shores of the lake. The C&SF Project included authorization for enlargement of the existing levees and construction of additional levees along the northeast and northwest shores of the lake.<sup>39</sup>

The corps has operated and maintained the dike for over 75 years. The corps began reporting areas of vulnerability in the dike in the mid-1980s. In recent years, the dike has experienced a high quantity of seepage through its embankment and foundation during periods of high water levels that have required emergency remediation in some areas along the southeastern perimeter of the dike. The seepage volume and distress indicators in certain areas of the dike begin to become more prevalent at lake levels above 17 feet.<sup>40</sup> Rehabilitation of the dike is projected to be completed in 2025.<sup>41</sup>

### *Lake Okeechobee Regulation Schedule*

The corps regulates lake levels with the goal of balancing flood control, public safety, navigation, water supply, and ecological health. The Lake Okeechobee Regulation Schedule 2008 (LORS) was the result of a two year study on water management and lake levels developed to balance the performance of multiple purposes while preserving public health and safety. One of the primary goals of LORS is to maintain lake levels between 12.5 and 15.5 feet and includes a seasonally-adjusted schedule to aid in water management decisions. LORS also considers the structural constraints of the dike and water control structures, meteorological conditions, hydrological conditions, and water quality.<sup>42</sup>

Minimizing the risk of dike failure to ensure public safety is the primary concern when lake levels increase and trumps all other considerations, including environmental harm. This has resulted in periods of large, continuous discharges of water from the lake to the C-44 and C-43 Canals.<sup>43</sup>

### Integrated Delivery Schedule

The Integrated Delivery Schedule (IDS) is a sequencing strategy for the planning, designing, and construction of CERP and certain non-CERP projects. The IDS is regularly updated to reflect ecosystem needs, benefits, costs, and available funding.<sup>44</sup> The corps and district completed the last update to the IDS in December 2016. It provides that the corps and the district will begin planning for the first increment of component G in 2018, as identified in CEPP, PPA North. This storage includes the first increment of the EAA reservoir, component G. The planning process for the second increment of component G is scheduled to begin in 2021.<sup>45</sup>

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<sup>39</sup> Corps. *Herbert Hoover Dike Dam Safety Modification Study* (June 2016), [http://www.saj.usace.army.mil/Portals/44/docs/Planning/EnvironmentalBranch/EnvironmentalDocs/Multiple%20Counties/Herbert\\_Hoover\\_Dike\\_Dam\\_Safety\\_Modification%20Study\\_FEIS\\_Main\\_Report.pdf?ver=2016-05-31-131919-377](http://www.saj.usace.army.mil/Portals/44/docs/Planning/EnvironmentalBranch/EnvironmentalDocs/Multiple%20Counties/Herbert_Hoover_Dike_Dam_Safety_Modification%20Study_FEIS_Main_Report.pdf?ver=2016-05-31-131919-377) (last visited April 20, 2017).

<sup>40</sup> *Id.*

<sup>41</sup> Corps. *Integrated Delivery Schedule 2016 Update*, [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS\\_PLACEMAT\\_05JAN2017\\_web.pdf?ver=2017-01-07-164638-380](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS_PLACEMAT_05JAN2017_web.pdf?ver=2017-01-07-164638-380) (last visited April 20, 2017).

<sup>42</sup> Corps. *Lake Okeechobee/Water Management*, <http://www.saj.usace.army.mil/Media/Fact-Sheets/Fact-Sheet-Article-View/Article/479989/lake-okeechobee-water-management/> (last visited April 20, 2017).

<sup>43</sup> Florida Senate Select Committee on the Indian River Lagoon and Lake Okeechobee Basin. *Report by the Select Committee on the Indian River Lagoon and Lake Okeechobee Basin* (Nov. 8, 2013), <https://www.flsenate.gov/usercontent/topics/irlllob/finalreport.pdf> (last visited April 20, 2017).

<sup>44</sup> DOI. *Integrated Delivery Schedule*, <http://www.evergladesrestoration.gov/content/ids.html> (last visited April 17, 2017).

<sup>45</sup> Corps. *Integrated Delivery Schedule 2016 Update*, [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS\\_PLACEMAT\\_05JAN2017\\_web.pdf?ver=2017-01-07-164638-380](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS_PLACEMAT_05JAN2017_web.pdf?ver=2017-01-07-164638-380) (last visited May 3, 2017).

## Lake Okeechobee Water Quality

In 2000, the Legislature created the Lake Okeechobee Protection Program to reduce phosphorous levels and improve hydrology in the lake.<sup>46</sup> In 2007, the Legislature expanded the Lake Okeechobee Protection Program to include the Caloosahatchee River and the St. Lucie River watersheds, creating the Northern Everglades and Estuaries Protection Program (NEEPP).<sup>47</sup> NEEPP promotes a comprehensive, interconnected watershed approach to protect the lake and the Caloosahatchee and St. Lucie River watersheds. Some goals and objectives of CERP and NEEPP overlap.<sup>48</sup>

## Everglades Water Quality

Through the Everglades Forever Act of 1994, the state constructed treatment wetlands, known as STAs, to reduce phosphorus in water being discharged to the Everglades. In 2003, the state adopted the Long-Term Plan to provide for structural and vegetation enhancements to the STAs, including STA expansions. The STAs were completed in 2006 and 2012 and collectively encompass approximately 57,000 acres.<sup>49</sup>

Before improvements were put into place, phosphorus concentrations in Everglades-bound waters averaged more than 170 parts per billion (ppb).<sup>50</sup> Today, 90 percent of the Everglades meet phosphorous water quality standards, which are set at 10 ppb. In fact, 86 percent of the Everglades is actually below the water quality standard, at 8 ppb or less, and 100 percent of the Everglades National Park is below 8 ppb.<sup>51</sup>

### *Restoration Strategies - A-1 FEB and L-8 FEB*

The state and the United States Environmental Protection Agency reached consensus in 2012 on additional water quality measures that the state would implement and fund to improve water quality to the Everglades (Restoration Strategies).<sup>52</sup> In 2013, the state amended the Everglades Forever Act to include the Restoration Strategies as part of the Long-Term Plan.<sup>53</sup> Restoration Strategies include more than 6,500 acres of new STAs and 116,000 acre-feet of additional water storage through the construction of FEBs. Restoration Strategies are projected to be completed in 2026.<sup>54</sup>

The A-1 FEB is located on 15,000 acres west of U.S. Highway 27 in southern Palm Beach County. It provides 60,000 acre-feet of water storage and reduces phosphorus concentrations in water before the water moves to STA-2 and STA-3/4.<sup>55</sup>

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<sup>46</sup> Chapter 2000-130, Laws of Fla.; s. 373.4595, F.S.

<sup>47</sup> Chapter 2007-253, Laws of Fla.; s. 373.4595, F.S.

<sup>48</sup> DEP. *Northern Everglades and Estuaries Protection Program*, <http://www.dep.state.fl.us/everglades/neepp.htm> (last visited May 9, 2017).

<sup>49</sup> Section 373.4592, F.S.; district. *Everglades Stormwater Treatment Areas*, [https://www.sfwmd.gov/sites/default/files/documents/bts\\_sta.pdf](https://www.sfwmd.gov/sites/default/files/documents/bts_sta.pdf) (last visited April 24, 2017).

<sup>50</sup> District. *Everglades Stormwater Treatment Areas*, [https://www.sfwmd.gov/sites/default/files/documents/bts\\_sta.pdf](https://www.sfwmd.gov/sites/default/files/documents/bts_sta.pdf) (last visited April 24, 2017).

<sup>51</sup> District. *News Release: Florida Achieving Everglades Water Quality Goals* (Nov. 3, 2016), <http://myemail.constantcontact.com/News-Release--Florida-Achieving-Everglades-Water-Quality-Goals.html?soid=1117910826311&aid=J0VwHlJOseY> (last visited May 8, 2017).

<sup>52</sup> District. *Restoration Strategies Regional Water Quality Plan*, (April 2012), [https://www.dep.state.fl.us/everglades/files/sta/restoration\\_strat\\_regional\\_plan.pdf](https://www.dep.state.fl.us/everglades/files/sta/restoration_strat_regional_plan.pdf); district. *Everglades Stormwater Treatment Areas*, [https://www.sfwmd.gov/sites/default/files/documents/bts\\_sta.pdf](https://www.sfwmd.gov/sites/default/files/documents/bts_sta.pdf) (last visited April 24, 2017).

<sup>53</sup> Chapter 2013-59, Laws of Fla.

<sup>54</sup> Corps. *Integrated Delivery Schedule 2016 Update*, [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS\\_PLACEMAT\\_05JAN2017\\_web.pdf?ver=2017-01-07-164638-380](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS_PLACEMAT_05JAN2017_web.pdf?ver=2017-01-07-164638-380) (last visited April 20, 2017).

<sup>55</sup> District. *A-1 Flow Equalization Basin*, (June 2016), [https://www.sfwmd.gov/sites/default/files/documents/jtf\\_a1\\_feb.pdf](https://www.sfwmd.gov/sites/default/files/documents/jtf_a1_feb.pdf) (last visited April 17, 2017).



The L-8 FEB is located in central Palm Beach County at a 950-acre former rock mine, providing a 58-foot deep reservoir capable of storing 45,000 acre-feet of water. This project will initially function as a multipurpose FEB to capture, store and deliver water to STA-1 East and STA-1 West.<sup>56</sup> The project is substantially complete, but for the outflow pump station that is in the process of being repaired. The purpose of the FEB will transition to primarily storing stormwater runoff and delivering flows to optimize the treatment performance of STA-1 East and STA-1 West when the expansion of STA-1 West is complete.<sup>57</sup>

## Funding

### *Florida Forever*

Florida Forever is the state's land acquisition program for recreation and conservation of natural resources.<sup>58</sup> It was created in 1999 as the successor to the Preservation 2000 program.<sup>59</sup> By the end of 2016, the state purchased more than 718,126 acres of land with a little over \$2.9 billion.<sup>60</sup> The state finances Florida Forever through the issuance of Florida Forever bonds. The issuance of Florida Forever bonds may not exceed \$5.3 billion and are intended to be retired by December 31, 2040.<sup>61</sup>

Florida Forever bonds are paid from documentary stamp taxes that are deposited into the Land Acquisition Trust Fund (LATF).<sup>62</sup> Bonds may not be issued for Florida Forever unless they are approved and the debt service for the remainder of the fiscal year (FY) in which the bonds are issued are specifically appropriated in the General Appropriations Act. The total amount of debt service payments are limited to \$300 million annually.<sup>63</sup>

Proceeds from the sale of Florida Forever bonds, less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, are deposited into the Florida Forever Trust Fund and distributed by the Department of Environmental Protection (DEP) for the Florida Forever program.<sup>64</sup>

### *Land Acquisition Trust Fund and Legacy Florida*

Article X, section 28 of the Florida Constitution directs 33 percent of net revenues derived from existing excise taxes on documents<sup>65</sup> to the LATF for 20 years and requires funds from the LATF to only be used to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands, including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the EAA and the Everglades Protection Area; beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; management, restoration of natural systems, and the enhancement

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<sup>56</sup> District. *L-8 Flow Equalization Basin*, (June 2016), [https://www.sfwmd.gov/sites/default/files/documents/jtf\\_18\\_res\\_feb.pdf](https://www.sfwmd.gov/sites/default/files/documents/jtf_18_res_feb.pdf) (last visited April 17, 2017).

<sup>57</sup> District. *L-8 Flow Equalization Basin*, <https://www.sfwmd.gov/our-work/restoration-strategies#l8feb> (last visited April 17, 2017).

<sup>58</sup> Section 259.105, F.S.

<sup>59</sup> Chapter 99-247, Laws of Fla.; DEP. *Florida Forever*, [http://www.dep.state.fl.us/lands/fl\\_forever.htm](http://www.dep.state.fl.us/lands/fl_forever.htm) (last visited May 4, 2017).

<sup>60</sup> DEP. *Florida Forever*, [http://www.dep.state.fl.us/lands/fl\\_forever.htm](http://www.dep.state.fl.us/lands/fl_forever.htm) (last visited May 4, 2017).

<sup>61</sup> Sections 215.618(1)(a) and 201.15(3)(a), F.S.

<sup>62</sup> Section 215.618(3), F.S.

<sup>63</sup> Section 201.15(3)(a), F.S.

<sup>64</sup> Sections 215.618(5) and 259.105, F.S.

<sup>65</sup> The documentary stamp tax is imposed on documents that transfer interest in Florida real property and certain types of debt. Documents subject to the tax include deeds, bonds, corporate shares, notes and written obligations to pay money, and mortgages, liens and other evidences of indebtedness.; ss. 201.01, 201.02, 201.07, and 201.08, F.S.

of public access or recreational enjoyment of conservation lands; and to pay the debt service on bonds issued pursuant to article VII, section 11(e)<sup>66</sup> of the Florida Constitution.

In 2016, the Legislature passed the Legacy Florida Act (Legacy Florida) creating an annual dedicated funding source for Everglades restoration through FY 2025-2026 from the LATF. Legacy Florida provides that after certain debt service obligations are met, remaining LATF funds must be appropriated at a minimum of the lesser of 25 percent or \$200 million for CERP, including CEPP, the Long-Term Plan, and NEEPP. From these funds, \$32 million must be distributed each FY year through 2023-2024 for the Long-Term Plan, and from the funds remaining, a minimum of the lesser of 76.5 percent or \$100 million must be appropriated each FY through 2025-2026 for CERP. It also requires DEP and the district to give preference to projects that reduce harmful discharges from the lake to the St. Lucie or Caloosahatchee estuaries.<sup>67</sup>

### *Water Protection and Sustainability Program*

To help diversify the state's water supply sources, the Legislature created the Water Protection and Sustainability Program (WPSP) and the WPSP Trust Fund in 2005.<sup>68</sup> Revenues deposited into or appropriated to the WPSP Trust Fund must be distributed by DEP as follows: 65 percent for the implementation of an alternative water supply program,<sup>69</sup> 22 <sup>5</sup>/<sub>10</sub> percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program,<sup>70</sup> and 12 <sup>5</sup>/<sub>10</sub> percent for the Disadvantaged Small Community Wastewater Grant Program.<sup>71</sup> On June 30, 2009, and every 24 months thereafter, DEP must request the return of all unencumbered funds, which must then be deposited into the WPSP Trust Fund and redistributed.<sup>72</sup>

In 2005, the Legislature appropriated \$100 million to the WPSP. These funds, along with matching water management district funds, were awarded as grants to local water suppliers. Funding was reduced in subsequent years. The WPSP has not received funding since 2009. During the four years of the WPSP, the water management districts provided funding assistance to local water suppliers for the construction of 327 projects.<sup>73</sup>

### *State Revolving Fund*

The State Revolving Fund (SRF) is a fund administered by a state for the purpose of providing low-interest loans for investments in water and sanitation infrastructure (e.g., drinking water treatment sewage treatment, stormwater management facilities), as well as for the implementation of nonpoint source pollution control and estuary protection projects. The SRF receives its initial capital from federal grants and state contributions, and then revolves through the repayment of principal and the payment of interest on outstanding loans.<sup>74</sup>

Currently, DEP manages two SRF programs: the Drinking Water SRF created under the Safe Drinking Water Act and the Clean Water SRF created under the Clean Water Act. These SRF programs are

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<sup>66</sup> Fla. Const. art. VII, s. 11(e), allows bonds pledging all or part of a dedicated state tax revenue to be issued by the state in the manner provided by general law to finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation.

<sup>67</sup> Chapter 2016-201, Laws of Fla.; s. 375.041(3), F.S.

<sup>68</sup> Sections 403.890 and 403.891, F.S.

<sup>69</sup> Section 403.890(1), F.S.; *See* s. 373.707, F.S., for alternative water supply development.

<sup>70</sup> Section 403.890(2), F.S.; *See* s. 403.067, F.S., for implementation of total maximum daily loads.

<sup>71</sup> Section 403.890(3), F.S.; *See* s. 403.1838, F.S., for the Small Community Sewer Construction Assistance Act.

<sup>72</sup> Sections 403.890(4) and 403.891(2), F.S.

<sup>73</sup> DEP. *Sustaining Florida's Water Resources: Annual Report on Regional Water Supply Planning* (Mar. 2010), <https://www.dep.state.fl.us/water/waterpolicy/docs/sustaining-our-water-resources.pdf> (last visited Mar. 22, 2017).

<sup>74</sup> DEP. *State Revolving Fund*, <http://www.dep.state.fl.us/Water/wff/index.htm> (last visited May 3, 2017).

DEP's largest funding programs providing \$200-\$300 million each year, primarily to local governments.<sup>75</sup>

## Effect of Proposed Changes

### Water Storage Reservoirs

The bill creates s. 373.4598, F.S., establishing water storage reservoirs.

The bill provides legislative findings regarding the need to provide water storage to reduce high-volume freshwater discharges to the St. Lucie and Caloosahatchee estuaries, to restore hydrological connections to the Everglades, and to prioritize funding for Everglades restoration.

### *Agricultural Leases*

The bill authorizes the district and the Board of Trustees of the Internal Improvement Trust Fund (board) to negotiate the amendment or termination of leases within the EAA for exchange or use for the EAA reservoir project as long as the termination is in accordance with lease terms or by voluntary agreement. Specifically, the bill:

- Requires that, in the event of a lease termination, the lessee be permitted to continue to farm on a field-by-field basis until the lessee's operations are incompatible with implementation of the EAA reservoir project, as reasonably determined by the lessor;
- Authorizes the district and the board to swap land, assign leases, and utilize other methods of providing valuable consideration to negotiate the amendment or termination of lease agreements; and
- Provides that after termination of an EAA lease agreement, if ratoon, stubble, or residual crop remains and is harvested or otherwise used by the lessor or any third party, the lessee is entitled to be compensated for any documented, unamortized planting costs, and any unamortized capital costs associated with the lease and incurred before notice.

The bill requires termination of any lease agreement with Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) for an agricultural work program in the EAA in accordance with the lease agreement by July 1, 2017. The bill authorizes land previously leased to PRIDE by the board to be made available to the district to exchange for lands suitable for the EAA reservoir project or be leased for agricultural purposes. If leased for agricultural purposes, the bill requires that the terms of the lease allow the lessor to terminate the lease at any time as to any portion or all of the premises for environmental restoration purposes by giving no more than 1 years' notice. The bill also requires an agricultural owner managing lands subject to an agreement with PRIDE to be given the first right of refusal in leasing any such lands.

### *Land Acquisition*

The bill:

- Authorizes the district to acquire land, if necessary, to implement the EAA reservoir project with the goal of providing at least 240,000 acre-feet of water storage, and prohibits the use of eminent domain in the EAA for this purpose;
- Requires the district, upon the effective date of the act, to identify the lessees of approximately 3,200 acres of land owned by the state or the district located west of the A-2 parcel and east of the Miami Canal and the private property owners of approximately 500 acres of land surrounded by such lands;
- Requires the district, by July 31, 2017, to contact the lessors and landowners of the land to express interest in acquiring the land through the purchase or exchange of lands or by the amendment or termination of lease agreements;

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<sup>75</sup> *Id.*

- Provides that if land swaps or purchases are necessary to assemble the required acreage, the participation of private landowners must be voluntary;
- Requires the district to contact the board to request that any lease of land that is titled to the board be amended or terminated;
- Requires the board to provide the district any land titled to the board that the district identifies as necessary to construct the EAA reservoir project;
- Provides that the total acreage necessary for additional water treatment may not exceed the amount reasonably required to meet state and federal water quality standards as determined using the water quality modeling tools of the district;
- Requires the district to use the latest version of the Dynamic Model for Stormwater Treatment Areas Model modeling tool and other modeling tools in the planning and design of the EAA reservoir project; and
- Requires the district to acquire land from willing sellers in conjunction with the development of the post-authorization change report (report) if additional land is necessary for the EAA reservoir project.

### *EAA Reservoir Project - Post-authorization Change Report*

The bill:

- Requires the district, by July 1, 2017, to request the corps to jointly develop the report to revise the A-2 component of CEPP with the goal of increasing water storage to a minimum of 240,000 acre-feet;
- Authorizes the district, upon agreement with the corps, to begin development of the report by August 1, 2017, and does not preclude the implementation of the remaining CEPP project components;
- Requires the report to use the A-2 parcel and the additional land identified in the bill, without modifying the A-1 parcel, to evaluate the optimal configuration of the EAA reservoir project for providing at least 240,000 acre-feet of water storage, and any necessary increases in canal conveyance capacity to reduce the discharges to the St. Lucie or Caloosahatchee estuaries;
- Authorizes the district and the corps to recommend an alternate configuration, if water storage and water quality features can provide for significantly more water storage, but no less than 360,000 acre-feet of water storage, south of the lake on a footprint that includes modification to the A-1 parcel, and as long as such recommendation includes sufficient water quality treatment capacity to meet state and federal water quality standard;
- Authorizes the district, pending congressional approval of the report, to begin the preliminary planning or construction of, or modification to, the project site to the extent appropriate, subject to the availability of funding; and
- Requires the construction of the EAA reservoir project to begin upon receipt of congressional approval of the report, and provides that construction may be completed parallel with the construction of the other CEPP project components, subject to the availability of funding.

### *Status Report*

The bill requires the district to report on the status of the report to the Legislature by January 9, 2018, and to include information on the district's ability to obtain lease modifications and land acquisitions. The bill provides that if the district in good faith believes the report will receive ultimate approval, but needs an extension of time for such approval, then the district must include the extension request in the status report. The bill requires the extension request to include a corresponding date by which the district must request the corps to initiate the PIR for the EAA reservoir project and may proceed with the implementation of CEPP project components in accordance with the final CEPP PIR.

## *EAA Reservoir Project - Project Implementation Report*

The bill provides that if, for any reason, the report is not approved by the corps and submitted for congressional approval by October 1, 2018, or the report has not received congressional approval by December 31, 2019, then the district, unless granted an extension by the Legislature, must request the corps initiate a PIR for the EAA reservoir project, and the district and corps may proceed with the implementation of CEPP project components in accordance with the CEPP final PIR. The bill requires the district, when developing the PIR, to focus on the goals of the EAA reservoir project as identified in CERP, which include providing additional water storage and conveyance south of the lake to reduce the volume of regulatory discharges of water from the lake to the east and west, and to seek congressional authorization for the EAA reservoir project upon finalization of the PIR.

### *Option Agreement*

The bill requires the district to terminate the option agreement at the request of the seller if the report receives congressional approval or the district certifies to the board and the Legislature that the acquisition of the land necessary for the EAA reservoir project has been completed.

### *Agricultural Workers*

The bill requires the district to give preferential consideration to the hiring of former agricultural workers primarily employed during 36 of the past 60 months in the EAA, consistent with their qualifications and abilities, for the construction and operation of the EAA reservoir project. The bill requires that any contract or subcontract for the construction and operation of the EAA reservoir project in which 50 percent or more of the cost is paid from state-appropriated funds provide preference and priority in the hiring of such agricultural workers. The bill also requires the district to give preferential consideration to contract proposals that include in the contractor's hiring practices training programs for agricultural workers.

### *Correctional Work Programs*

The bill amends s. 946.511, F.S., to prohibit the use of inmates for correctional work programs in the agricultural industry in the EAA or in any area experiencing high unemployment rates in the agricultural sector. The requirement will result in the termination of at least one correctional work program.

### *C-51 Reservoir Project*

The bill provides that the C-51 reservoir project is a water storage facility, located in western Palm Beach County south of the lake, consisting of in-ground reservoirs and conveyance structures that will provide water supply and water management benefits to participating water supply utilities, and environmental benefits by reducing freshwater discharges to tide and making water available for natural systems. The bill also provides that the C-51 Phase I will provide approximately 14,000 acre-feet of water storage and will hydraulically connect to the L-8 FEB, and that the C-51 Phase II will provide approximately 46,000 acre-feet of water storage, for a total increase of 60,000 acre-feet of water storage.

The bill:

- Authorizes the district to negotiate with the owners of the C-51 reservoir project site for the acquisition of the C-51 Phase II project site or to enter into a public-private partnership;
- Authorizes the district to acquire land near the C-51 reservoir through the purchase or exchange of land owned by the district or the state as necessary to implement the C-51 Phase II;
- Authorizes the state and the district to consider potential swaps of land owned by the state or the district to achieve an optimal combination of water quality and water storage;
- Prohibits the district from exercising eminent domain for the purpose of implementing the C-51 reservoir project;

- Provides that if state funds are appropriated for the C-51 Phase I or the C-51 Phase II, the district must operate the reservoir to maximize the reduction of high-volume lake regulatory releases to the St. Lucie or Caloosahatchee estuaries, in addition to providing relief to the Lake Worth Lagoon;
- Requires water made available by the reservoir to be used for natural systems in addition to any allocated amounts for water supply and prohibits water received from the lake to be available to support consumptive use permits;
- Authorizes the C-51 Phase I to be funded by appropriation or through the water storage facility revolving loan fund; and
- Authorizes the C-51 Phase II to be funded through the issuance of Florida Forever bonds, through the water storage facility revolving loan fund, as a project component of CERP, or from remaining funds from the Everglades Trust Fund (ETF) pursuant to s. 375.041(3)(b)4, F.S.

#### Lake Okeechobee Regulation Schedule

The bill requires the district to request the corps to pursue the reevaluation of the LORS as expeditiously as possible, taking into consideration the repairs made to the dike and implementation of projects designed to reduce high-volume freshwater discharges from the lake, in order to optimally utilize the added water storage capacity to reduce the high-volume freshwater discharges to the St. Lucie and Caloosahatchee estuaries.

#### Everglades Restoration Agricultural Community Employment Training Program

The bill creates s. 446.71, F.S., establishing the Everglades Restoration Agricultural Community Employment Training Program (program). The bill:

- Requires the Department of Economic Opportunity (DEO), in cooperation with CareerSource Florida, Inc., to establish the program within DEO;
- Requires DEO to use funds appropriated to the program to provide grants to stimulate and support training and employment programs that seek to match persons who complete such training programs to nonagricultural employment opportunities in areas of high agricultural unemployment, to provide other training, educational, and information services necessary to stimulate the creation of jobs in the areas of high agricultural unemployment, and to consider the location of the program in proximity to the program's intended participants when determining whether to provide funds to a particular program;
- Authorizes funds to be used for grants for tuition for public or private technical or vocational programs and matching grants to employers to conduct employer-based training programs or for the purchase of equipment to be used for training purposes, the hiring of instructors, or any other purpose directly associated with the program;
- Prohibits DEO from awarding a grant to a training program which exceeds 50 percent of the total cost of the program, unless the training program is located within a rural area of opportunity,<sup>76</sup> in which case the grant may exceed 50 percent of the total cost of the program and up to 100 percent;
- Authorizes matching contributions to include in-kind services, including training instructors, equipment, and training facilities;
- Requires that, before granting a request for funds, DEO enter into a grant agreement with the requestor of funds and the institution receiving funding through the program and requires the agreement to include the following information: an identification of the personnel necessary to conduct the instructional program, the qualifications of such personnel, and the respective responsibilities of the parties for paying costs associated with the employment of such personnel; an identification of the estimated length of the instructional program; an identification of all direct, training-related costs, including tuition and fees, curriculum development, books

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<sup>76</sup> Section 288.0656(2)(d), F.S., defines "rural area of opportunity" as a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.

and classroom materials, and overhead or indirect costs; and an identification of special program requirements that are not otherwise addressed in the agreement;

- Authorizes DEO to grant up to 100 percent of the tuition for a training program participant who currently resides, and has resided for at least three of the five immediately preceding years within the EAA and in counties that provide for water storage and dispersed water storage that are located in rural areas of opportunity;
- Requires programs established in the EAA to include opportunities to obtain the qualifications and skills necessary for jobs related to federal and state restoration projects, the Airglades Airport in Hendry County, an inland port in Palm Beach County, or other industries with verifiable, demonstrated interest in operating within the EAA and in counties that provide for water storage and dispersed water storage that are located in rural areas of opportunity; and
- Requires DEO to adopt rules to implement the program.

## Funding

The bill authorizes the use of state funds for the EAA reservoir project. The bill also requires the district to actively seek additional sources of funding, including federal funding, for the EAA reservoir project.

### *Water Storage Facility Revolving Loan Fund*

The bill creates s. 373.475, F.S., establishing a water storage facility revolving loan fund. The bill:

- Requires DEP to provide funding assistance to local governments or water supply entities for the development and construction of water storage facilities to increase the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems;
- Authorizes DEP to make loans, provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for water storage facilities approved by DEP, and authorizes local governments or water supply entities to borrow funds made available and to pledge revenues or other adequate security available to them to repay funds borrowed;
- Authorizes DEP to award loans for up to 75 percent of the costs of planning, designing, constructing, upgrading, or replacing water resource infrastructure or facilities, whether natural or man-made, including the acquisition of real property for water storage facilities;
- Authorizes DEP and water management districts to provide technical assistance to local governments or water supply entities for water storage facilities funded by the water storage facility revolving loan fund;
- Requires the loan to be a minimum of \$75,000, and the term to not exceed 30 years;
- Requires DEP to prepare a report at the end of each FY, which details the financial assistance provided by the water storage facility revolving loan fund, service fees collected, interest earned, and loans outstanding, for inclusion with the Drinking Water SRF report;<sup>77</sup>
- Authorizes DEP to conduct an audit of the loan project upon completion, or to require that a separate project audit be submitted that is prepared by an independent certified public accountant;
- Authorizes DEP to terminate or rescind a financial assistance agreement if the recipient fails to comply with the terms and conditions of the agreement;
- Requires DEP to adopt rules that establish a priority system for loans based on compliance with state requirements; establish the requirements for the award and repayment of financial assistance; require evidence of credit worthiness and adequate security, including an identification of revenues to be pledged and documentation of their sufficiency for loan repayment and pledged revenue coverage to ensure that each loan recipient can meet its loan repayment requirements; require each project receiving financial assistance to be cost-effective, environmentally sound, and implementable; and require each project to be self-supporting if the project is primarily for the purpose of water supply for consumptive use;

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<sup>77</sup> See s. 403.8532(10), F.S., for drinking water SRF report requirements.

- Requires that, before loan approval, the local government or water supply entity, at a minimum, submit to DEP a repayment schedule; evidence of the permissibility or implementability of the facility proposed for financial assistance; plans and specifications, biddable contract documents, or other documentation of appropriate procurement of goods and services; written assurance that records will be kept using generally accepted accounting principles and that DEP or its agents and the Auditor General will have access to all records pertaining to the loan; documentation that the facility will be self-supporting, if the facility is required to be; documentation that the water management district within whose boundaries the facility will be located has approved the facility, and approval from each applicable water management district if the facility crosses jurisdictional boundaries;
- Authorizes DEP to require reasonable service fees on loans made to local governments or water supply entities to ensure that the program will be operated in perpetuity, provides that service fees may not be less than two percent or greater than four percent of the loan amount exclusive of the service fee, requires service fee revenues to be deposited into DEP's Grants and Donations Trust Fund, and requires fee revenues, and interest earnings thereon, to be used exclusively for the water storage facility revolving loan fund;
- Requires the WPSP Trust Fund to be used for the water storage facility revolving loan fund, requires funds to be invested, pursuant to s. 215.49, F.S.,<sup>78</sup> if they are not needed for immediate funding assistance, and requires state funds, investment earnings, principal and interest of all loans repaid, and investment earnings to be deposited into the fund;
- Provides that if a local governmental agency defaults under the terms of its loan agreement, DEP must certify such to the Chief Financial Officer, who must forward the amount delinquent to DEP from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution, and provides that certification of delinquency does not preclude DEP from pursuing other remedies available for default on a loan, including accelerating loan repayments, eliminating all or part of the interest rate subsidy on the loan, and court appointment of a receiver to manage the public water system;
- Provides that if a water storage facility owned by a person other than a local governmental agency defaults under the terms of its loan agreement, then DEP may take all actions available under law to remedy the default; and
- Authorizes DEP to impose a penalty for delinquent loan payments in the amount of six percent of the amount due, in addition to charging the cost to handle and process the debt, and provides that penalty interest accrues on any amount due and payable beginning on the 30th day following the date that the payment was due.

### *Water Protection and Sustainability Program*

The bill amends s. 403.890, F.S., to require revenues deposited into or appropriated to the WPSP Trust Fund to be distributed to the alternative water supply program and the water storage facility revolving loan fund, and removes all other programs that were to obtain funding from the WPSP Trust Fund. The bill requires revenues deposited into or appropriated to the WPSP Trust Fund for the water storage facility revolving loan fund to be used only for such purposes. The bill also requires DEP, every 24 months, to request the return of unencumbered funds distributed to the alternative water supply program, and for these unencumbered funds to be deposited into the WPSP Trust Fund and redistributed for the alternative water supply program.

For FY 2017-2018, the bill appropriates \$30 million in nonrecurring funds from the General Revenue Trust Fund to the WPSP Trust Fund to provide a loan to implement the C-51 Phase I. The bill requires the loan to have a 30-year term, authorizes the loan to be prepaid at any time, and requires interest to accrue until repayment. The loan must be repaid from the proceeds of the sale of unreserved capacity in the water storage facility, or other appropriate payment, at time of receipt less reasonable expenses, and must be secured by a first mortgage lien on the water storage facility and a collateral assignment of

<sup>78</sup> Section 215.49, F.S., provides for making funds available for investment.



unreserved capacity as adequate security for the loan. The loan does not reserve for use by the state or the district any capacity authorized pursuant to the consumptive use permit for the C-51 Phase I. The bill provides that once DEP adopts rules for the water storage facility revolving loan fund, DEP may modify the terms of the loan agreement to ensure that the loan agreement is in accordance with such rules, except that any terms specifically stated herein may not be modified for the C-51 Phase I.

### *Florida Forever*

The bill amends s. 201.15, F.S., to authorize issuance of up to \$800 million in Florida Forever bonds for costs related to water storage reservoir projects (e.g., the EAA reservoir project and the C-51 reservoir project), including costs for land acquisition, planning, and construction. The bill also amends s. 215.618, F.S., to provide that proceeds from the sale of Florida Forever bonds issued for water storage reservoirs are exempted from being deposited into the Florida Forever Trust Fund. The bill requires these bond proceeds to be deposited into the ETF.

### *Land Acquisition Trust Fund*

The bill amends s. 375.041, F.S., to include the following CERP projects as eligible for LATF funding: the EAA reservoir project, the Lake Okechobee Watershed Project, the C-43 West Basin Storage Reservoir Project, the Indian River Lagoon-South Project, the Western Everglades Restoration Project, and the Picayune Strand Restoration Project.

For FY 2017-2018, the bill appropriates nonrecurring funds from the LATF to the ETF for the following: \$30 million for acquiring land or negotiating leases to implement the EAA reservoir project, or for any cost related to the planning or construction of the EAA reservoir project; \$3 million to develop the report; and \$1 million for negotiating the C-51 Phase II.

### Effective Date

The bill provides that the act takes effect upon becoming a law, and directs the Division of Law Revision and Information to replace the phrase “the effective date of this act” with the date the act becomes a law, which was May 9, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

The bill authorizes issuance of up to \$800 million in Florida Forever bonds for costs related to water storage reservoir projects, including costs for land acquisition, planning, and construction.

For FY 2017-2018, the bill appropriates \$30 million in nonrecurring funds from the General Revenue Trust Fund to the WPSP Trust Fund to provide a loan for the C-51 Phase I.

For FY 2017-2018, the bill appropriates nonrecurring funds from the LATF to the ETF for the following: \$30 million for acquiring land or negotiating leases to implement the EAA reservoir project, or for any cost related to the planning or construction of the EAA reservoir project; \$3 million to develop the report; and \$1 million for negotiating the C-51 Phase II.

The bill provides that for FY 2018-2019, and each FY thereafter, \$64 million is appropriated and must be transferred from the LATF to the ETF for the EAA reservoir project.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The economic impact on the private sector is indeterminate. Landowners within the EAA who sell their property may have a positive fiscal impact. Agricultural workers who work on land in the EAA that is purchased may have to find other employment and, to the extent that former agricultural workers are not hired for the construction or operation of the EAA reservoir project or are provided assistance through the employment training program, may realize a negative fiscal impact. Agricultural workers currently out of work who are provided assistance through the employment training program may realize a positive fiscal impact.

**D. FISCAL COMMENTS:**

None.