

By Senators Sullivan, Crist, Lee, Diaz-Balart, Williams, Holzendorf, Kirkpatrick, Bronson, Brown-Waite, Forman, Harris, Ostalkiewicz, Klein, Thomas and McKay

22-739-98

1                                   A bill to be entitled  
 2           An act relating to greenways and trails;  
 3           amending s. 110.501, F.S.; redefining the term  
 4           "volunteer"; amending s. 260.012, F.S.;  
 5           providing additional declarations of  
 6           legislative intent; creating s. 260.0125, F.S.;  
 7           providing for the rights and benefits of  
 8           private landowners who designate land for use  
 9           as a greenway or trail; amending s. 260.013,  
 10          F.S.; defining the term "designated" or  
 11          "designation"; amending s. 260.014, F.S.;  
 12          requiring the written consent of a landowner to  
 13          designation of land as part of the statewide  
 14          system of greenways and trails; amending s.  
 15          260.0141, F.S.; providing examples of what is  
 16          not considered a designation of land; amending  
 17          s. 260.016, F.S.; providing rulemaking  
 18          authority for the Department of Environmental  
 19          Protection; providing for the process of  
 20          designation of lands; providing incentives for  
 21          landowners; amending s. 260.018, F.S.;  
 22          providing circumstances under which the  
 23          identification of specified lands may not be  
 24          recognized as greenways or trails; providing an  
 25          effective date.

26  
 27 Be It Enacted by the Legislature of the State of Florida:

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 29           Section 1. Subsection (1) of section 110.501, Florida  
 30 Statutes, is amended to read:

31           110.501 Definitions.--As used in this act:

1           (1) "Volunteer" means any person who, of his or her  
2 own free will, provides goods or services to, conveys any  
3 interest in real property to, or otherwise consents to the use  
4 of real property by, any state department or agency, or  
5 nonprofit organization, with no monetary or material  
6 compensation. A person registered and serving in Older  
7 American Volunteer Programs authorized by the Domestic  
8 Volunteer Service Act of 1973, as amended (Pub. L. No.  
9 93-113), shall also be defined as a volunteer and shall incur  
10 no civil liability as provided by s. 768.1355. A volunteer  
11 shall be eligible for payment of volunteer benefits as  
12 specified in Pub. L. No. 93-113, this section, and s. 430.204.

13           Section 2. Section 260.012, Florida Statutes, is  
14 amended to read:

15           260.012 Declaration of policy and legislative  
16 intent.--

17           (1) In order to recognize the benefits ~~provide the~~  
18 ~~public with access to the use, enjoyment, and appreciation of~~  
19 the outdoor areas of Florida, and in order to conserve,  
20 develop, and use the natural resources of this state for  
21 healthful and recreational purposes, it is declared to be the  
22 public policy of this state and the purpose of ss.  
23 260.011-260.018 to provide the means and procedures for  
24 establishing and expanding a statewide system of greenways and  
25 trails for recreational and conservation purposes which shall  
26 be designated as the "Florida Greenways and Trails System."  
27 The standards by which the greenways and trails system shall  
28 be acquired, designated, administered, maintained, used, and  
29 expanded shall be consistent with the provisions of ss.  
30 260.011-260.018. It is the intent of the Legislature that  
31 these greenways and trails will serve to implement the

1 concepts of ecosystems management while providing, where  
2 appropriate, recreational opportunities, including, but not  
3 limited to, horseback riding, hiking, bicycling, canoeing,  
4 jogging, and historical and archeological interpretation,  
5 thereby improving the health and welfare of the people.

6 (2) It is the intent of the Legislature that a  
7 statewide system of greenways and trails be established to  
8 provide open space benefiting environmentally sensitive lands  
9 and wildlife and providing people with access to healthful  
10 outdoor activities. It is also the intent of the Legislature  
11 to acquire or designate lands to facilitate the establishment  
12 of a statewide system of greenways and trails; to encourage  
13 the multiple use of public rights-of-way and use to the  
14 fullest extent existing and future scenic roads, highways,  
15 park roads, parkways, greenways, trails, and national  
16 recreational trails; to encourage the development of greenways  
17 and trails by counties, cities, and special districts and to  
18 assist in such development by any means available; to  
19 coordinate greenway and trail plans and development by local  
20 governments with one another and with the state government and  
21 Federal Government; ~~and~~ to encourage, whenever possible, the  
22 development of greenways and trails on federal lands by the  
23 Federal Government; and to encourage the owners of private  
24 lands to protect the existing ecological, historical, and  
25 cultural values of their lands, including those values derived  
26 from working landscapes.

27 (3) It is the intent of the Legislature that greenways  
28 and trails be located on public lands and on those private  
29 lands that the landowner has agreed in writing to have  
30 designated as a greenway or trail. The greenway may but need  
31 not provide for public access. Private landowners should be

1 encouraged to agree to the use of their lands as part of the  
2 statewide system of greenways and trails through positive  
3 incentives developed under s. 260.016(4).

4 (4) It is the intent of the Legislature that  
5 information produced for the purpose of identifying public and  
6 private lands that are suitable for greenways and trails be  
7 used only for the purposes of:

8 (a) Establishing priorities for acquiring, planning,  
9 and managing public lands for use as greenways and trails; and

10 (b) Identifying private lands that are eligible for  
11 designation as part of the greenways and trails system and  
12 thereby eligible for incentives.

13 (5)(3) The planning, development, operation, and  
14 maintenance of the Florida Greenways and Trails System  
15 authorized by ss. 260.011-260.018 is declared to be a public  
16 purpose, and the Department of Environmental Protection,  
17 together with other ~~governments~~ and agencies of this state and  
18 all counties, municipalities, and special districts of this  
19 state, is authorized to spend public funds for such purposes  
20 and to accept gifts and grants of funds, property, or property  
21 rights from public or private sources to be used for such  
22 purposes.

23 ~~(4) The provisions of s. 375.251 relating to the~~  
24 ~~liability of persons making lands available for outdoor~~  
25 ~~recreational purposes shall be applicable to ss.~~  
26 ~~260.011-260.018.~~

27 (6)(5) It is the intent of the Legislature to  
28 officially recognize the Florida National Scenic Trail as  
29 Florida's official statewide trail from the Florida Panhandle  
30 to the Everglades. It is also the intent of the Legislature  
31 to encourage all state, regional, and local agencies who

1 acquire lands to include in their land-buying efforts the  
2 acquisition of sufficient legal interest in the lands over  
3 which the trail passes to ensure its continued existence in a  
4 permanent location.

5 Section 3. Section 260.0125, Florida Statutes, is  
6 created to read:

7 260.0125 Rights and benefits of private landowners.--

8 (1)(a) The provisions of s. 375.251 relating to the  
9 liability of persons making lands available for outdoor  
10 recreational purposes, including those holding subservient  
11 interests, also apply to persons whose lands are designated as  
12 greenways and trails under s. 260.016(3). The liability  
13 protections afforded by s. 375.251 also apply to lands  
14 adjacent to and accessed by the use of the greenways or  
15 trails. Any landowner who consents to his or her property  
16 being designated as a greenway or trail in the statewide  
17 system in accordance with s. 260.016(3) without compensation  
18 is considered a volunteer under s. 110.501 and covered by  
19 state liability protection in accordance with the definition  
20 of the term "volunteer" and the provisions of s. 768.28.

21 (b) Incentives granted by any unit of government to  
22 private landowners, including tax incentives, grants, or other  
23 financial consideration specific to the development or  
24 management of greenways and trails, may not be considered as a  
25 charge for use or profit derived from patronage for purposes  
26 of s. 375.251, and may not be considered as monetary or  
27 material compensation for purposes of s. 110.501. When a  
28 landowner agrees to make private land available for public use  
29 as a greenway or trail, the department or its designee shall  
30 post notices along the boundary of the greenway or trail which  
31 inform the public that the land adjacent to the greenway or

1 trail is private property upon which unauthorized entry for  
2 any purpose is prohibited. The notices constitute a warning to  
3 unauthorized persons to remain off the private property and  
4 not to depart from the greenway or trail. Any person who  
5 commits an unauthorized entry on such property is guilty of a  
6 trespass in accordance with s. 810.09.

7 (2) Persons whose private lands are designated for  
8 inclusion in the statewide system of greenways and trails  
9 under s. 260.016(3) shall be held harmless for any injury or  
10 damage incurred by third persons arising out of the use of  
11 lands so designated. This section does not relieve any person  
12 of liability that would otherwise exist for deliberate,  
13 willful, or malicious injury to persons or property. This  
14 section does not create or increase the liability of any  
15 person.

16 Section 4. Section 260.013, Florida Statutes, is  
17 amended to read:

18 260.013 Definitions.--As used in ss. 260.011-260.018,  
19 the term unless the context otherwise requires:

20 (1) "Trails" means linear corridors and any adjacent  
21 support parcels on land or water providing public access for  
22 recreation or authorized alternative modes of transportation.

23 (2) "Greenway" means a linear open space established  
24 along either a natural corridor, such as a riverfront, stream  
25 valley, or ridgeline, or over land along a railroad  
26 right-of-way converted to recreational use, a canal, a scenic  
27 road, or other route; any natural or landscaped course for  
28 pedestrian or bicycle passage; an open space connector linking  
29 parks, nature reserves, cultural features, or historic sites  
30 with each other and populated areas; or a local strip or  
31 linear park designated as a parkway or greenbelt.

1           (3) "Department" means the Department of Environmental  
2 Protection.

3           (4) "Board" means the Board of Trustees of the  
4 Internal Improvement Trust Fund.

5           (5) "Designated" or "designation" means the  
6 identification and inclusion of specific lands as part of the  
7 statewide system of greenways and trails pursuant to a formal,  
8 public process, including the specific written consent of the  
9 landowner. When the department determines that public access  
10 is appropriate for greenways and trails, written authorization  
11 permitting public access to all or a specified part of the  
12 landowner's property must be granted by the landowner to the  
13 department.

14           Section 5. Section 260.014, Florida Statutes, is  
15 amended to read:

16           260.014 Florida Greenways and Trails System.--The  
17 Florida Greenways and Trails System shall be a statewide  
18 system of greenways and trails which shall consist of  
19 individual greenways and trails and networks of greenways and  
20 trails which may be designated as a part of the statewide  
21 system by the department. The mapping or other forms of  
22 identifying lands as suitable for inclusion in the system of  
23 greenways and trails, the mapping of ecological  
24 characteristics for any purpose, or the developing of  
25 information for planning purposes does not constitute  
26 designation. Lands may not be designated as a part of the  
27 statewide system of greenways and trails without the specific  
28 written consent of the landowner.

29           Section 6. Section 260.0141, Florida Statutes, is  
30 amended to read:

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1           260.0141 Greenways and Trails Program.--There is  
2 established within the department the "Florida Greenways and  
3 Trails Program," the purpose of which is to facilitate the  
4 establishment of a statewide system of greenways and trails.  
5 Such greenways and trails shall be acquired pursuant to this  
6 act. Planning materials, maps, data, and other information  
7 developed or used in the program may not be considered to  
8 constitute the designation of lands as part of the statewide  
9 system of greenways and trails, and the identification of  
10 lands in such information:

11           (1) Does not require or empower any unit of local  
12 government, regional government, or any state agency to impose  
13 additional or more restrictive environmental, land-use, or  
14 zoning regulations;

15           (2) Does not constitute as authority to adopt,  
16 enforce, or amend any environmental regulations or  
17 comprehensive plan goals, policies, or objectives, or any  
18 zoning or land-use ordinance, and may not be used as the basis  
19 for permit denial; the imposition or any permit condition; or  
20 the application of any rule, regulation, or ordinance by any  
21 subdivision of local, regional, or state government; and

22           (3) Does not constitute authority for any governmental  
23 agency to reduce or restrict the rights of owners of lands so  
24 identified.

25           Section 7. Section 260.016, Florida Statutes, is  
26 amended to read:

27           260.016 General powers of the department.--

28           (1) The department may:

29           (a) Publish and distribute appropriate maps of  
30 designated greenways and trails. The description shall include  
31 a generalized map delineating the area designated, location of



1 suitable ingress and egress sites, as well as other points of  
2 interest to enhance the recreational opportunities of the  
3 public.

4 (b) Establish access routes and related public-use  
5 facilities along greenways and trails which will not  
6 substantially interfere with the nature and purposes of the  
7 greenway or trail.

8 (c) Adopt appropriate rules for administering and  
9 interpreting this act, which may include, but are not limited  
10 to, rules establishing a designation process; rules governing  
11 the negotiation and execution of agreements with private  
12 landowners; rules establishing prohibited activities or  
13 restrictions on activities; rules charging fees for use, and  
14 providing for public access; rules providing for maintenance;  
15 and any other rules necessary to operate and maintain  
16 greenways and trails ~~the use of greenways and trails~~.

17 (d) Coordinate the activities of all governmental  
18 units and bodies and special districts that desire to  
19 participate in the development of the Florida Greenways and  
20 Trails System.

21 (e) Appoint an advisory body to be known as the  
22 "Florida Recreational Trails Council" which shall advise the  
23 department in the execution of its powers and duties under  
24 this chapter. The department may establish by rule the  
25 duties, structure, and responsibilities of the council.  
26 Members of the Florida Recreational Trails Council shall serve  
27 without compensation, but are entitled to be reimbursed for  
28 per diem and travel expenses as provided in s. 112.061.

29 (f) Establish, develop, and publicize saltwater  
30 paddling trails in a manner that will permit public recreation  
31 without damaging natural resources. The Big Bend Historic

1 Saltwater Paddling Trail from the St. Marks River to the  
2 Suwannee River is hereby designated as part of the Florida  
3 Greenways and Trails System. Additions to this trail may be  
4 added by the department from time to time as part of a  
5 statewide saltwater circumnavigation trail.

6 (g) Enter into sublease agreements or other use  
7 agreements with local governmental agencies for the management  
8 of greenways and trails for recreation and conservation  
9 purposes consistent with the intent of this chapter.

10 (h) Enter into management agreements with other  
11 entities only if a federal agency, another state agency, local  
12 government, county, or municipality is unable to manage the  
13 greenways or trails lands. Such entities must demonstrate  
14 their capabilities of management for the purposes defined in  
15 ss. 260.011-260.018.

16 (i) Charge reasonable fees or rentals for the use or  
17 operation of facilities and concessions. All such fees,  
18 rentals, or other charges collected shall be deposited in the  
19 account or trust fund of the managing entity. All such fees,  
20 rentals, or other charges collected by the Division of  
21 Recreation and Parks under this paragraph shall be deposited  
22 in the State Park Trust Fund pursuant to s. 258.014.

23 (2) The department shall:

24 (a) Evaluate lands for the acquisition of greenways  
25 and trails and compile a list of suitable corridors,  
26 greenways, and trails, ranking them in order of priority for  
27 proposed acquisition. The department shall devise a method of  
28 evaluation which includes, but is not limited to, the  
29 consideration of:

30 1. The importance and function of such corridors  
31 within the statewide system.

1           2. Potential for local sharing in the acquisition,  
2 development, operation, or maintenance of greenway and trail  
3 corridors.

4           3. Costs of acquisition, development, operation, and  
5 maintenance.

6           (b) Maintain an updated list of abandoned and  
7 to-be-abandoned railroad rights-of-way. The department shall  
8 request information on current and potential railroad  
9 abandonments from the Department of Transportation, the  
10 Interstate Commerce Commission, and railroad companies  
11 operating within the state. At a minimum, the department  
12 shall make such requests on a quarterly basis.

13           (c) Provide information to public and private agencies  
14 and organizations on abandoned rail corridors which are or  
15 will be available for acquisition from the railroads or for  
16 lease for interim recreational use from the Department of  
17 Transportation. Such information shall include, at a minimum,  
18 probable costs of purchase or lease of the identified  
19 corridors.

20           (3) The process for designating lands as part of the  
21 statewide system of greenways and trails includes:

22           (a) The development and dissemination of criteria for  
23 designation.

24           (b) The development and dissemination of criteria for  
25 changes in the terms or conditions of designation, including  
26 withdrawal or termination of designation.

27           (c) The compilation of available information on and  
28 field verification of the characteristics of the lands as they  
29 relate to the developed criteria.

30           (d) Public notice in all phases of the process,  
31 including any required rulemaking.

1           (e) Written authorization from the landowner in the  
2 form of a lease or other instrument for the designation and  
3 granting of public access, if appropriate, to a landowner's  
4 property.

5           (f) The development of a greenway or trail-use plan as  
6 a part of the designation agreement. In any particular segment  
7 of a greenway or trail, the plan components must be compatible  
8 with connecting segments and describe, at a minimum, the types  
9 and intensities of uses of the property.

10           (4) The department or its designee may negotiate with  
11 potentially affected private landowners as to the terms under  
12 which the landowners would consent to the public use of their  
13 lands as part of the greenways and trails system. The  
14 department may agree to incentives for a private landowner who  
15 consents to this public use of his or her lands for  
16 conservation or recreational purposes, including, but not  
17 limited to, the following:

18           (a) The retention by the landowner of certain specific  
19 rights in his lands, including, but not limited to, the right  
20 to farm, hunt, graze, harvest timber, or use the lands for  
21 other purposes that are consistent with use as greenways or  
22 trails.

23           (b) The exchange, subject to the approval of the Board  
24 of Trustees of the Internal Improvement Trust Fund or other  
25 applicable unit of government, of ownership or other rights of  
26 use of public lands for the ownership or other rights of use  
27 of privately owned property. Any exchange of state-owned lands  
28 title to which is vested in the Board of Trustees of the  
29 Internal Improvement Trust Fund for privately owned lands is  
30 subject to the requirements of s. 259.041.

31

1           (c) A contract with the landowner to provide  
2 management or other services on the lands.

3           (d) The acceleration of the acquisition process or  
4 higher consideration in the ranking process when the privately  
5 owned lands are under consideration for acquisition by the  
6 state or other unit of government.

7           (e) The execution of patrol and protection agreements.

8           (f) Where applicable and appropriate, lease fees, not  
9 to exceed fair market value of the leasehold interest, a  
10 portion of which may be used by the landowner to purchase  
11 liability insurance.

12           Section 8. Section 260.018, Florida Statutes, is  
13 amended to read:

14           260.018 Agency recognition.--All agencies of the  
15 state, regional planning councils through their comprehensive  
16 plans, and local governments through their local comprehensive  
17 planning process pursuant to chapter 163 shall recognize ~~the~~  
18 ~~special character of the~~ lands and waters designated by the  
19 state as greenways and trails ~~and shall not take any action~~  
20 ~~which will impair their use as designated.~~ Identification of  
21 lands in planning materials, maps, data, and other information  
22 developed or used in the greenways and trails program does not  
23 make the lands subject to this section unless they have been  
24 designated as part of the statewide system of greenways and  
25 trails under s. 260.016(3).

26           Section 9. This act shall take effect July 1, 1998.

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29 SENATE SUMMARY

30 Revises the process by which private lands may be  
31 designated for use as part of the statewide system of  
greenways and trails. (See bill for details.)