

By Representatives Sembler, Bronson, Futch, Lynn, Smith, Arnall, Eggelletion, Spratt, Heyman, Putnam, Bradley, Dockery, Argenziano, Cosgrove, Rayson, Villalobos, K. Pruitt, Bitner, Bullard, Bainter, Mackey, Murman, Culp, Arnold, Gay, D.
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1 A bill to be entitled
2 An act relating to greenways and trails;
3 amending s. 110.501, F.S.; revising the
4 definition of "volunteer" to include persons
5 who consent to certain use of real property;
6 amending s. 260.012, F.S.; revising declaration
7 of policy and legislative intent relating to
8 the "Florida Greenways and Trails Act";
9 creating s. 260.0125, F.S.; providing rights
10 and benefits of landowners whose lands are
11 designated as greenways or trails; requiring
12 the Department of Environmental Protection to
13 post certain notices of trespass; providing for
14 penalties; amending s. 260.013, F.S.; revising
15 definitions; amending s. 260.014, F.S.;
16 requiring the landowner's specific written
17 consent for designation of lands as a part of
18 the statewide system of greenways and trails;
19 amending ss. 260.0141 and 260.018, F.S.;
20 restricting certain construction or use of
21 planning materials; amending s. 260.016, F.S.,
22 relating to powers of the department; providing
23 for rules; providing for fees; providing for a
24 process for designation of lands as a part of
25 the state system of greenways and trails;
26 authorizing negotiations with private
27 landowners; authorizing incentives for certain
28 landowners; providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

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

3 110.501 Definitions.--As used in this act:

4 (1) "Volunteer" means any person who, of his or her
5 own free will, provides goods or services, or conveys an
6 interest in or otherwise consents to the use of real property
7 pursuant to ss. 260.011-260.018, to any state department or
8 agency, or nonprofit organization, with no monetary or
9 material compensation. A person registered and serving in
10 Older American Volunteer Programs authorized by the Domestic
11 Volunteer Service Act of 1973, as amended (Pub. L. No.
12 93-113), shall also be defined as a volunteer and shall incur
13 no civil liability as provided by s. 768.1355. A volunteer
14 shall be eligible for payment of volunteer benefits as
15 specified in Pub. L. No. 93-113, this section, and s. 430.204.

16 Section 2. Section 260.012, Florida Statutes, is
17 amended to read:

18 260.012 Declaration of policy and legislative
19 intent.--

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

1 expanded shall be consistent with the provisions of ss.
2 260.011-260.018. It is the intent of the Legislature that
3 these greenways and trails will serve to implement the
4 concepts of ecosystems management while providing, where
5 appropriate, recreational opportunities, including, but not
6 limited to, horseback riding, hiking, bicycling, canoeing,
7 jogging, and historical and archeological interpretation,
8 thereby improving the health and welfare of the people.

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

30 (3) It is the intent of the Legislature that greenways
31 and trails be located on public lands and on private lands

1 where the private landowner has agreed in writing to have
2 those private lands designated as a greenway or trail. Such
3 greenway may or may not provide for public access. Private
4 landowners should be encouraged to enter into agreements for
5 the use of their lands as part of the statewide system of
6 greenways and trails through positive incentives developed
7 pursuant to s. 260.016(3).

8 (4) It is the intent of the Legislature that
9 information produced for the purpose of the identification of
10 lands, both public and private, that are suitable for
11 greenways and trails be used only for the purposes of:

12 (a) Setting priorities for acquisition, planning, and
13 management of public lands for use as greenways and trails;
14 and

15 (b) Identification of private lands which are eligible
16 for designation as part of the greenways and trails system and
17 are thereby eligible for incentives.

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

28 ~~(4) The provisions of s. 375.251 relating to the~~
29 ~~liability of persons making lands available for outdoor~~
30 ~~recreational purposes shall be applicable to ss.~~
31 ~~260.011-260.018.~~

1 ~~(6)~~⁽⁵⁾ It is the intent of the Legislature to
2 officially recognize the Florida National Scenic Trail as
3 Florida's official statewide trail from the Florida Panhandle
4 to the Everglades. It is also the intent of the Legislature
5 to encourage all state, regional, and local agencies who
6 acquire lands to include in their land-buying efforts the
7 acquisition of sufficient legal interest in the lands over
8 which the trail passes to ensure its continued existence in a
9 permanent location.

10 Section 3. Section 260.0125, Florida Statutes, is
11 created to read:

12 260.0125 Private landowners; rights and benefits.--

13 (1)(a) The provisions of s. 375.251 relating to the
14 liability of persons, including those persons holding
15 subservient interests, making lands available for outdoor
16 recreational purposes shall also be applicable to persons
17 whose lands are designated as greenways and trails pursuant to
18 s. 260.016(2)(d). The liability protections afforded by s.
19 375.251 shall also be applicable to lands adjacent to and
20 accessed by use of such greenways or trails. Any landowner who
21 consents to designation of his or her property as a greenway
22 or trail in the statewide system in accordance with s.
23 260.016(2)(d) without compensation shall be considered a
24 volunteer under s. 110.501 and covered by state liability
25 protection in accordance with the definition of a volunteer
26 and the provisions of s. 768.28.

27 (b) Incentives granted by any unit of government to
28 private landowners, including tax incentives, grants, or other
29 financial consideration specific to the development or
30 management of greenways and trails shall not be construed as a
31 charge for use or profit derived from patronage for purposes

1 of s. 375.251 and shall not be construed as monetary or
2 material compensation for purposes of s. 110.501. When a
3 landowner agrees to make private land available for public use
4 as a greenway or trail, the department or its designee shall
5 post notices along the boundary of the greenway or trail which
6 inform the public that the land adjacent to the greenway or
7 trail is private property upon which unauthorized entry for
8 any purpose is prohibited. The notices shall constitute a
9 warning to unauthorized persons to remain off of the private
10 property and not to depart from the greenway or trail. Any
11 person who commits such an unauthorized entry is guilty of a
12 trespass as provided in s. 810.09.

13 (2) Persons whose private lands are designated for
14 inclusion in the statewide system of greenways and trails
15 pursuant to s. 260.016(2)(d) shall be held harmless for any
16 injury or damage incurred by third parties arising out of the
17 use of lands so designated. However, this section does not
18 relieve any person of liability which would otherwise exist
19 for deliberate, willful, or malicious injury to persons or
20 property. The provisions of this section shall not be deemed
21 to create or increase the liability of any person.

22 Section 4. Section 260.013, Florida Statutes, is
23 amended to read:

24 260.013 Definitions.--As used in ss. 260.011-260.018,
25 unless the context otherwise requires:

26 (1)~~(4)~~ "Board" means the Board of Trustees of the
27 Internal Improvement Trust Fund.

28 (2)~~(3)~~ "Department" means the Department of
29 Environmental Protection.

30 (3) "Designation" means the identification and
31 inclusion of specific lands as part of the statewide system of

1 greenways and trails pursuant to a formal public process,
2 including the specific written consent of the landowner. When
3 the department determines that public access is appropriate
4 for greenways and trails, written authorization must be
5 granted by the landowner to the department permitting public
6 access to all or a specified part of the landowner's property.

7 (4)(2) "Greenway" means a linear open space
8 established along either a natural corridor, such as a
9 riverfront, stream valley, or ridgeline, or over land along a
10 railroad right-of-way converted to recreational use, a canal,
11 a scenic road, or other route; any natural or landscaped
12 course for pedestrian or bicycle passage; an open space
13 connector linking parks, nature reserves, cultural features,
14 or historic sites with each other and populated areas; or a
15 local strip or linear park designated as a parkway or
16 greenbelt.

17 (5)(1) "Trails" means linear corridors and any
18 adjacent support parcels on land or water providing public
19 access for recreation or authorized alternative modes of
20 transportation.

21 Section 5. Section 260.014, Florida Statutes, is
22 amended to read:

23 260.014 Florida Greenways and Trails System.--The
24 Florida Greenways and Trails System shall be a statewide
25 system of greenways and trails which shall consist of
26 individual greenways and trails and networks of greenways and
27 trails which may be designated as a part of the statewide
28 system by the department. Mapping or other forms of
29 identification of lands as suitable for inclusion in the
30 system of greenways and trails, mapping of ecological
31 characteristics for any purpose, or development of information

1 for planning purposes shall not constitute designation. No
2 lands may be designated as a part of the statewide system of
3 greenways and trails without the specific written consent of
4 the landowner.

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

7 260.0141 Greenways and Trails Program.--There is
8 established within the department the "Florida Greenways and
9 Trails Program," the purpose of which is to facilitate the
10 establishment of a statewide system of greenways and trails.
11 Such greenways and trails shall be acquired pursuant to this
12 act. Planning materials, maps, data, and other information
13 developed or used in the program shall not be construed as
14 designation of lands as part of the statewide system of
15 greenways and trails. Identification of lands in such
16 information shall not:

17 (1) Require or empower any unit of local or regional
18 government, or any state agency, to impose additional or more
19 restrictive environmental, land use, or zoning regulations;

20 (2) Be construed or cited as authority to adopt,
21 enforce, or amend any environmental rule or regulation;
22 comprehensive plan goals, policies, or objectives; or zoning
23 or land use ordinance;

24 (3) Be used as the basis for permit denial; imposition
25 of any permit condition; or application of any rule,
26 regulation, or ordinance by any subdivision of local,
27 regional, or state government; or

28 (4) Be construed or cited as authority by any
29 governmental agency to reduce or restrict the rights of owners
30 of lands so identified.

31

1 Section 7. Section 260.016, Florida Statutes, is
2 amended to read:

3 260.016 General powers of the department.--

4 (1) The department may:

5 (a) Publish and distribute appropriate maps of
6 designated greenways and trails. The description shall include
7 a generalized map delineating the area designated, location of
8 suitable ingress and egress sites, as well as other points of
9 interest to enhance the recreational opportunities of the
10 public.

11 (b) Establish access routes and related public-use
12 facilities along greenways and trails which will not
13 substantially interfere with the nature and purposes of the
14 greenway or trail.

15 (c) Adopt appropriate rules to implement or interpret
16 this act, which may include, but are not limited to, rules for
17 the following:

18 1. Establishing a designation process.

19 2. Negotiating and executing agreements with private
20 landowners.

21 3. Establishing prohibited activities or restrictions
22 on activities.

23 4. Charging fees for use.

24 5. Providing public access.

25 6. Providing for maintenance.

26 7. Any matter necessary to the operation and
27 maintenance of greenways and trails.

28 ~~(c) Adopt appropriate rules for the use of greenways~~
29 ~~and trails.~~

30 (d) Coordinate the activities of all governmental
31 units and bodies and special districts that desire to

1 participate in the development of the Florida Greenways and
2 Trails System.

3 (e) Appoint an advisory body to be known as the
4 "Florida Recreational Trails Council" which shall advise the
5 department in the execution of its powers and duties under
6 this chapter. The department may establish by rule the
7 duties, structure, and responsibilities of the council.
8 Members of the Florida Recreational Trails Council shall serve
9 without compensation, but are entitled to be reimbursed for
10 per diem and travel expenses as provided in s. 112.061.

11 (f) Establish, develop, and publicize saltwater
12 paddling trails in a manner that will permit public recreation
13 without damaging natural resources. The Big Bend Historic
14 Saltwater Paddling Trail from the St. Marks River to the
15 Suwannee River is hereby designated as part of the Florida
16 Greenways and Trails System. Additions to this trail may be
17 added by the department from time to time as part of a
18 statewide saltwater circumnavigation trail.

19 (g) Enter into sublease agreements or other use
20 agreements with local governmental agencies for the management
21 of greenways and trails for recreation and conservation
22 purposes consistent with the intent of this chapter.

23 (h) Enter into management agreements with other
24 entities only if a federal agency, another state agency, local
25 government, county, or municipality is unable to manage the
26 greenways or trails lands. Such entities must demonstrate
27 their capabilities of management for the purposes defined in
28 ss. 260.011-260.018.

29 (i) Charge reasonable fees or rentals for the use or
30 operation of facilities and concessions. All such fees,
31 rentals, or other charges collected shall be deposited in the

1 account or trust fund of the managing entity. All such fees,
2 rentals, or other charges collected by the Division of
3 Recreation and Parks under this paragraph shall be deposited
4 in the State Park Trust Fund pursuant to s. 258.014.

5 (2) The department shall:

6 (a) Evaluate lands for the acquisition of greenways
7 and trails and compile a list of suitable corridors,
8 greenways, and trails, ranking them in order of priority for
9 proposed acquisition. The department shall devise a method of
10 evaluation which includes, but is not limited to, the
11 consideration of:

12 1. The importance and function of such corridors
13 within the statewide system.

14 2. Potential for local sharing in the acquisition,
15 development, operation, or maintenance of greenway and trail
16 corridors.

17 3. Costs of acquisition, development, operation, and
18 maintenance.

19 (b) Maintain an updated list of abandoned and
20 to-be-abandoned railroad rights-of-way. The department shall
21 request information on current and potential railroad
22 abandonments from the Department of Transportation, ~~the~~
23 ~~Interstate Commerce Commission~~, and railroad companies
24 operating within the state. At a minimum, the department
25 shall make such requests on a quarterly basis.

26 (c) Provide information to public and private agencies
27 and organizations on abandoned rail corridors which are or
28 will be available for acquisition from the railroads or for
29 lease for interim recreational use from the Department of
30 Transportation. Such information shall include, at a minimum,
31

1 probable costs of purchase or lease of the identified
2 corridors.

3 (d) Develop and implement a process for designation of
4 lands as a part of the statewide system of greenways and
5 trails, which shall include:

6 1. Development and dissemination of criteria for
7 designation.

8 2. Development and dissemination of criteria for
9 changes in the terms or conditions of designation, including
10 withdrawal or termination of designation.

11 3. Compilation of available information on and field
12 verification of the characteristics of the lands as they
13 relate to the developed criteria.

14 4. Public notice in all phases of the process,
15 including any required rulemaking.

16 5. Written authorization from the landowner in the
17 form of a lease or other instrument for the designation and
18 granting of public access, if appropriate, to a landowner's
19 property.

20 6. Development of a greenway or trail use plan as a
21 part of the designation agreement. In any particular segment
22 of a greenway or trail, the plan components must be compatible
23 with connecting segments and, at a minimum, describe the types
24 and intensities of uses of the property.

25 (3) The department or its designee is authorized to
26 negotiate with potentially affected private landowners as to
27 the terms under which such landowners would consent to the
28 public use of their lands as part of the greenways and trails
29 system. The department shall be authorized to agree to
30 incentives for a private landowner who consents to this public
31

1 use of his or her lands for conservation or recreational
2 purposes, including, but not limited to, the following:

3 (a) Retention by the landowner of certain specific
4 rights in his or her lands, including, but not limited to, the
5 right to farm, hunt, graze, harvest timber, or use the lands
6 for other purposes which are consistent with use as greenways
7 or trails.

8 (b) Agreement to exchange, subject to the approval of
9 the Board of Trustees of the Internal Improvement Trust Fund
10 or other applicable unit of government, ownership or other
11 rights of use of public lands for the ownership or other
12 rights of use of privately owned property. Any exchange of
13 state-owned lands, title to which is vested in the Board of
14 Trustees of the Internal Improvement Trust Fund, for privately
15 owned lands shall be subject to the requirements of s.
16 259.041.

17 (c) Contracting with the landowner to provide
18 management or other services on the lands.

19 (d) Acceleration of the acquisition process or higher
20 consideration in the ranking process when such privately owned
21 lands are under consideration for acquisition by the state or
22 other unit of government.

23 (e) Execution of patrol and protection agreements.

24 (f) Where applicable and appropriate, providing lease
25 fees, not to exceed fair market value of the leasehold
26 interest, a portion of which may be used by the landowner to
27 purchase liability insurance.

28 Section 8. Section 260.018, Florida Statutes, is
29 amended to read:

30 260.018 Agency recognition.--All agencies of the
31 state, regional planning councils through their comprehensive

1 plans, and local governments through their local comprehensive
2 planning process pursuant to chapter 163 shall recognize the
3 ~~special character of the~~ lands and waters designated by the
4 state as greenways and trails ~~and shall not take any action~~
5 ~~which will impair their use as designated.~~ Identification of
6 lands in planning materials, maps, data, and other information
7 developed or used in the greenways and trails program shall
8 not be cause for such lands to be subject to this section,
9 unless such lands have been designated as a part of the
10 statewide system or greenways and trails pursuant to s.
11 260.016(2)(d).

12 Section 9. This act shall take effect July 1 of the
13 year in which enacted.

14 *****

15 HOUSE SUMMARY

16
17 Revises the definition of "volunteer" to include persons
18 who consent to the use of lands as greenways or trails
19 without compensation. Revises the "Florida Greenways and
20 Trails Act" to provide certain rights and benefits to
21 landowners who allow lands to be designated as greenways
22 or trails, including certain protection from liability
23 and the posting of trespass notices by the Department of
24 Environmental Protection. Requires the landowner's
25 specific written consent for designation of lands as a
26 part of the statewide system of greenways and trails.
27 Provides a process for such designation. Authorizes the
28 department to make rules, charges fees, negotiate with
29 landowners, and provide incentives to certain landowners.
30 Provides that identification of lands in planning
31 materials shall not be construed as designation as a
greenway or trail and shall not precipitate certain
governmental regulations or actions.

ADDITIONAL SPONSORS

Prewitt, Flanagan, Thrasher, Burroughs, Posey, Crow, Fuller,
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