

STORAGE NAME: h4141s2z.wrm
DATE: May 29, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
WATER & RESOURCE MANAGEMENT
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 4141

RELATING TO: Water resources

SPONSOR(S): Committee(s) on Environmental Protection and Water & Resource Management
and Representative(s) Saunders and Bronson

COMPANION BILL(S): SB 2356 (s) and SB 2294 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) WATER & RESOURCE MANAGEMENT YEAS 11 NAYS 1
- (2) ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS WITHDRAWN
- (4)
- (5)

I. FINAL ACTION STATUS:

On April 27, 1998, the House voted 100-13 in favor of CS/CS/HB 4141, without adopting any amendments. The Senate passed the bill by a vote of 37-1 on April 29, 1998. The bill was vetoed by the Governor on May 28, 1998.

II. SUMMARY:

CS/CS/HB 4141 authorizes the South Florida Water Management District (District) to participate as local sponsor for the Comprehensive Review, or Restudy, of the Central and Southern Florida (C&SF) Project. Legislative intent is provided that the Restudy be implemented in a manner consistent with Chapter 373, F.S. The Joint Legislative Committee on Everglades Oversight (Joint Committee) is assigned responsibility for monitoring funding and expenditures for all projects and operational changes resulting from the Restudy. The Joint Committee will review the Restudy as an interim project, hold public hearings, and provide written comments to the U.S. Army Corps of Engineers (Corps) and the District during the public comment period for the proposed comprehensive plan.

CS/CS/HB 4141 requires the District to obtain legislative authorization, which could be a general appropriation, prior to executing a project cooperation agreement for any project or operational change resulting from the Restudy. The district would be required to submit certain information, and during the next Regular Session the Legislature would have the opportunity to approve, reject, or modify the proposed project or operational change. In the event that the Legislature takes no action, the District would be allowed to proceed with executing a project cooperation agreement provided the District can meet its financial responsibility without future legislative appropriations.

The bill provides that the act will take effect upon becoming law.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Background: The Central and Southern Florida Project for Flood Control and Other Purposes

The C&SF Project, first authorized by Congress in 1948, is a multi-purpose project providing flood control; water supply for agricultural, municipal, and industrial use; prevention of saltwater intrusion; water supply for the Everglades National Park; and protection of fish and wildlife resources. Its primary system components include approximately 1,000 miles each of canals and levees, 150 water control structures, and 16 major pump stations. The C&SF Project was the culmination of earlier U.S. Army Corps of Engineers (Corps) efforts in South Florida, principally for flood protection.

Initial flood control efforts by the Corps were in reaction to the hurricanes of 1926 and 1928. In 1926, a hurricane which struck Miami and Lake Okeechobee was responsible for 200 deaths, and also caused widespread damage and financial losses. Two years later, the 1928 hurricane created massive flooding south of Lake Okeechobee, drowning more than 2,000 people in and around Moore Haven and causing substantial property losses. The 1929 Florida Legislature created the Okeechobee Flood Control District to serve as local sponsor for flood control projects undertaken by the Corps. A Corps plan was developed for floodway channels, control gates, and major levees, including the Herbert Hoover Dike around the shore of Lake Okeechobee, and construction began in 1930.

An extended dry period from 1931 to 1945 resulted in lowered water levels, saltwater intrusion in municipal wells, and widespread muck fires. Ironically, many of the adverse effects of the droughts were exacerbated by earlier drainage and flood control efforts. At this time, greater recognition was given to the relationship between Lake Okeechobee and the water resources of the entire region, the unintended effects of drainage and flood control, and the need for water conservation measures. In 1947, 100 inches of rain fell in south Florida, ending the extended dry period. In a 25-day period that year, two major hurricanes hit southeastern Florida, resulting in 90 percent of the area being flooded and causing \$59 million in property losses.

After the sequential experiences of extreme flooding and extreme drought, coupled with increasing saltwater intrusion and growing concerns regarding water supply, the need for more comprehensive water management strategies became apparent. A flood control plan was completed by the Corps in December 1947. In February 1948, the Governor approved the plan on behalf of the State. The initial phase of the C&SF Project was authorized by the Flood Control Act of June 30, 1948, for the purposes of flood control, water level control, water conservation, prevention of saltwater intrusion, and preservation of fish and wildlife. The 1949 Legislature created the Central and Southern Florida Flood Control District, predecessor to the South Florida Water Management District (District), to serve as the local sponsor for the C&SF Project.

Subsequent modifications have been made to the C&SF Project, including adding measures to increase storage and conservation of water, improve water distribution, and provide flood control for Martin County. Recreation has been added as an additional project purposes. In addition, specific modifications have been made to increase water

deliveries to the Everglades National Park and to provide for ecosystem restoration of the Kissimmee River.

The Restudy:

In 1992, the U.S. Congress authorized the Restudy. The purpose of the Restudy is to develop modifications to the C&SF Project to restore the Everglades and Florida Bay ecosystems while providing for other water-related needs of the region. Goals and associated planning objectives have been developed for the Restudy:

- **Goal: Enhance Ecological Values**
Planning Objectives:
 - ▶ Increase the total spatial extent of natural areas;
 - ▶ Improve habitat and functional quality; and
 - ▶ Improve native plant and animal species abundance and diversity.
- **Goal: Enhance Economic Values and Social Well Being**
Planning Objectives:
 - ▶ Increase availability of fresh water (agricultural, municipal, and industrial);
 - ▶ Reduce flood damages (agricultural, urban);
 - ▶ Provide recreational and navigational opportunities; and
 - ▶ Protect cultural and archeological resources and values.

Although the Restudy is being developed by an interdisciplinary professional staff representing numerous agencies, the Corps and the District are the primary participants and are jointly funding the effort. Other principal participants in the Restudy effort include:

- **Federal**
 - ▶ Environmental Protection Agency (EPA)
 - ▶ National Park Service
 - ▶ National Marine Fisheries Service
 - ▶ Natural Resources Conservation Service
 - ▶ U.S. Fish and Wildlife
- **State**
 - ▶ Florida Department of Agricultural and Consumer Services
 - ▶ Florida Department of Environmental Protection
 - ▶ Florida Game and Freshwater Fish Commission
- **Tribal**
 - ▶ Miccosukee Tribe
 - ▶ Seminole Tribe

Other agencies, local governments, organizations, universities, and the public are also participating.

The Restudy includes three primary steps:

- **Reconnaissance Study.** The purpose of the reconnaissance study is to identify problems and opportunities, formulate a set of initial alternatives, and to determine if further detailed studies are warranted. This step was completed in November 1994 with a recommendation to proceed.

- **Comprehensive Plan.** The comprehensive plan is currently under development and is scheduled for completion in July, 1999. A series of alternatives are under development that consist of a broad array of projects for restoring the South Florida ecosystem and, at the same time, meeting regional water-related needs, including water supply, flood control, and other C&SF project Purposes. Projects will be identified at a conceptual level and a project implementation strategy will be developed. Additional project specification will occur in the detailed design phase. As part of the comprehensive plan, the District's Governing Board will submit to the Secretary of the Army a Letter of Intent indicating local sponsor support of the plan.
- **Detailed Design Phase.** Upon completion of the comprehensive plan, a detailed design and an environmental impact statement are completed for each project prior to the initiation of construction. In addition, the District and the Corps must enter into a Project Cooperation Agreement (PCA) for the design, construction, and operation of the project prior to its implementation

Although modifications have been made to the C&SF Project over the last 50 years, the Restudy is perhaps the first time since inception of the project that a fundamental reevaluation of its overall design has occurred. The estimated cost of the Restudy through 2002 is \$20 million, with the District and the Corps each contributing \$10 million. Of the District' share, \$5 million is in the form of cash contributions and \$5 million is in the form of in-kind services, principally staff time. Through the end of fiscal year 1998, the District's total cash contribution to the restudy is \$2.3 million. Depending on the final recommendations of the Restudy for modifications to the C&SF Project, implementation of projects will require substantial expenditures. Because various strategies and project combinations are currently being evaluated, there is no specific estimate of total implementation costs. However, the estimated range of costs for implementing projects contained in the Restudy is \$3 billion to \$5 billion.

B. EFFECT OF PROPOSED CHANGES:

CS/CS/HB 4141 authorizes the District's participation as local sponsor for the Restudy. Intent is provided that the Legislature support and facilitate the District's role as local sponsor to ensure that all projects and operational changes resulting from the Restudy are implemented in a manner consistent with Ch. 373, F.S. -- more specifically, with the Everglades Program pursuant to s. 373.4592, F.S., and the state's water resources policy as provided by s. 373.016, F.S. To accomplish the Legislature's stated intent, the Joint Committee is assigned responsibility for monitoring all funding and expenditures for projects and operational changes resulting from the Restudy.

The Joint Committee will review the Restudy as an interim project, hold at least two public hearings on the proposed comprehensive plan, and provide written comments to the Corps and the District during the public comment period for the proposed comprehensive plan. In its written comments, the Joint Committee must address:

- ▶ The extent to which the proposed comprehensive plan is consistent with the goals and objectives of Ch. 373, F.S.;
- ▶ The extent to which the proposed comprehensive plan considers all competing policy needs provided by s. 373.016, F.S.; and
- ▶ The extent to which the proposed comprehensive plan considers all competing water uses.

Finally, the District would be required to obtain legislative authorization, which could be a general appropriation, prior to executing a project cooperation agreement for any project or operational change resulting from the Restudy. The district would be required to submit certain information and during the next Regular Session the Legislature would have the opportunity to approve, reject, or modify the proposed project or operational change. In the event that the Legislature takes no action, the District would be allowed to proceed with executing a project cooperation agreement provided the District can meet its financial responsibility without future legislative appropriations.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. CS/CS/HB 4141 would assign additional responsibilities to the Joint Committee for monitoring all funding and expenditures for projects and operational changes resulting from the Restudy. It also creates reporting requirements for the District.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

Not specifically. However, under CS/CS/HB 4141, if the Legislature takes no action on a proposed modification of the CS&F project, as recommended by the Restudy, the South Florida WMD may proceed with the modification if it has the funds necessary to perform its share of the work. Theoretically, the South Florida WMD could raise ad valorem taxes, within its statutory cap, to pay for this work.

b. Does the bill require or authorize an increase in any fees?

Not specifically. However, as mentioned above, the South Florida WMD could find a way to raise permit or other types of fees to help pay for any project modification which the Legislature failed to act on.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. STATUTE(S) AFFECTED:

Creates s. 373.45923, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Creates s. 373.45923, F.S., authorizing the District's participation as local sponsor for the Restudy; providing for legislative oversight of the Restudy; requiring the District to submit the completed Restudy; and providing that legislative authorization is required before the District may execute a project cooperation agreement for any project or operational change resulting from the Restudy, except that in the absence of legislative action, the District may execute such project cooperation agreement if it can meet its financial responsibility without future legislative appropriations.

Section 2: Provides that the act shall take effect upon becoming law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate. (See Fiscal Comments below.)

2. Recurring Effects:

Indeterminate. (See Fiscal Comments below.)

3. Long Run Effects Other Than Normal Growth:

Indeterminate. (See Fiscal Comments below.)

4. Total Revenues and Expenditures:

Indeterminate. (See Fiscal Comments below.)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate. (See Fiscal Comments below.)

2. Recurring Effects:

Indeterminate. (See Fiscal Comments below.)

3. Long Run Effects Other Than Normal Growth:

Indeterminate. (See Fiscal Comments below.)

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate.

2. Direct Private Sector Benefits:

Indeterminate.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

D. FISCAL COMMENTS:

The more tangible fiscal impact of the bill is related to costs incurred by the Joint Committee in staffing the oversight function and holding public hearings. This impact is indeterminate and would depend upon 1) whether the Joint Committee could fulfill the oversight function with existing staff, and 2) the number and location of the required public hearings. A minor impact on the District could be expected to result from new reporting requirements, though much of the information CS/CS HB 4141 requires the District to report is arguably covered under existing reporting requirements pursuant to s. 11.80, F.S.

However, as mentioned in section C.2., the possibility exists that if the Legislature were not to act on a proposed project modification recommended by the Restudy, the South Florida WMD could participate in the project as long as it was able to finance its participation without state funds. Theoretically, the South Florida WMD could raise its

ad valorem taxes, certain permit fees, or even new assessments, to pay for its share of the work.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of state tax shared with counties and municipalities.

VI. COMMENTS:

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 30, 1998, the Committee on Water and Resource Management adopted HB 4141 as a committee substitute. One amendment, a "strike everything" was adopted by the Committee that:

- ▶ Authorizes the District to participate as local sponsor for the Restudy and to provide any and all assistance requested by the Department, the Governor, or the Legislature, in their review of the Restudy;
- ▶ Requires the District to provide the completed Restudy to the Department, the Governor, and the Legislature, prior to taking any additional action related to the Restudy; and
- ▶ Requires legislative approval of the comprehensive plan, feasibility report, or any plan of action resulting from the Restudy, prior to the District:
- ▶ Implementing any proposed modification to the design or operations of the C&SF Project;
- ▶ Expending any funds or otherwise implementing a plan or report resulting from the Restudy; or
- ▶ Seeking further congressional authorizations or approvals.

On April 7, 1998, the Committee on Environmental Protection adopted CS/HB 4141 as a committee substitute. Two amendments, a "strike everything" and an amendment to it, were

adopted by the Committee The "strike everything" amendment, as compared to CS/HB 4141:

- ▶ Added provisions assigning the Joint Legislative Committee on Everglades Oversight responsibility for monitoring all funding and expenditures for projects and operational changes resulting from the Restudy.
- ▶ Narrowed the range of District actions related to the Restudy that would require legislative approval or authorization. Project Cooperation Agreements for projects and operational changes resulting from the Restudy could not be executed without specific legislative authorization. However, the District would be allowed to execute such an agreement if the Legislature takes no action and the District can meet its financial responsibility under the agreement without the need for future legislative appropriations.

The amendment to the "strike everything" amendment clarified that legislative authorization may be provided by a legislative appropriation.

No other amendments were offered later in the legislative process.

VIII. SIGNATURES:

COMMITTEE ON WATER AND RESOURCE MANAGEMENT:

Prepared by:

Legislative Research Director:

W. Ray Scott

Committee on Environmental Protection

Joyce Pugh

AS REVISED BY THE COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Legislative Research Director:

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Wayne S. Kiger

FINAL RESEARCH PREPARED BY COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

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