

STORAGE NAME: h1765z.ep
DATE: June 18, 1999

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

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
ENVIRONMENTAL PROTECTION
FINAL ANALYSIS**

BILL #: HB 1765 (Passed as sections 11, 22-28 of CS/CS/SB 908, except: provision regarding cattle dipping vats is not included in CS/CS/SB 908)

RELATING TO: Greenways and trails

SPONSOR(S): Representative Dockery

COMPANION BILL(S): SB 2336(s) by Senator Sullivan

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

- (1) ENVIRONMENTAL PROTECTION YEAS 10 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 11 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

On April 19, 1999, HB 1765 passed the House, as amended, with a vote of 111 YEAS and 0 NAYS. HB 1765 died in the Senate Committee on Natural Resources upon adjournment of regular session.

The Senate companion, SB 2336, was placed on the Senate calendar where it remained until it died upon adjournment of regular session.

Substantial provisions of HB 1765 (excluding: cattle dipping vats) was incorporated into ss. 11, 22-28 of CS/CS/SB 908 which the House adopted on April 29, 1999, as amended, with a vote of 118 YEAS and 1 NAYS. Similarly, on April 30, 1999, the Senate concurred and passed CS/CS/SB 908, as amended, with a vote of 40 YEAS and 0 NAYS. CS/CS/SB 908 was passed into law as Chapter Law #99-247.

II. SUMMARY:

This bill would combine both the Florida Greenways Coordinating Council and the Florida Recreational Trails Council. In their place, a single body is created, the Florida Greenways and Trails Council within the Department of Environmental Protection (department). Provisions of this bill provide for its membership, duties and powers. In addition, this bill grants the department rulemaking authority needed in order to implement this Chapter.

This bill provides for the expansion, from 250 to 500 acres, of an existing horse-park agricultural center located on former Cross-Florida Barge Canal Lands.

The fiscal impact of this bill is indeterminate. The effective date is upon becoming a law.

Amendments

On March 30, 1999, the Committee on Environmental Protection adopted a strike everything amendment to HB 1765 which traveled with the bill and was subsequently adopted on the House floor. In addition, an amendment to the strike everything amendment regarding a report on cattle-dipping vats was also adopted on the House floor.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In 1979, the Florida Legislature created the Florida Greenways and Trails Act ("ACT"), as set forth in s. 260.011, F.S. This Act establishes the "Florida Greenways and Trails System" which is the means and procedures of a statewide system for recreation and conservation of greenways (linear open spaces converted to recreational use) and trails. The purpose of this system is to implement ecosystem management and recreational opportunities, e.g., hiking, bicycling, canoeing, jogging and historical and archeological interpretation, in order to improve the health and welfare of the people of Florida. The Florida Scenic Trail represents a first step in statewide trails planning and runs from the Florida panhandle to the Everglades.

In 1987, the Legislature created the Rails-to-Trails Program in order to acquire additions to the Florida National Scenic Trail and abandoned railroad rights-of-way for recreational purposes. In 1996, the Legislature expanded the Rails-to-Trails program to include the acquisition of greenways and renamed the program the "Florida Greenways and Trails Program", allowing the department to acquire greenways, trails and abandoned railroad rights-of-ways. The greenways and trails program receives funding from Preservation 2000 (P2000). Under P2000, the Legislature authorized the greenways and trails program to receive 1.3% of the \$300 million annual appropriation, or \$3.9 million.

Among other powers, the Department of Environmental Protection has the authority to publish and distribute maps, establish access routes and related public use facilities, and adopt appropriate rules for the use of the greenways and trails. The department is also authorized to collect fees or rental fees for the operation and concessions of any facilities. In addition, the department is responsible for obtaining information from the Department of Transportation regarding potential railroad abandonments and evaluate all lands in order to rank them in priority for proposed acquisitions.

Moreover, the department has the authority to establish two Councils under their greenway and trails program: the Florida Greenways Coordinating Council (FGCC) and the Florida Recreational Trails Council (FRTC). The Florida Legislatures expressly create the Florida Greenways Coordinating Council by statute in s. 253.787, F.S. FGCC's statutory purpose is to promote initiatives throughout the state and provide technical support, leadership, education, advocacy and other services relating to greenways. FGCC is to serve as a facilitator for partnerships, environmental organizations and community based organizations. This Council is funded through the department's budget. During 1998, the department appropriated approximately \$100,000 to this Council which was used to reimburse members for per diem expenses. The Council is comprised of 26 members who serve 4 year terms. In addition, FGCC was established to assist the department in preparing a 5 year Florida Greenways System Implementation Plan and must submit a report to the Governor and the Legislature by July 1, 1999 making specific recommendations for managing the Florida greenways system.

The Florida Recreational Trails Council is established at the department's discretion pursuant to s. 260.016(e), F.S. FRTC is an advisory board which advises the department on its execution of powers and duties under this Act. FRTC also assists in selecting acquisition projects and establishing minimum standards for the recreational trails in Florida. Currently, this Council is composed of 14 members who represent various user-groups, including: hiking, jogging, bicycling and paddling. The members are to serve 2 year terms, with no term limits imposed. Each member serves as a volunteer and is reimbursed for travel expenses.

Lastly, the Cross Florida Greenways State Recreation and Conservation Area was established and assigned to the Office of Greenways to be managed as a multiple-use area. Currently, the University of Florida Management Plan provides a recreational plan that may be used throughout these greenways. This plan proposes to locate larger, more comprehensive recreational facilities in sensitive, natural areas. Site studies are to be made to value the potential for adverse impact on the areas, the need for the facility and alternative locations. This plan governs which facilities are to be constructed within the greenways. Accordingly, s. 253.7825(4), F.S., provides that a horse park-agricultural center may be constructed, in cooperation with the Department of Agriculture and Consumer Services, on 250 acres of former canal lands which meet the criteria for surplus lands and which lie outside the greenways boundary.

B. EFFECT OF PROPOSED CHANGES:

This bill increases from 250 to 500 acres on which the horse park-agricultural center may be built on former canal lands in cooperation with the Department of Agriculture and Consumer Services.

This bill sets forth Legislative intent to include waterways in the statewide system of greenways and trails. The term "designation" is redefined to include waterways as a part of the statewide system of greenways and trails pursuant to a formal public process and written consent of the landowner. Mapping of waterways does not constitute designation and no waterways may be designated without the written consent of the landowner.

This bill also proposes to combine the Florida Greenways Coordinating Council and the Florida Recreational Trails Council. In their place, this bill creates one body, the Florida Greenways and Trails Council (FGTC) within the Department of Environmental Protection. This Council is to be composed of 21 members. Five members are to be appointed by the Governor and are to consist of two members representing the trail user community, two members representing the greenway user community and one member representing landowners. The President of the Senate is authorized to appoint three members to the Council which consist of one member representing the trail user community and two members representing the greenway user community. In addition, the Speaker of the House is authorized to appoint three members which consist of two members representing the trail user community, and one member representing the greenway user community.

The remaining ten members shall consist of the:

- Secretary of Environmental Protection or a designee;
- executive director of the Fish and Wildlife Conservation Commission or a designee;
- Secretary of Community Affairs or a designee;
- Secretary of Transportation or a designee;
- Director of the Division of Forestry of the Department of Agriculture and Consumer Services or a designee;
- director of the Division of Historical Resources of the Department of State or a designee;
- representative of the water management districts;
- representative of a federal land management agency;
- representative of the regional planning councils; and
- representative of local governments.

The Council's specific duties are to:

- Advise the department, the Department of Community Affairs, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Division of Forestry of the Department of Agriculture and Consumer Services, the water management districts and the regional planning councils on policies which relate to the greenways and trails system;
- Facilitate a state wide system of interconnected trails;
- Facilitate the expansion of the statewide system of freshwater and saltwater paddling trails;
- Annually determine priorities for critical links in the system;
- Review applications for funding and make recommendations;
- Provide recommendations to all agencies on acquisition and development of greenways and trails;
- Review designation proposals for inclusion into the system;
- Provide advocacy and education concerning the system;

- Encourage private/public partnerships;
- Review progress toward meeting established benchmarks;
- Update and revise the implementation plan for the system;
- Advise the Acquisition and Restoration Commission concerning the incorporation of greenways and trails into land management plans;
- Encourage land use, environmental, and coordinated linear infrastructure planning into the system; and
- Promote support organizations.

In addition, this bill grants the department rulemaking authority in order to implement this Chapter. The department is also required to further the specified activities as enumerated in this Chapter.

The general powers of the department are now required and are no longer optional. The department's required duties include: publishing appropriate maps of designated greenways and trails; establish access routes and public-use facilities; adopting rules to implement or interpret this act and portions of chapter 253 relating to greenways; implement the Florida Greenways and Trails System; and enter into agreements with any entity for management of the greenways.

This section also directs that the fees collected for rentals for the use or operation of facilities are to be deposited into the trust fund of the managing entity (Land Acquisition Trust Fund), instead of the State Park Trust Fund. This is to ensure that proceeds are returned to Office of Greenways through the Land Acquisition Trust Fund.

Moreover, this section eliminates the requirement that the department request information on current and potential railroad abandonments.

Under this section, the department is to develop a process for designation of waterways as part of the greenways system; and implement the plan for the Florida Greenways and Trails System as adopted by the Florida Greenways Coordinating Council on September 11, 1998.

This bill also eliminates the Florida Recreational Trails Council.

Waterways included in planning materials shall not be cause for waterways to be subject to agency recognition under this section unless the waterways have been designated as a part of the statewide system or greenways and trails under s. 260.016(2)(d).

Certain trails or waterways designated prior to May 30, 1998 shall be exempt from the designation process set forth in chapter 260, F.S., 1998 Supplement.

This bill also provides that the DEP and the Department of Agriculture and Consumer Services are to work together to provide a report to the Governor, the President of the Senate and the Speaker of the House of Representatives by February 1, 2000 regarding cattle dipping vats and sets forth the required contents of the report.

This act is to take effect upon becoming a law.

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?

This bill authorizes the Department of Environmental Protection to adopt appropriate rules to implement or interpret this act and portions of chapter 253 relating to greenways and trails, which may include rules for establishing a designation process, negotiating agreements with private landowners, as well as other rules outlined in s.260.016(1)(c).

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

The new council entitled the Florida Greenways and Trails Council will adopt the work, obligations and responsibilities of the Florida Greenways Coordinating Council and the Florida Recreational Trails Council.

- (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?

N/A

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

N/A

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

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

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

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- 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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 253.7825; 260.012; 260.013; 260.014; 260.016; 260.018; and 288.1224. Repeals s. 253.787; Creates s. 260.0142, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 253.7825(4), F.S., to increase the maximum parcel size from 250 to 500 acres in which a horse park-agricultural center may be constructed on former canal lands. Deletes the requirement that any such parcel conform to the criteria for surplus lands which lie outside the greenways boundary.

Section 2: Repeals s. 253.787, F.S., the Florida Greenways Coordinating Council.

Section 3: Amends s. 260.012, F.S., to provide that the Legislative intent is to include waterways in the statewide system of greenways and trails.

Section 4: Amends s. 260.013, F.S., to redefine "designation" to include waterways as a part of the statewide system of greenways and trails pursuant to a formal public process and written consent of the landowner and provide that mapping of waterways does not constitute designation.

Section 5: Amends s. 260.014, F.S. to provide that greenways may be located on waterways; mapping waterways shall not constitute designation and no waterways may be designated without the written consent of the landowner.

Section 6: Creates s. 260.0142, F.S., to establish the Florida Greenways and Trails Council within the Department of Environmental Protection and provide criteria for the Council's membership, powers, compensation and duties.

Section 7: Amends s. 260.16, F.S., to expand the required duties of the department as related to greenways and allows the department to enter into agreements with any entity for management of the greenways. This section eliminates the provision that the fees collected for rentals for the use of or operation of facilities are to be deposited into the State Park Trust Fund. Moreover, this section eliminates the requirement that the department request information on current and potential railroad abandonments.

Under this section, the department is to develop a process for designation of waterways as part of the greenways system; and implement the plan for the Florida Greenways and Trails System as adopted by the Florida Greenways Coordinating Council on September 11, 1998.

This section also eliminates the Florida Recreational Trails Council.

Section 8: Amends s. 260.018, F.S., to provide that identification of waterways in planning materials shall not be cause for waterways to be subject to agency recognition under this section unless the waterways have been designated as a part of the statewide system or greenways and trails under s. 260.016(2)(d).

Section 9: Amends s. 288.1224, F.S., to correct references to agencies and councils.

Section 10: Establishes into Chapter Law that certain trails or waterways designated prior to May 30, 1998 shall be exempt from the designation process set forth in chapter 260, F.S., 1998 Supplement.

Section 11: Establishes into Chapter Law that the DEP and the Department of Agriculture and Consumer Services are to work together to provide a report to the Governor, the President of the Senate and the Speaker of the House of Representatives by February 1, 2000 regarding cattle dipping vats and also set forth the required contents of the report. This section was not incorporated into CS/CS/SB 908.

Section 12: Duplicative of section 11 above.

Section 13: This act is to take effect upon becoming a law.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Department of Environmental Protection estimates an annual savings of approximately \$2,000 in travel expenses, supplies, time and services due to elimination of meetings and administration of two separate councils.

3. Long Run Effects Other Than Normal Growth:

Indeterminate

4. Total Revenues and Expenditures:

Indeterminate

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 22, 1999, two amendments were adopted on the House floor. First, a strike everything amendment that was traveling with this bill was adopted.

Second, an amendment to the amendment was adopted which provided that the DEP and the Department of Agriculture and Consumer Services are to work together to provide a report to the Governor, the President of the Senate and the Speaker of the House of Representatives regarding cattle dipping vats and also set forth the required contents of the report.

VIII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Christine Hoke

Staff Director:

Wayne S. Kiger

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Cynthia P. Kelly

Staff Director:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

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Wayne S. Kiger