

By Representative Dockery

1 A bill to be entitled
 2 An act relating to greenways and trails;
 3 amending s. 253.7825, F.S.; providing acreage
 4 requirements for a horse park-agricultural
 5 center; repealing s. 253.787, F.S., relating to
 6 the Florida Greenways Coordinating Council;
 7 creating s. 260.0142, F.S.; creating the
 8 Florida Greenways and Trails Council within the
 9 Department of Environmental Protection;
 10 providing for appointment, membership, powers,
 11 and duties; amending s. 260.016, F.S.; deleting
 12 reference to the Florida Recreational Trails
 13 Council; revising powers of the Department of
 14 Environmental Protection; amending ss. 260.0125
 15 and 260.018, F.S.; correcting cross references;
 16 providing an effective date.

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 18 Be It Enacted by the Legislature of the State of Florida:

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 20 Section 1. Paragraph (a) of subsection (4) of section
 21 253.7825, Florida Statutes is amended to read:

22 253.7825 Recreational uses.--

23 (4)(a) A horse park-agricultural center may be
 24 constructed by or on behalf of the Florida Department of
 25 Agriculture and Consumer Services on not more than 500 ~~250~~
 26 acres of former canal lands ~~which meet the criteria for~~
 27 ~~surplus lands and which lie outside the greenways boundary.~~

28 Section 2. Section 253.787, Florida Statutes, is
 29 repealed.

30 Section 3. Section 260.0142, Florida Statutes, is
 31 created to read:

1 260.0142 Florida Greenways and Trails Council created;
2 composition of council; powers and duties.--

3 (1) There is hereby created within the Department of
4 Environmental Protection the Florida Greenways and Trails
5 Council which shall advise the department in the execution of
6 the department's powers and duties under this chapter. The
7 council shall be composed of 21 members, consisting of:

8 (a) Five members appointed by the Governor, with two
9 members representing the trail user community, two members
10 representing the greenway user community, and one member
11 representing landowners. Of the initial appointments, two
12 shall be appointed for 2-year terms and three shall be
13 appointed for 1-year terms. Subsequent appointments shall be
14 for 2-year terms.

15 (b) Three members appointed by the President of the
16 Senate, with one member representing the trail user community
17 and two members representing the greenway user community. Of
18 the initial appointments, two shall be appointed for 2-year
19 terms and one shall be appointed for a 1-year term. Subsequent
20 appointments shall be for 2-year terms.

21 (c) Three members appointed by the Speaker of the
22 House of Representatives, with two members representing the
23 trail user community and one member representing the greenway
24 user community. Of the initial appointments, two shall be
25 appointed for 2-year terms and one shall be appointed for a
26 1-year term. Subsequent appointments shall be for 2-year
27 terms.

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29 Those eligible to represent the trail user community shall be
30 chosen from, but not be limited to, paved trail users, hikers,
31 off-road bicyclists, paddlers, equestrians, disabled outdoor

1 recreational users, and commercial recreational interests.
2 Those eligible to represent the greenway user community shall
3 be chosen from, but not be limited to, conservation
4 organizations, nature study organizations, and scientists and
5 university experts.
6 (d) The ten remaining members shall include:
7 1. The Secretary of Environmental Protection or a
8 designee;
9 2. The executive director of the Fish and Wildlife
10 Conservation Commission or a designee;
11 3. The Secretary of Community Affairs or a designee;
12 4. The Secretary of Transportation or a designee;
13 5. The Director of the Division of Forestry of the
14 Department of Agriculture and Consumer Services or a designee;
15 6. The director of the Division of Historical
16 Resources of the Department of State or a designee;
17 7. A representative of the water management districts
18 who shall serve for 1 year. Membership on the council shall
19 rotate among the five districts. The districts shall
20 determine the order of rotation;
21 8. A representative of a federal land management
22 agency. The Secretary of Environmental Protection shall
23 identify the appropriate federal agency and request
24 designation of a representative from the agency to serve on
25 the council;
26 9. A representative of the regional planning councils
27 to be appointed by the Secretary of Environmental Protection,
28 in consultation with the Secretary of Community Affairs, for a
29 single 2-year term. The representative cannot be selected
30 from the same regional planning council for successive terms;
31 and

1 10. A representative of local governments to be
2 appointed by the Secretary of Environmental Protection, in
3 consultation with the Secretary of Community Affairs, for a
4 single 2-year term. Membership shall alternate between a
5 county representative and a municipal representative.

6 (2) The department shall provide necessary staff
7 assistance to the council.

8 (3) The council is authorized to contract for and to
9 accept gifts, grants, loans, or other aid from the United
10 States Government or any person or corporation.

11 (4) The duties of the council shall include, but not
12 be limited to, the following:

13 (a) Advise the Department of Environmental Protection,
14 the Department of Community Affairs, the Department of
15 Transportation, the Fish and Wildlife Conservation Commission,
16 the Division of Forestry of the Department of Agriculture and
17 Consumer Services, the water management districts, and the
18 regional planning councils on policies relating to the Florida
19 Greenways and Trails System, and promote intergovernmental
20 cooperation;

21 (b) Facilitate a statewide system of interconnected
22 land-based trails that connect urban, suburban, and rural
23 areas of the state and facilitate expansion of the statewide
24 system of freshwater and saltwater paddling trails;

25 (c) Recommend priorities for critical links in the
26 Florida Greenways and Trails System;

27 (d) Review applications for acquisition funding under
28 the Florida Greenways and Trails Program and recommend to the
29 Secretary of Environmental Protection which projects should be
30 acquired;

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- 1 (e) Provide recommendations to those agencies and
2 organizations which fund acquisition, development, and
3 management of lands and promote private landowner incentives;
4 (f) Review designation proposals for inclusion in the
5 Florida Greenways and Trails System;
6 (g) Provide advocacy and education to benefit the
7 statewide system of greenways and trails by encouraging
8 communication and conferencing;
9 (h) Encourage public-private partnerships;
10 (i) Review progress toward meeting established
11 benchmarks and recommend appropriate action;
12 (j) Make recommendations for updating and revising the
13 implementation plan for the Florida Greenways and Trails
14 System;
15 (k) Advise the Land Acquisition and Management
16 Advisory Council or its successor to ensure the incorporation
17 of trails in land management plans on lands managed by the
18 Department of Environmental Protection, the Fish and Wildlife
19 Conservation Commission, the Division of Historical Resources
20 of the Department of State, and the Division of Forestry of
21 the Department of Agriculture and Consumer Services;
22 (l) Provide advice and assistance to the Department of
23 Transportation and the water management districts regarding
24 the incorporation of trails into their planning efforts;
25 (m) Encourage land use, environmental, and coordinated
26 linear infrastructure planning to facilitate the
27 implementation of local, regional, and statewide greenways and
28 trails systems;
29 (n) Promote greenways and trails support
30 organizations; and
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1 (o) Support the Florida Greenways and Trails System in
2 any other appropriate way.

3 (5) The council shall determine who shall serve as
4 chair through its operating procedures. The council shall
5 meet at the call of the chair, or at such times as may be
6 prescribed by its operating procedures. The council may
7 establish committees to conduct the work of the council and
8 the committees may include nonmembers as appropriate.

9 (6) A vacancy in the council shall be filled for the
10 remainder of the unexpired term in the same manner as the
11 original appointment. Members whose terms have expired may
12 continue to serve until replaced or reappointed. No member
13 shall serve on the council for more than two consecutive
14 terms.

15 (7) Members of the council shall not receive any
16 compensation for their services but shall be entitled to
17 receive reimbursement for per diem and travel expenses
18 incurred in the performance of their duties, as provided in s.
19 112.061.

20 Section 4. Section 260.016, Florida Statutes, 1998
21 Supplement, is amended, to read:

22 260.016 General powers of the department.--

23 (1) The department shall ~~may~~:

24 (a) Publish and distribute appropriate maps of
25 designated greenways and trails. The description shall include
26 a generalized map delineating the area designated, location of
27 suitable ingress and egress sites, as well as other points of
28 interest to enhance the recreational opportunities of the
29 public.

30 (b) Establish access routes and related public-use
31 facilities along greenways and trails which will not

1 substantially interfere with the nature and purposes of the
2 greenway or trail.

3 (c) Adopt appropriate rules to implement or interpret
4 this act and portions of chapter 253 relating to greenways and
5 trails, which may include, but are not limited to, rules for
6 the following:

7 1. Establishing a designation process.

8 2. Negotiating and executing agreements with private
9 landowners.

10 3. Establishing prohibited activities or restrictions
11 on activities to protect the health, safety, and welfare of
12 the public.

13 4. Charging fees for use.

14 5. Providing public access.

15 6. Providing for maintenance.

16 7. Any matter necessary to the evaluation, selection,
17 operation, and maintenance of greenways and trails.

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19 Any person who violates or otherwise fails to comply with the
20 rules adopted pursuant to subparagraph 3. commits a
21 noncriminal infraction for which a fine of up to \$500 may be
22 imposed.

23 (d) Coordinate the activities of all governmental
24 units and bodies and special districts that desire to
25 participate in the development and implementation of the
26 Florida Greenways and Trails System.

27 ~~(e) Appoint an advisory body to be known as the~~
28 ~~"Florida Recreational Trails Council" which shall advise the~~
29 ~~department in the execution of its powers and duties under~~
30 ~~this chapter. The department may establish by rule the~~
31 ~~duties, structure, and responsibilities of the council.~~

1 ~~Members of the Florida Recreational Trails Council shall serve~~
2 ~~without compensation, but are entitled to be reimbursed for~~
3 ~~per diem and travel expenses as provided in s. 112.061.~~

4 (e)(f) Establish, develop, and publicize greenways and
5 trails saltwater paddling trails in a manner that will permit
6 public recreation when appropriate without damaging natural
7 resources. The Big Bend Historic Saltwater Paddling Trail from
8 the St. Marks River to the Suwannee River is hereby designated
9 as part of the Florida Greenways and Trails System. Additions
10 to this trail may be added by the department from time to time
11 as part of a statewide saltwater circumnavigation trail.

12 (f)(g) Enter into sublease agreements or other use
13 agreements with any federal, state, or local governmental
14 agency, or any other entity local governmental agencies for
15 the management of greenways and trails for recreation and
16 conservation purposes consistent with the intent of this
17 chapter.

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

24 (g)(i) Charge reasonable fees or rentals for the use
25 or operation of facilities and concessions. All such fees,
26 rentals, or other charges collected shall be deposited in the
27 account or trust fund of the managing entity. ~~All such fees,~~
28 ~~rentals, or other charges collected by the Division of~~
29 ~~Recreation and Parks under this paragraph shall be deposited~~
30 ~~in the State Park Trust Fund pursuant to s. 258.014.~~

31 ~~(2) The department shall:~~

1 (h)~~(a)~~ Evaluate lands for the acquisition of greenways
2 and trails and compile a list of suitable corridors,
3 greenways, and trails, ranking them in order of priority for
4 proposed acquisition. The department shall devise a method of
5 evaluation which includes, but is not limited to, the
6 consideration of:

7 1. The importance and function of such corridors
8 within the statewide system.

9 2. Potential for local sharing in the acquisition,
10 development, operation, or maintenance of greenway and trail
11 corridors.

12 3. Costs of acquisition, development, operation, and
13 maintenance.

14 (i)~~(b)~~ Maintain an updated list of abandoned and
15 to-be-abandoned railroad rights-of-way. ~~The department shall~~
16 ~~request information on current and potential railroad~~
17 ~~abandonments from the Department of Transportation and~~
18 ~~railroad companies operating within the state. At a minimum,~~
19 ~~the department shall make such requests on a quarterly basis.~~

20 (j)~~(c)~~ Provide information to public and private
21 agencies and organizations on abandoned rail corridors which
22 are or will be available for acquisition from the railroads or
23 for lease for interim recreational use from the Department of
24 Transportation. ~~Such information shall include, at a minimum,~~
25 ~~probable costs of purchase or lease of the identified~~
26 ~~corridors.~~

27 (k)~~(d)~~ Develop and implement a process for designation
28 of lands and waterways as a part of the statewide system of
29 greenways and trails, which shall include:

30 1. Development and dissemination of criteria for
31 designation.

1 2. Development and dissemination of criteria for
2 changes in the terms or conditions of designation, including
3 withdrawal or termination of designation. A landowner may have
4 his or her property removed from designation by providing the
5 department with a written request that contains an adequate
6 description of such lands to be removed. Provisions shall be
7 made in the designation agreement for disposition of any
8 future improvements made to the land by the department.

9 3. Compilation of available information on and field
10 verification of the characteristics of the lands or waterways
11 as they relate to the developed criteria.

12 4. Public notice pursuant to s. 120.525 in all phases
13 of the process.

14 5. Actual notice to the landowner by certified mail at
15 least 7 days before any public meeting regarding the
16 department's intent to designate.

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

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

26 (1) Implement the plan for the Florida Greenways and
27 Trails System as adopted by the Florida Greenways Coordinating
28 Council on September 11, 1998.

29 ~~(2)(3)~~ The department or its designee is authorized to
30 negotiate with potentially affected private landowners as to
31 the terms under which such landowners would consent to the

1 public use of their lands as part of the greenways and trails
2 system. The department shall be authorized to agree to
3 incentives for a private landowner who consents to this public
4 use of his or her lands for conservation or recreational
5 purposes, including, but not limited to, the following:

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

11 (b) Agreement to exchange, subject to the approval of
12 the Board of Trustees of the Internal Improvement Trust Fund
13 or other applicable unit of government, ownership or other
14 rights of use of public lands for the ownership or other
15 rights of use of privately owned property. Any exchange of
16 state-owned lands, title to which is vested in the Board of
17 Trustees of the Internal Improvement Trust Fund, for privately
18 owned lands shall be subject to the requirements of s.
19 259.041.

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

22 (d) At the option of the landowner, acceleration of
23 the acquisition process or higher consideration in the ranking
24 process when any lands owned by the landowner are under
25 consideration for acquisition by the state or other unit of
26 government.

27 (e) At the option of the landowner, removal of any
28 lands owned by the landowner from consideration for acquisition
29 by the state or other unit of government.

30 (f) Execution of patrol and protection agreements.
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1 (g) Where applicable and appropriate, providing lease
2 fees, not to exceed fair market value of the leasehold
3 interest.

4 Section 5. Paragraph (a) of subsection (1) and
5 subsections (2) and (6) of section 260.0125, Florida Statutes,
6 1998 Supplement, are amended to read:

7 260.0125 Limitation on liability of private landowners
8 whose property is designated as part of the statewide system
9 of greenways and trails.--

10 (1)(a) A private landowner whose land is designated as
11 part of the statewide system of greenways and trails pursuant
12 to s. 260.016(1)(k)~~(2)(d)~~, including a person holding a
13 subservient interest, owes no duty of care to keep that land
14 safe for entry or use by others or to give warning to persons
15 entering that land of any hazardous conditions, structures, or
16 activities thereon. Such landowner shall not:

17 1. Be presumed to extend any assurance that such land
18 is safe for any purpose;

19 2. Incur any duty of care toward a person who goes on
20 the land; or

21 3. Become liable or responsible for any injury to
22 persons or property caused by the act or omission of a person
23 who goes on the land.

24 (2) Any private landowner who consents to designation
25 of his or her land as part of the statewide system of
26 greenways and trails pursuant to s. 260.016(1)(k)~~(2)(d)~~
27 without compensation shall be considered a volunteer, as
28 defined in s. 110.501, and shall be covered by state liability
29 protection pursuant to s. 768.28, including s. 768.28(9).

30 (6) If agreed to by the department and the landowner
31 in the designation agreement, a landowner whose land is

1 designated as part of the statewide system of greenways and
2 trails pursuant to s. 260.016(1)(k)~~(2)(d)~~ shall be indemnified
3 for:

4 (a) Any injury or damage incurred by a third party
5 arising out of the use of the designated greenway or trail;

6 (b) Any injury or damage incurred by a third party on
7 lands adjacent to and accessed through the designated greenway
8 or trail; and

9 (c) Any damage to the landowner's property, including
10 land adjacent to and accessed through the designated greenway
11 or trail, caused by the act or omission of a third person
12 resulting from any use of the land so designated.

13 Section 6. Section 260.018, Florida Statutes, 1998
14 Supplement, is amended to read:

15 260.018 Agency recognition.--All agencies of the
16 state, regional planning councils through their comprehensive
17 plans, and local governments through their local comprehensive
18 planning process pursuant to chapter 163 shall recognize the
19 special character of publicly owned lands and waters
20 designated by the state as greenways and trails and shall not
21 take any action which will impair their use as designated.
22 Identification of lands in planning materials, maps, data, and
23 other information developed or used in the greenways and
24 trails program shall not be cause for such lands to be subject
25 to this section, unless such lands have been designated as a
26 part of the statewide system or greenways and trails pursuant
27 to s. 260.016(1)(k)~~(2)(d)~~.

28 Section 7. This act shall take effect upon becoming a
29 law.

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HOUSE SUMMARY

Creates the Florida Greenways and Trails Council within the Department of Environmental Protection under the Florida Greenways and Trails Act. Deletes reference to the Florida Greenways Coordinating Council and the Florida Recreational Trails Council. See bill for details.