

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2156

SPONSOR: Natural Resources Committee and Senator Saunders

SUBJECT: The Florida Restoration Act

DATE: March 30, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gee	Voigt	NR	Favorable/CS
2.			FP	
3.				
4.				
5.				

## I. Summary:

This bill creates the Florida Everglades Restoration Act to finance project components of the Comprehensive Review Study of the Central and Southern Project (Restudy) through the issuance of bonds. Funds from bond sales will be used by the South Florida Water Management District (SFWMD) for the projects. It provides criteria for projects, provides for payment of debt service on bonds, and sets limitations on the transfer of tax revenues to the Florida Restoration Trust Fund.

This bill creates s. 259.202 and amends s. 201.15 of the Florida Statutes.

## II. Present Situation:

The Central and Southern Florida Project for Flood Control and Other Purposes (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 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 response 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. In 1929 the 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; 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 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 SFWMD, to serve as the local sponsor for the project.

Subsequent modifications have been made to the 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 purpose. 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.

Although modifications have been made to the project over the last 50 years, the Central and Southern Florida Project Comprehensive Review Study (Restudy) is perhaps the first effort to fundamentally reevaluate the overall design of the project since its inception. The current estimated cost for implementing all Restudy project components is \$7.8 billion: as local sponsor for the Restudy, the SFWMD will be responsible for 50 percent of the cost, or \$3.9 billion. Annual monitoring costs during the construction period are estimated to be \$10 million and annual operation and maintenance costs, when all Restudy project components are constructed, are estimated to be \$165 million.

In the 1992 Water Resources Development Act, the U. S. Congress authorized the Restudy. The purpose of the Restudy is to develop modifications to the 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 SFWMD are the primary participants. Other principal participants in the Restudy effort include:

- Federal
  - Environmental Protection Agency (EPA)
  - National Park Service
  - National Marine Fisheries Service
  - National 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 have also participated.

The Restudy includes three primary phases:

- Reconnaissance phase. The purpose of the reconnaissance phase was to identify problems and opportunities, formulate a set of initial alternatives, and determine if further detailed studies were warranted. This phase was completed in November 1994 with the issuance of the Central and Southern Florida Project/Reconnaissance Report/Comprehensive Review Study, which included a recommendation to proceed with the Feasibility Phase.
- Feasibility phase. The primary purpose of the feasibility phase is to develop a comprehensive plan for modifying the project. This phase will conclude with submitting to Congress a Final Feasibility Report that includes the recommended comprehensive plan. A draft feasibility report issued October 13, 1998, is to be finalized by April 1999 and submitted to Congress no later than July 1, 1999.
- Implementation phase. Once the final feasibility report is submitted to Congress, several actions must occur before any project components are constructed. First, Congress must specifically authorize project components in the Water Resources Development Act (adopted in even-numbered years) prior to any additional action. At its discretion, Congress may authorize one or more project components. Once a project component is authorized, a

detailed design and environmental impact statement must be completed; in addition, the SFWMD and the Corps must enter into a Project Cooperation Agreement (PAC) for the design, construction, and operation of any authorized project components. Once the PCA is executed and prior to initiation of construction, Congress must specifically appropriate funds for the authorized project components.

(The information presented above was excerpted from a 1998 interim project report by staff of the Joint Legislative Committee on Everglades Oversight entitled “A Review of the Restudy of the Central and Southern Florida Project For Flood Control and Other Purposes”).

### **III. Effect of Proposed Changes:**

Section 1. Section 259.202, F.S., is created to provide for the Florida Everglades Restoration Act. This section provides findings as follows:

- Human alteration of Florida’s natural landscape has interfered with the ability of the Everglades’ lakes, wetlands, and estuarine systems to retain or convey water or remove nutrients and sediments from water.
- The South Florida region’s continued growth and economic well-being depend on managing aquatic systems to hold and release rainfall for environmental, agricultural, industrial, and clean drinking water purposes; to support abundant native fish, wildlife, and plant communities; and to enhance aesthetic and recreational uses.
- Restoration of the damaged ecosystem, including water flow and retention, hydroperiod, nutrient, and sediment removal will be undertaken as part of the Restudy, pending available funds.
- Implementation of the Restudy is projected to require several billion dollars in matching funds from state sources.
- Public financing for restoration activities is equitably achieved with bonds as approved in the 1998 revision to s. 11(e), Art. VII of the State Constitution.
- Environmental restoration bonds are an appropriate and necessary method of financing aquatic systems restoration and the state share of Everglades restoration activities, and the Legislature intends that the Florida Everglades Restoration Act be financed through the issuance of bonds.

The bill provides that, for purposes of the act, “restudy project component” means any structural or operational change, resulting from the Comprehensive Review Study of the Central and Southern Florida Project, to the Central and Southern Florida Project as it existed and was operated as of January 1, 1999, and for which federal participation was authorized by the federal Water Resources Development Acts of 1992 and 1996, together with related congressional resolutions.

The bill provides that, less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, bond proceeds will be deposited into the Florida Everglades Restoration Trust Fund created by s. 375.046, F.S. The DEP will release funds from the trust fund to the SFWMD following receipt of a resolution adopted by the governing board which identifies and justifies the costs of the restudy project component to be funded. The Secretary of the DEP may withhold moneys for any restudy project component for which the costs are not identified and justified. The governing board may appeal any denial to the Land and Water Adjudicatory Commission under s. 373.114, F.S.

Bond proceeds may only be spent on Restudy project components meeting at least one of the following criteria:

- Projects that are joint federal-state partnerships with project plans reflecting cost-share with federal or local governments.
- Projects to restore natural water flows, retain seasonal flows, release impounded water, or improve a system's ability to remove nutrients and sediments.
- Projects that restore freshwater flows to major estuarine systems including Florida Bay and Biscayne Bay.
- Projects that have a goal of restoring native plant and animal communities.
- Projects that meet one or more of the provisions of s. 11(e), Art. VII of the State Constitution.

The funds provided by this act may not be used for any restudy project component, or portion thereof, related to the treatment, transmission, or distribution of water for sale, resale, or end-use to consumers.

Section 2. Section 201.15, F.S., is amended to provide for debt service for bonds issued pursuant to the act to be paid from documentary stamp tax proceeds. The amount of such proceeds that may be transferred to the Florida Everglades Restoration Trust Fund may not exceed \$10 million in FY 2000-2001 and escalates by \$10 million each year until it reaches \$100 million in FY 2009-2010 and thereafter.

The bill prohibits an individual series of bonds from being issued unless the first year's debt service for the bonds is specifically appropriated in the General Appropriations Act. Moneys transferred to the Florida Everglades Restoration Trust Fund, or earnings thereon, may not be used or made available to pay debt service on the Save Our Coast revenue bonds.

Section 3. The act takes effect July 1, 2000.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The South Florida region's continued growth and economic well-being depend on managing aquatic systems to hold and release rainfall for environmental, agricultural, industrial, and clean drinking water purposes; to support abundant native fish, wildlife, and plant communities; and to enhance aesthetic and recreational uses.

## C. Government Sector Impact:

The bill will authorize the diversion of \$10 million in documentary stamp tax revenues from the General Revenue Fund into the Florida Everglades Restoration Trust Fund in FY 2000-2001. That amount may escalate by \$10 million annually until reaching \$100 million in FY 2009-2010 and thereafter.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Office of Economic and Demographic Research has analyzed whether documentary stamp tax proceeds will be sufficient to support a new \$400 million bond program while continuing to pay debt service on P-2000 bonds. P-2000 bonds require a 150 percent coverage factor at all times, as would any new programs. The office reports that its analysis indicates that the revenue stream in the current (P-2000) indenture under which Florida Forever bonds would be issued is not

adequate to sustain a \$400 million level of annual debt issues. Its analysis is based on the belief that even a short, shallow recession, during the period 2009-2010 to 2012-2013, accompanied by an increase in the interest rates that will be required to sell these bonds - a reasonable expectation given the projected rapid erosion of coverage and the highly cyclical nature of this revenue source - is sufficient to create a coverage problem.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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