

By the Committee on Natural Resources and Senator Sullivan

312-2000-99

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 amending s. 260.012, F.S.; clarifying
 8 legislative intent; amending s. 260.013, F.S.;
 9 clarifying definitions; creating s. 260.0142,
 10 F.S.; creating the Florida Greenways and Trails
 11 Council within the Department of Environmental
 12 Protection; providing for appointment,
 13 membership, powers, and duties; amending s.
 14 260.016, F.S.; deleting reference to the
 15 Florida Recreational Trails Council; revising
 16 powers of the Department of Environmental
 17 Protection; amending s. 260.018, F.S.;
 18 correcting cross-references; amending s.
 19 288.1224, F.S.; providing conforming language;
 20 providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:
 23

24 Section 1. Paragraph (a) of subsection (4) of section
 25 253.7825, Florida Statutes, is amended to read:

26 253.7825 Recreational uses.--

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

1 Section 2. Section 253.787, Florida Statutes, is
2 repealed.

3 Section 3. Subsections (2), (3), and (4) of section
4 260.012, Florida Statutes, 1998 Supplement, are amended to
5 read:

6 260.012 Declaration of policy and legislative
7 intent.--

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

29 (3) It is the intent of the Legislature that
30 designated greenways and trails be located on public lands and
31 waterways and, subject to the written agreement of the private

1 landowner, on private lands. Designated greenways and trails
2 located on public lands or waterways or on private lands may
3 or may not provide public access, as agreed by the department
4 or the landowner, respectively.

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

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

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

16 Section 4. Subsection (3) of section 260.013, Florida
17 Statutes, 1998 Supplement, is amended to read:

18 260.013 Definitions.--As used in ss. 260.011-260.018,
19 unless the context otherwise requires:

20 (3) "Designation" means the identification and
21 inclusion of specific lands and waterways as part of the
22 statewide system of greenways and trails pursuant to a formal
23 public process, including the specific written consent of the
24 landowner. When the department determines that public access
25 is appropriate for greenways and trails, written authorization
26 must be granted by the landowner to the department permitting
27 public access to all or a specified part of the landowner's
28 property. The department's determination shall be noticed
29 pursuant to s. 120.525, and the department shall also notify
30 the landowner by certified mail at least 7 days before any
31 public meeting regarding the intent to designate.

1 Section 5. Section 260.014, Florida Statutes, 1998
2 Supplement, is amended to read:

3 260.014 Florida Greenways and Trails System.--The
4 Florida Greenways and Trails System shall be a statewide
5 system of greenways and trails which shall consist of
6 individual greenways and trails and networks of greenways and
7 trails which may be designated as a part of the statewide
8 system by the department. Mapping or other forms of
9 identification of lands and waterways as suitable for
10 inclusion in the system of greenways and trails, mapping of
11 ecological characteristics for any purpose, or development of
12 information for planning purposes shall not constitute
13 designation. No lands or waterways may be designated as a part
14 of the statewide system of greenways and trails without the
15 specific written consent of the landowner.

16 Section 6. Section 260.0142, Florida Statutes, is
17 created to read:

18 260.0142 Florida Greenways and Trails Council created;
19 composition of council; powers and duties.--

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

25 (a) Five members appointed by the Governor, with two
26 members representing the trail user community, two members
27 representing the greenway user community, and one member
28 representing private landowners. Of the initial appointments,
29 two shall be appointed for 2-year terms and three shall be
30 appointed for 1-year terms. Subsequent appointments shall be
31 for 2-year terms.

1 (b) Three members appointed by the President of the
2 Senate, with one member representing the trail user community
3 and two members representing the greenway user community. Of
4 the initial appointments, two shall be appointed for 2-year
5 terms and one shall be appointed for a 1-year term. Subsequent
6 appointments shall be for 2-year terms.

7 (c) Three members appointed by the Speaker of the
8 House of Representatives, with two members representing the
9 trail user community and one member representing the greenway
10 user community. Of the initial appointments, two shall be
11 appointed for 2-year terms and one shall be appointed for a
12 1-year term. Subsequent appointments shall be for 2-year
13 terms.

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15 Those eligible to represent the trail user community shall be
16 chosen from, but not be limited to, paved trail users, hikers,
17 off-road bicyclists, paddlers, equestrians, disabled outdoor
18 recreational users, and commercial recreational interests.

19 Those eligible to represent the greenway user community shall
20 be chosen from, but not be limited to, conservation
21 organizations, nature study organizations, and scientists and
22 university experts.

23 (d) The 10 remaining members shall include:

24 1. The Secretary of Environmental Protection or a
25 designee;

26 2. The executive director of the Fish and Wildlife
27 Conservation Commission or a designee;

28 3. The Secretary of Community Affairs or a designee;

29 4. The Secretary of Transportation or a designee;

30 5. The director of the Division of Forestry of the
31 Department of Agriculture and Consumer Services or a designee;

1 6. The director of the Division of Historical
2 Resources of the Department of State or a designee;

3 7. A representative of the water management districts
4 who shall serve for 1 year. Membership on the council shall
5 rotate among the five districts. The districts shall
6 determine the order of rotation;

7 8. A representative of a federal land management
8 agency. The Secretary of Environmental Protection shall
9 identify the appropriate federal agency and request
10 designation of a representative from the agency to serve on
11 the council;

12 9. A representative of the regional planning councils
13 to be appointed by the Secretary of Environmental Protection,
14 in consultation with the Secretary of Community Affairs, for a
15 single 2-year term. The representative cannot be selected
16 from the same regional planning council for successive terms;
17 and

18 10. A representative of local governments to be
19 appointed by the Secretary of Environmental Protection, in
20 consultation with the Secretary of Community Affairs, for a
21 single 2-year term. Membership shall alternate between a
22 county representative and a municipal representative.

23 (2) The department shall provide necessary staff
24 assistance to the council.

25 (3) The council is authorized to contract for and to
26 accept gifts, grants, or other aid from the United States
27 Government or any person or corporation.

28 (4) The duties of the council include, but are not
29 limited to:

30 (a) Advising the Department of Environmental
31 Protection, the Department of Community Affairs, the

1 Department of Transportation, the Fish and Wildlife
2 Conservation Commission, the Division of Forestry of the
3 Department of Agriculture and Consumer Services, the water
4 management districts, and the regional planning councils on
5 policies relating to the Florida Greenways and Trails System,
6 and promoting intergovernmental cooperation;

7 (b) Facilitating a statewide system of interconnected
8 landscape linkages, conservation corridors, greenbelts,
9 recreational corridors and trails, scenic corridors,
10 utilitarian corridors, reserves, regional parks and preserves,
11 ecological sites, and cultural/historic/recreational sites;

12 (c) Facilitating a statewide system of interconnected
13 land-based trails that connect urban, suburban, and rural
14 areas of the state and facilitating expansion of the statewide
15 system of freshwater and saltwater paddling trails;

16 (d) Recommending priorities for critical links in the
17 Florida Greenways and Trails System;

18 (e) Reviewing applications for acquisition funding
19 under the Florida Greenways and Trails Program and
20 recommending to the Secretary of Environmental Protection
21 which projects should be acquired;

22 (f) Providing funding recommendations to agencies and
23 organizations regarding the acquisition, development, and
24 management of greenways and trails, including the promotion of
25 private landowner incentives;

26 (g) Reviewing designation proposals for inclusion in
27 the Florida Greenways and Trails System;

28 (h) Providing advocacy and education to benefit the
29 statewide system of greenways and trails by encouraging
30 communication and conferencing;

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1 (i) Encouraging public-private partnerships to develop
2 and manage greenways and trails;

3 (j) Reviewing progress toward meeting established
4 benchmarks and recommending appropriate action;

5 (k) Making recommendations for updating and revising
6 the implementation plan for the Florida Greenways and Trails
7 System;

8 (l) Advising the Land Acquisition and Management
9 Advisory Council or its successor to ensure the incorporation
10 of greenways and trails in land management plans on lands
11 managed by the Department of Environmental Protection, the
12 Fish and Wildlife Conservation Commission, the Division of
13 Historical Resources of the Department of State, and the
14 Division of Forestry of the Department of Agriculture and
15 Consumer Services;

16 (m) Providing advice and assistance to the Department
17 of Transportation and the water management districts regarding
18 the incorporation of greenways and trails into their planning
19 efforts;

20 (n) Encouraging land use, environmental, and
21 coordinated linear infrastructure planning to facilitate the
22 implementation of local, regional, and statewide greenways and
23 trails systems;

24 (o) Promoting greenways and trails support
25 organizations; and

26 (p) Supporting the Florida Greenways and Trails System
27 in any other appropriate way.

28 (5) The council shall establish procedures for
29 conducting its affairs in execution of the duties and
30 responsibilities stated in this section, which operating
31 procedures shall include determination of a council chair and

1 other appropriate operational guidelines. The council shall
2 meet at the call of the chair, or at such times as may be
3 prescribed by its operating procedures. The council may
4 establish committees to conduct the work of the council, and
5 the committees may include nonmembers as appropriate.

6 (6) A vacancy in the council shall be filled for the
7 remainder of the unexpired term in the same manner as the
8 original appointment. Members whose terms have expired may
9 continue to serve until replaced or reappointed. A member may
10 not serve on the council for more than two consecutive terms.

11 (7) Members of the council shall not receive any
12 compensation for their services but are entitled to receive
13 reimbursement for per diem and travel expenses incurred in the
14 performance of their duties, as provided in s. 112.061.

15 Section 7. Section 260.016, Florida Statutes, 1998
16 Supplement, is amended to read:

17 260.016 General powers of the department.--

18 (1) The department may:

19 (a) Publish and distribute appropriate maps of
20 designated greenways and trails. The description shall include
21 a generalized map delineating the area designated, location of
22 suitable ingress and egress sites, as well as other points of
23 interest to enhance the recreational opportunities of the
24 public.

25 (b) Establish access routes and related public-use
26 facilities along greenways and trails which will not
27 substantially interfere with the nature and purposes of the
28 greenway or trail.

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

- 3 1. Establishing a designation process.
- 4 2. Negotiating and executing agreements with private
5 landowners.
- 6 3. Establishing prohibited activities or restrictions
7 on activities to protect the health, safety, and welfare of
8 the public.
- 9 4. Charging fees for use.
- 10 5. Providing public access.
- 11 6. Providing for maintenance.
- 12 7. Any matter necessary to the evaluation, selection,
13 operation, and maintenance of greenways and trails.

14
15 Any person who violates or otherwise fails to comply with the
16 rules adopted pursuant to subparagraph 3. commits a
17 noncriminal infraction for which a fine of up to \$500 may be
18 imposed.

19 (d) Coordinate the activities of all governmental
20 units and bodies and special districts that desire to
21 participate in the development and implementation of the
22 Florida Greenways and Trails System.

23 ~~(e) Appoint an advisory body to be known as the~~
24 ~~"Florida Recreational Trails Council" which shall advise the~~
25 ~~department in the execution of its powers and duties under~~
26 ~~this chapter. The department may establish by rule the~~
27 ~~duties, structure, and responsibilities of the council.~~
28 ~~Members of the Florida Recreational Trails Council shall serve~~
29 ~~without compensation, but are entitled to be reimbursed for~~
30 ~~per diem and travel expenses as provided in s. 112.061.~~

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

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

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

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

28 (2) The department shall:

29 (a) Evaluate lands for the acquisition of greenways
30 and trails and compile a list of suitable corridors,
31 greenways, and trails, ranking them in order of priority for

1 proposed acquisition. The department shall devise a method of
2 evaluation which includes, but is not limited to, the
3 consideration of:

4 1. The importance and function of such corridors
5 within the statewide system.

6 2. Potential for local sharing in the acquisition,
7 development, operation, or maintenance of greenway and trail
8 corridors.

9 3. Costs of acquisition, development, operation, and
10 maintenance.

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

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

24 (d) Develop and implement a process for designation of
25 lands and waterways as a part of the statewide system of
26 greenways and trails, which shall include:

27 1. Development and dissemination of criteria for
28 designation.

29 2. Development and dissemination of criteria for
30 changes in the terms or conditions of designation, including
31 withdrawal or termination of designation. A landowner may have

1 his or her lands ~~property~~ removed from designation by
2 providing the department with a written request that contains
3 an adequate description of such lands to be removed.

4 Provisions shall be made in the designation agreement for
5 disposition of any future improvements made to the land by the
6 department.

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

10 4. Public notice pursuant to s. 120.525 in all phases
11 of the process.

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

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

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

24 (e) Implement the plan for the Florida Greenways and
25 Trails System as adopted by the Florida Greenways Coordinating
26 Council on September 11, 1998.

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

1 incentives for a private landowner who consents to this public
2 use of his or her lands for conservation or recreational
3 purposes, including, but not limited to, the following:

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

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

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

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

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

28 (f) Execution of patrol and protection agreements.

29 (g) Where applicable and appropriate, providing lease
30 fees, not to exceed fair market value of the leasehold
31 interest.

1 Section 8. Section 260.018, Florida Statutes, 1998
2 Supplement, is amended to read:

3 260.018 Agency recognition.--All agencies of the
4 state, regional planning councils through their comprehensive
5 plans, and local governments through their local comprehensive
6 planning process pursuant to chapter 163 shall recognize the
7 special character of publicly owned lands and waters
8 designated by the state as greenways and trails and shall not
9 take any action which will impair their use as designated.
10 Identification of lands or waterways in planning materials,
11 maps, data, and other information developed or used in the
12 greenways and trails program shall not be cause for such lands
13 or waterways to be subject to this section, unless such lands
14 or waterways have been designated as a part of the statewide
15 system of ~~or~~ greenways and trails pursuant to s.
16 260.016(2)(d).

17 Section 9. Paragraph (a) of subsection (11) of section
18 288.1224, Florida Statutes, is amended to read:

19 288.1224 Powers and duties.--The commission:

20 (11) Shall create an advisory committee of the
21 commission which shall be charged with developing a regionally
22 based plan to protect and promote all of the natural, coastal,
23 historical, cultural, and commercial tourism assets of this
24 state.

25 (a) Members of the advisory committee shall be
26 appointed by the chair of the commission and shall include
27 representatives of the commission, the Departments of
28 Agriculture and Consumer Services, Environmental Protection,
29 Community Affairs, Transportation, and State, the Florida
30 Greenways and Trails Coordinating Council, the Fish and
31 Wildlife Conservation Commission ~~Florida Game and Freshwater~~

1 ~~Fish Commission~~, and, as deemed appropriate by the chair of
2 the commission, representatives from other federal, state,
3 regional, local, and private sector associations representing
4 environmental, historical, cultural, recreational, and
5 tourism-related activities.

6 (b) The advisory committee shall submit its plan to
7 the commission by December 1, 1997.

8 (c) The commission shall review and make
9 recommendations on the plan, including recommending any
10 legislation considered necessary for implementing the plan, to
11 the Legislature by January 1, 1998.

12 Section 10. The following trails located upon or
13 within public lands or waterways and designated prior to May
14 30, 1998, are not subject to the designation process
15 established in chapter 260, Florida Statutes, 1998 Supplement:
16 36 canoe trails designated by the Governor and Cabinet in 1970
17 and redesignated by the Governor and Cabinet on December 8,
18 1981; the Historic Big Bend Saltwater Paddling Trail;
19 Hillsborough River State Recreational Canoe Trail; and trails
20 located within state parks and forests.

21 Section 11. This act shall take effect upon becoming a
22 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 2336

4 The committee substitute increases the maximum size of a horse
5 park-agricultural center located on former Cross Florida Barge
6 Canal lands from not more than 250 acres to not more than 500
7 acres.

8 The bill now contains provisions specifically authorizing
9 waterways as part of the statewide system of greenways and
10 trails.

11 Appointments to the Florida Greenways and Trails Council have
12 been revised. Rather than 10 members appointed by the
13 Secretary of the DEP, the council will include the following
14 members:

- 15 1. The Secretary of Environmental Protection or a designee;
- 16 2. The Executive Director of the Fish and Wildlife
17 Conservation Commission or a designee;
- 18 3. The Secretary of Community Affairs or a designee;
- 19 4. The Secretary of Transportation or a designee;
- 20 5. The Director of the Division of Forestry of the
21 Department of Agriculture and Consumer Services or a
22 designee;
- 23 6. The Director of the Division of Historical Resources of
24 the Department of State or a designee;
- 25 7. A representative of the water management districts who
26 shall serve for 1 year. Membership on the council shall
27 rotate among the five districts. The districts shall
28 determine the order of rotation;
- 29 8. A representative of a federal land management agency.
30 The Secretary of Environmental Protection shall identify
31 the appropriate federal agency and request designation
of a representative from the agency to serve on the
council;
9. A representative of the regional planning councils to be
appointed by the Secretary of Environmental Protection,
in consultation with the Secretary of Community Affairs,
for a single 2-year term. The representative cannot be
selected from the same regional planning council for
successive terms; and
10. A representative of local governments to be appointed by
the Secretary of Environmental Protection, in
consultation with the Secretary of Community Affairs,
for a single 2-year term. Membership shall alternate
between a county representative and a municipal
representative.

As filed, the bill made certain duties currently required of

1 the Department of Environmental Protection discretionary.
2 These duties include evaluation of lands for greenways and
3 trails, maintenance of information regarding abandoned
4 railroad rights-of-way, providing public information regarding
5 abandoned rail corridor, and the development and
6 implementation of a process for designating lands as part of
7 the statewide system. The bill now requires these activities,
8 i.e., retains current law.

9 The committee substitute revises provisions directing the
10 Florida Commission on Tourism to create an advisory committee
11 to conform to current law, and provides that the following
12 trails located upon or within public lands or waterways and
13 designated prior to May 30, 1998 shall not be subject to the
14 designation process established in chapter 260, F.S., 1998
15 Supplement: thirty-six canoe trails designated by the Governor
16 and Cabinet in 1970 and redesignated by the Governor and
17 Cabinet on December 8, 1981; the Historic Big Bend Saltwater
18 Paddling Trail; Hillsborough River State Recreational Canoe
19 Trail; and trails located within state parks and forests.
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