

# 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 1694

SPONSOR: Natural Resources Committee and Senator Saunders

SUBJECT: Everglades Restoration and Funding

DATE: March 21, 2000 REVISED: \_\_\_\_\_

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

## I. Summary:

This bill creates the Everglades Investment and Accountability Act to fund Everglades restoration. It provides for the distribution of specified funds into the Everglades Restoration Reserve Trust Fund. The bill excludes Preservation 2000 Trust Fund distributions from time limitations on spending and provides for a redistribution of some existing funds. The bill also requires the South Florida Water Management District to take action to remove the Talisman Lower Ranch from agricultural production as soon as legally possible.

This bill amends ss. 201.15, 215.22, 259.101, 259.105, 259.1051 and 375.045 and creates s. 373.470 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. Although generally successful in flood protection and water supply to this point, the unintended result of the Project has been severe adverse environmental impacts on the South Florida ecosystem.

The Corps and the South Florida Water Management District (SFWMD) have identified the following major concerns:

*Too Much Water Is Sent to the Sea.* The Project was designed to send excess rainwater to sea to keep people and farms dry. Unfortunately, the Project works too well. Nearly 1.7 billion gallons a

day are sent to the Atlantic Ocean or the Gulf of Mexico - wasting water needed for the ecosystem and regional water supplies.

*Estuaries Often Suffer.* Flood protection is provided by sending fresh water to the sea through estuaries such as the St. Lucie and Caloosahatchee. Too much, or too little, fresh water damages the estuaries' delicate balance between salt and fresh water. This can do great harm to seagrasses and other aquatic plants and the fish and animal life that live there.

*Lake Okeechobee Is Treated Like a Reservoir.* Lake Okeechobee has many masters. It is often managed as if it were a reservoir - at high levels to supply water to agricultural and urban users, and at low levels for flood water storage. Regulated water levels that are either consistently too high or too low damage the ecology of the lake and its shoreline.

*The Everglades Is Not Receiving the Historic Timing and Flow of Water.* Water is the lifeblood of the Everglades. Historically, a shallow sheet of fresh water flowed slowly over the wetlands to coastal bays and estuaries. Today, discharges to the Everglades are often too much, or too little, and frequently at the wrong times of the year. An over-abundance or scarcity of water affects plants and wildlife accustomed to the Everglades' historic range of water flows, levels and seasons. In addition, canals and highways that criss-cross the Everglades have interrupted its historic overland sheet flow.

*Florida Bay Lacks Fresh Water.* Florida Bay is a shallow estuary at the southern end of Everglades National Park. The Bay often experiences excessively high concentrations of salt water because not enough fresh water reaches it from natural overland sheet flow. Visible effects include a loss of seagrasses, and a reduction in juvenile shellfish and game fish populations that are so important to the economy.

*Water Quality Has Deteriorated.* Water quality throughout south Florida has deteriorated over the past fifty years. More than one-half of the wetlands that once acted as natural filters and retention areas are gone. Some untreated urban and agricultural storm water is sent directly to natural areas and estuaries. Too much, or too little, water is often sent to estuaries. Too many nutrients are entering the Everglades, with an overabundance of cattails a visible sign of the results.

*Urban and Agricultural Water Supplies Are Dwindling.* Historically, most rainwater soaked into the ground in the region's vast wetlands. As south Florida developed, the canal network worked too effectively and routed too much water off the land to reduce flood damages. The result is that not enough water is stored for all uses. Water shortages in dry years are frequent, and will become more severe without any changes to the water management system.

*Maintaining Flood Protection.* Florida is low-lying, flat, and wet. Today, the Project provides protection from floods on a regional basis for south Florida, supported by many locally operated canal networks.

The Corps and the SFWMD report that, taken together, these conditions seriously threaten the natural and human environment of south Florida. The natural system continues to deteriorate. The population requires more fresh water for urban and agricultural uses. The current level of flood

protection is in jeopardy as more people move into the region. Today, south Florida is not on a sustainable course for the future.

The 1992 U.S. Congress authorized the Central and Southern Florida Project Comprehensive Review Study (Restudy), resulting in a comprehensive plan for the restoration, protection, and preservation of the water resources of central and southern Florida, including the Everglades. In presenting the plan to the U.S. Congress, the Secretary of the Army reported that:

“The Comprehensive Plan achieves the restoration of more natural flows of water including sheetflow, improved water quality, and more natural hydro periods in the south Florida ecosystem. Improvements to native flora and fauna, including threatened and endangered species, will occur as a result of the restoration of hydrologic conditions. This plan was designed to enlarge the region’s supply of fresh water and to improve how water is delivered to the natural system. The recommended plan includes the following structural and operational changes to the existing C&SF Project: 181,250 acres of surface water storage reservoirs with a capacity to store 1,543,270 acre-feet of water; Water Preserve Areas consisting of multipurpose water management areas in Palm Beach, Broward, and Miami-Dade counties between the urban areas and the eastern Everglades; 300 aquifer storage and recovery (ASR) wells around Lake Okeechobee, in the Water Preserve Areas, and in the Caloosahatchee Basin capable of pumping as much as 1.6 billion gallons a day; 35,600 acres of treatment wetlands, known as Stormwater Treatment Areas (STAs); removing more than 240 miles of project canals and internal levees within the Everglades; storing water in two converted 11,000 acre limestone quarries in the Lake Belt region of northern Miami-Dade County; reuse of 220 million gallons a day of wastewater; and pilot projects. In addition, several studies are recommended to investigate additional improvements needed to support restoration, protection, and preservation of the south Florida ecosystem.”

In July, 1999, a report was presented to the U.S. Congress with a request for approval of the plan and funding for six pilot projects and ten initial project components, including assessment and monitoring, in the amount of \$1,197,918,000. As local sponsor, the SFWMD must pay 50 percent of the cost to implement the plan. Over a period of approximately 39 years, the plan is expected to cost at least \$8.2 billion to implement and, when complete, require \$172 million annually for operation and maintenance. Spread over the first 20 years of the project, expenditures will average \$400 million annually, with the SFWMD’s share being \$200 million annually.

The \$200 million average annual cost, however, is not sufficient for the SFWMD’s needs for the period of 2002-2005. The SFWMD is required to acquire all necessary real estate for the Restudy and these needs must be met early in the Project’s life. Needed acquisitions alone are estimated to average over \$289 million annually during 2002-2005. 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 (PCA) 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.

(Some of 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.")

Should the Restudy be authorized as proposed, the SFWMD would not be able to pay its share of the costs with its present financial resources. For FY 2000, the SFWMD's total budget is \$469.1 million; 58 percent of that amount, or \$271.6 million is derived from ad valorem revenues. The remaining revenues are generally dedicated for other purposes.

On January 18, 2000, Governor Bush announced a plan to fund Everglades restoration for the first ten years. The key elements of the plan include an annual general revenue appropriation of \$75 million and the use of \$25 million annually in Florida Forever funding currently allocated to the SFWMD to provide a total of \$100 million as the state share, with the SFWMD to provide \$100 million annually in match. The Governor's proposal does not include an ad valorem increase by the SFWMD, although the district is not levying at its statutory cap. The SFWMD has been exploring how to provide the needed \$100 million for its annual share and recently announced that it has reduced or eliminated other programs in order to dedicate a total of \$48.2 million, including \$11.5 million in ad valorem revenues, to the restoration effort.

Pursuant to s. 259.101(9)(f)1., F.S., beginning in FY 1999-2000, that portion of the unencumbered balances of the Division of Forestry, Division of Recreation and Parks, Fish and Wildlife Conservation Commission, Office of Greenways and Trails, and the Florida Communities Trust which has been on deposit in a program's Preservation 2000 account for more than three fiscal years shall be redistributed equally to the Department of Environmental Protection (DEP), Division of State Lands' P2000 sub account for the purchase of state lands as described in s. 259.032, F.S., and Water Management District P2000 sub account for the purchase of water management lands pursuant to ss. 373.456, 373.4592, and 373.59, F.S.

The interest earnings in the Preservation 2000 Trust Fund (P-2000 TF), currently exceed the spending authority provided by the Legislature, which has been \$300 million annually throughout the life of the program. The DEP reports that these interest earnings total approximately \$29 million.

Pursuant to s. 259.101(3)(b), F.S., the state's five water management districts collectively receive 30 percent of each year's Preservation 2000 (P-2000) bond proceeds. Based on average annual bond proceeds of \$271 million, the districts' share is approximately \$81.3 million. Pursuant to s. 373.59(8)(a), F.S., the SFWMD receives 30 percent of these funds, or approximately \$24.4 million annually in P-2000 funding. The last P-2000 bond issue is expected in April 2000.

The Florida Forever Act, s. 259.105, F.S., provides continued funding for water management districts. Pursuant to s. 259.105(3)(a), F.S., the five districts will share 35 percent of the annual bond receipts. Of this, SFWMD will receive 35 percent or approximately \$33.2 million, based on bond proceeds of \$271 million.

Documentary stamp tax revenue for FY 2000-2001 are estimated to total \$1,171,000,000.

### III. Effect of Proposed Changes:

**Section 1.** Effective July 1, 2001, s. 201.15, F.S., is amended to provide for \$75 million of the unallocated documentary stamp tax proceeds to be deposited into the Everglades Restoration Reserve Trust Fund (ERR TF) annually, beginning in FY 2001-2002. This provision expires June 30, 2010.

This section also corrects the title of the Florida Housing Finance Corporation.

**Section 2.** Section 215.22, F.S., is amended to exempt the ERR TF from the 7 percent general revenue surcharge.

**Section 3.** Section 259.101, F.S., is amended to require that, in FY 2000-2001, that portion of the total remaining cash balances in the P-2000 TF for the Division of Forestry, Division of Recreation and Parks, Fish and Wildlife Conservation Commission, Florida Communities Trust, and the Office of Greenways and Trails which, as of June 30, 2000, exceeds the programs' total remaining appropriation balances be redistributed by the DEP and deposited into the ERR TF for land acquisition. For purposes of calculating the total remaining cash balances for this redistribution, the Florida Preservation 2000 Series 2000 bond proceeds, including interest thereon, and the fiscal year 1999-2000 General Appropriations Act amounts shall be deducted from the remaining cash and appropriation balances, respectively. (This has the effect of transferring approximately \$29 million in P-2000 interest for which there has never been spending authority to the ERR TF).

This section also repeals s. 259.101(9)(f)1., F.S., which provides for P-2000 funds in the accounts of the Division of Recreation and Parks, the Division of Forestry, the Fish and Wildlife Conservation Commission, the Florida Communities Trust, and the Office of Greenways and Trails which have been on deposit for more than three years to be redistributed equally to the DEP and water management districts to be used for land acquisition. Also deleted are s. 259.101(9)(g) and (h), F.S., which permit such redistributed funds to be carried forward if unspent in the fiscal year of the redistribution and which repeal subsection (9) of s. 259.101, F.S. on July 1 of the year following the final authorization of P-2000 bonds. A provision that repeals s. 259.101(3), F.S., on October 1, 2000, is deleted as well.

Other changes include the correction of cross-references and the name of the Fish and Wildlife Conservation Commission.

**Section 4.** Section 259.105, F.S., is amended to require the DEP to transfer \$25 million of the SFWMD's annual Florida Forever funding to the ERR TF.

**Section 5.** Section 259.1051, F.S., is amended to exempt the distribution of Florida Forever funds to the ERR TF contained in section 4 of this bill from a requirement that funds distributed from the Florida Forever Trust Fund be spent within 90 days from the initiation of the transfer.

**Section 6.** Section 373.470, F.S., is created, to be cited as the Everglades Investment and Accountability Act (Act).

This section provides the following definitions:

- “Comprehensive plan” means the Recommended Comprehensive Plan for Everglades Restoration and Water Resource Management within the South Florida Ecosystem, identified as the “Initial Draft Plan, Alternative D-13R, together with the Other Project Elements” submitted to Congress on July 1, 1999, and developed by the Central and Southern Florida Project Comprehensive Review Study or “Restudy” as defined in s. 373.1501, F.S. The comprehensive plan will be further developed in a continuing research, analysis, planning and design process.
- “Corps means the U.S. Army Corps of Engineers.
- “District” means the South Florida Water Management District.
- “Project” means the Central and Southern Florida Project authorized under the heading “CENTRAL AND SOUTHERN FLORIDA” in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), and any modification to the project authorized by law.
- “PIR” means a Project Implementation Report as described in the report of the Central and Southern Florida Project Comprehensive Review Study submitted to Congress on July 1, 1999.
- “Project component” means a structural or operational modification of the project.
- “South Florida Ecosystem” means the area within the boundaries of the district, including the Everglades, the Florida Keys, the contiguous near-shore coastal waters, agricultural areas, urban areas, and all other natural or developed areas within the district.

The bill provides findings that:

- Development within the South Florida Ecosystem including construction and operation of the project has resulted in the reduction of natural water storage, the loss of fresh water to tide, and unintended environmental impacts, including lower water quality and disruption of Everglades hydroperiods.
- Additional water resource development through project components and other features identified in a continuing planning process described in this section will be necessary to meet the water supply needs of the environment and the economy within the South Florida Ecosystem.
- The Legislature intends that the comprehensive plan be implemented and used as a guide and framework for a continuing planning process that will develop further modifications and additions to the project for the purposes provided in the Federal Water Resource Development Act of 1996 which include:
  1. Restoring, preserving, and protecting the South Florida Ecosystem;
  2. Providing for the protection of water quality and reducing the loss of fresh water from the Everglades; and

3. Providing such features as are necessary to meet the other water-related needs of the region, including flood control, the enhancement of water supplies, and other objectives served by the project.
- The project components described in the comprehensive plan will need further engineering and economic analysis as provided in the comprehensive plan, and the Legislature intends that Project Implementation Reports:
    1. Determine that the project components will be feasible, efficient, and cost-effective in the manner provided by s. 373.1501;
    2. Determine the benefits to be provided consistent with the report of the Comprehensive Review Study of the project submitted to Congress on July 1, 1999; and
    3. Be consistent with the purposes of the Federal Water Resource Development Act of 1996.
  - Implementation of the comprehensive plan is projected to require several billion dollars from state funding sources to match federal contributions when authorized and appropriated by Congress. The Legislature intends by this section to establish an appropriate state-funding mechanism to assure sufficient funds for implementation of the comprehensive plan.
  - The Legislature intends to establish a full partnership between the state and the Federal Government for the implementation of the comprehensive plan and further planning process through the construction and operation of project components based upon joint decision making as equal partners between the corps and the district for all project management decisions, except where the state or local sponsor has full control.

The bill authorizes the following funds to be deposited into the ERR TF to finance implementation of the Comprehensive Plan:

- In FY 2000-2001, funds described in s. 259.101(3), F.S.
- For each year of the 9 consecutive years beginning with fiscal year 2001-2002, \$75 million of the funds described in s. 201.15(12), F.S., (This deposit is required).
- For each year of the 10 consecutive years beginning with fiscal year 2000-2001, \$25 million of the funds allocated to the SFWMD pursuant to s. 259.105(11)(a), F.S., (This deposit is required).
- Federal funds appropriated by the United States Congress for implementation of the Comprehensive Plan;
- Any additional funds appropriated by the Legislature for the purpose of implementing the Comprehensive Plan; and
- Gifts designated for implementation of the Comprehensive Plan from individuals, corporations, or other entities.

Funds will be distributed to the SFWMD from the ERR TF pursuant to s. 373.026(8)(b)-(c), F.S. The bill requires the SFWMD to match the \$100 million to be deposited annually into the ERR pursuant to s. 373.470(5), F.S., on an equal basis. However, the dollar value of in-kind work performed by the SFWMD in furtherance of the Comprehensive Plan and credited against funds required from the local sponsor of the project component is also a credit against the district's share of funds required for implementation of the Comprehensive Plan pursuant to this act.

The bill requires an annual report, as follows:

- The SFWMD, in cooperation with the DEP must provide the following information as it relates to implementation of the Comprehensive Plan:
  1. An identification of funds, by source and amount, received by the state and by each local sponsor during the fiscal year;
  2. An itemization of expenditures, by source and amount, made by the state and by each local sponsor during the fiscal year;
  3. A description of the purpose for which the funds were expended;
  4. The unencumbered balance of funds remaining in trust funds or other accounts designated for implementation of the Comprehensive Plan; and
  5. A schedule of anticipated expenditures for the next fiscal year.
- The DEP must prepare a detailed report on all funds expended by the state and credited toward the state's share of funding for implementation of the Comprehensive Plan. The report will include:
  1. A description of all expenditures, by source and amount, from the Conservation and Recreation Lands Trust Fund, the Land Acquisition Trust Fund, the ERR TF, and other named funds or accounts for the acquisition or construction of project components or other features or facilities that benefit the Comprehensive Plan;
  2. A description of the purposes for which the funds were expended; and
  3. The unencumbered fiscal-year-end balance that remains in each trust fund or account identified above.
- The SFWMD, in cooperation with the DEP, must provide a detailed report on progress made in the implementation of the Comprehensive Plan, including the status of all project components initiated after the date this act takes effect or the date of the last required report, whichever is later.

The report must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and copies must be made available to the public. The initial report is due by November 30, 2000, and on November 30 annually thereafter.

**Section 7.** Section 375.045, F.S., is amended to exempt the \$25 million of the SFWMD's annual Florida Forever funding that will be deposited into the ERR TF from the requirement that all funds distributed from the Florida Forever Trust Fund be spent within 90 days of the initiation of the transfer.



**Section 8.** The South Florida Water Management District shall issue, on or before April 30, 2002, the “Advance Notice of Construction” referenced in paragraph 31(c) of the General Warranty Deed dated March 26, 1999, recorded at ORB 11016, page 546, Records of Palm Beach County, Florida. Subsequent to the issuance of the Advance Notice of Construction, the South Florida Water Management District shall issue each “Notice of Construction Impact” and “Notice to Vacate” referenced in paragraph 31(c) of the aforementioned General Warranty Deed at the earliest possible dates permissible under the terms of that instrument. The intent of this section is to require that the South Florida Water Management District take action to assure that the reservation provided for in the deed to the Talisman Lower Ranch and associated tradeland parcels is terminated no later than March 31, 2005, and that all lands specifically subject to the March 31, 2005, Reservation Termination provision are removed from agricultural production and immediately available for the construction of water storage, Everglades restoration, and related water management projects on that date.

**Section 9.** Except for section 1, which will become effective July 1, 2001, the act takes effect June 30, 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:**

Although the bill has no direct fiscal impact on the private sector, funding the Comprehensive Plan should provide economic benefits to those involved in the construction trades and other businesses which could provide services over the lengthy period of implementation. In addition, restoration of the Everglades could result in an enhanced “ecotourism” industry, while improved water supply could benefit both agriculture and the citizenry.

**C. Government Sector Impact:**

This bill provides for a \$75 million general revenue appropriation for nine consecutive years, beginning in FY 2001-2002. It also redirects \$25 million annually in Florida Forever funds from the SFWMD to the ERR TF to be used for restoration. Because the ERR TF is exempted from the 7 percent general revenue surcharge, the General Revenue fund will not receive annual revenues estimated between \$10-14 million and which are intended to cover general government costs for operation of state program support services such as auditing, accounting, distribution of funds, etc.

This bill also redirects approximately \$29 million from the P-2000 Trust Fund to the ERR TF; this amount consists of interest earnings for which there has never been spending authority.

By deleting provisions that would have resulted in the allocation of funds originally provided to the five small P-2000 programs that had not been encumbered for more than three years, the bill prevents funding that would otherwise accrue to the DEP and the water management districts.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.