

**STORAGE NAME:** h1887s1.ep

**DATE:** April 5, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
ENVIRONMENTAL PROTECTION  
ANALYSIS**

**BILL #:** CS/HB 1887

**RELATING TO:** South Florida Water Management District

**SPONSOR(S):** Committee on Environmental Protection and Rep. Argenio

**TIED BILL(S):**

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

- (1) ENVIRONMENTAL PROTECTION YEAS 11 NAYS 0
  - (2) REAL PROPERTY & PROBATE
  - (3) GENERAL GOVERNMENT APPROPRIATIONS
  - (4)
  - (5)
- 

I. SUMMARY:

CS/HB 1887 authorizes the South Florida Water Management District (District) to acquire by eminent domain lands included in the Pal-Mar Project, the Southern CREW Project, and Cell 11 of the East Coast Buffer in Broward County. In the absence of willing sellers, these lands are to be acquired in accordance with state condemnation pursuant to Chs. 73 and 74, F.S.

CS/HB 1887 does not have a fiscal impact.

The bill provides that the act shall take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 99-143, Laws of Florida, authorized the District to acquire lands by eminent domain for the limited purposes of implementing the Kissimmee Rver Project, the Ten Mile Creek Project, the Water Preserve Areas, and the C-111 Project. It further provided that in the absence of willing sellers these lands would be acquired in accordance with state condemnation law pursuant to Chs. 73 and 74, F.S. The Legislature also declared that these projects are in the public interest, for a public purpose, and necessary for the public health and welfare. As a result of this legislative declaration, any condemnation proceeding will primarily deal with the valuation of the lands to be acquired.

Acquisition of lands within Cell 11 of the East Coast Buffer in Broward County is necessary for implementation of the comprehensive plan for the Restudy. Although Cell 11 is part of the Water Preserve Areas project, the current statutory definition of Water Preserve Areas does not include all of Cell 11. When the Water Preserve Areas project was added to the District's five-year plan of acquisition on September 11, 1997, several property owners within Cell 11 chose not to have their lands included in the plan. Because these lands are not included in the current definition, the District does not have eminent domain authority to acquire these lands under state condemnation law, thus requiring that they be acquired through the federal condemnation process.

The Pal-Mar, or West Jupiter Wetlands, Project contains approximately 35,000 acres of depression marsh and wet flatwoods, comprising the largest contiguous complex of natural communities in Martin and Palm Beach Counties. Acquisition of these lands would create a virtually unbroken greenbelt from Lake Okeechobee to the Atlantic Ocean, that would also include the Dupuis Reserve, the Corbett Wildlife Management Area, and Jonathan Dickinson State Park. The project, which is also a Conservation and Recreational Lands (CARL) project, was placed on the District's five-year plan of acquisition in 1991. Since that time, the District has been pursuing acquisition of project lands. In addition to the District, Martin County, Palm Beach County, and the Fish and Wildlife Conservation Commission are also pursuing acquisition of these lands. Pal-Mar is a special district whose governing board has supported public acquisition of these lands for several years. There are unwilling sellers that necessitates the use of condemnation proceeding, but there are also absentee owners that cannot be located. As a result, in the absence of eminent domain authority the District will be unable to complete acquisition of the Pal-Mar Project Lands.

Southern CREW is a 7,670-acre Critical Restoration Project that will provide flood protection benefits, help restore more natural hydroperiods for wetlands located within the project and on contiguous public lands, and increase aquifer recharge to benefit Bonita Springs Utilities. The project was added to the District's five-year plan of acquisition in 1992, and expanded in 1998. In addition to being unable to acquire lands from unwilling sellers, the District cannot proceed with restoration activities that would have the effect of raising water levels on adjacent, privately-owned lands. As a result, without eminent domain authority, the District will be unable to complete acquisition of project lands or fully implement the restoration project.

**C. EFFECT OF PROPOSED CHANGES:**

CS/HB 1887 would authorize the District to acquire fee title or easement for lands include in the Pal-Mar Project, Cell 11 of the East Coast Buffer in Broward County, and the Southern CREW Project. In the absence of willing sellers, these lands would be acquired in accordance with state condemnation law pursuant to Chs. 73 and 74, F.S. These projects would also be declared by the Legislature to be in the public interest, for a public purpose, and necessary for the public health and welfare. As a result of this legislative declaration, any necessary condemnation proceeding will primarily deal with the valuation of the lands to be acquired.

The bill provides that the act shall take effect upon becoming law.

**D. SECTION-BY-SECTION ANALYSIS:**

Section 1: Amends s. 373.1501, F.S. , providing definitions; authorizing the South Florida Water Management District to acquire by eminent domain specified lands; providing that state condemnation law be followed.

Section 2: Provides that the act shall take effect upon becoming law.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues.

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

The bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 30, 2000, the Committee on Environmental Protection adopted a "strike everything" amendment to HB 1887. The amendment added the Southern CREW Project and Cell 11 of the East Coast Buffer in Broward County to the list of projects for which the District is

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authorized to acquire by eminent domain the necessary project lands. The Committee then adopted HB 1887 as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

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W. Ray Scott

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Wayne S. Kiger