

**STORAGE NAME:** h1957.gg

**DATE:** April 18, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
GENERAL GOVERNMENT APPROPRIATIONS  
ANALYSIS**

**BILL #:** HB 1957

**RELATING TO:** Save Our Everglades Trust Fund

**SPONSOR(S):** Representative Constantine

**TIED BILL(S):** CS/HB 221 by the Committee on Environmental Protection, Representative Constantine and others

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

(1) GENERAL GOVERNMENT APPROPRIATIONS

(2)

(3)

(4)

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I. SUMMARY:

This bill creates the Save Our Everglades Trust Fund within the Department of Environmental Protection. The fund is established to:

- implement the comprehensive plan contained within the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, April 1999".
- serve as the repository for specified state, local, and federal project contributions.

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:

**Background: The Central and Southern Florida Project for Flood Control and Other Purposes.** The C&SF 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 the 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 C&SF Project was the culmination of earlier U.S. Army Corps of Engineers (Corps) efforts in South Florida, principally for flood protection.

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. The 1929 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, and 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.

Due to the sequential experiences of extreme drought and extreme flooding, 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 C&SF 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, the predecessor to the District, to serve as the local sponsor for the C&SF Project.

Subsequent modifications have been made to the C&SF 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.

**The Restudy:** Although modifications have been made to the C&SF Project over the last 50 years, the Restudy is perhaps the first effort to fundamentally reevaluate the overall design of the C&SF Project since inception of the project. The current estimated cost for implementing all Restudy project components is \$7.8 billion: as local sponsor for the Restudy, the District 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 (WRDA 1992), the U.S. Congress authorized the Restudy. The purpose of the Restudy is to develop modifications to the C&SF 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 District are the primary participants and are jointly funding the effort. Other principal participants in the Restudy effort include:

- ▶ Federal
  - ▶ Environmental Protection Agency (EPA)
  - ▶ National Park Service
  - ▶ National Marine Fisheries Service
  - ▶ Natural Resources Conservation Service
  - ▶ U.S. Fish and Wildlife
- ▶ State
  - ▶ Department of Agricultural and Consumer Services (DACCS)
  - ▶ Department of Environmental Protection (DEP)

- ▶ Fish and Wildlife Conservation Commission (FWCC)
  
- ▶ Tribal
  - ▶ Miccosukee Tribe
  - ▶ Seminole Tribe

Other agencies, local governments, organizations, universities, and the public have also participated.

**Restudy Process.** 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 was to develop a Comprehensive Plan for modifying the C&SF Project. This phase concluded with submission of the Final Feasibility Report, which included the Recommended Comprehensive Plan, to the U.S. Congress. The Final Integrated Feasibility Report and Programmatic Environmental Impact Statement was submitted to Congress on July 1, 1999.
  
- ▶ **Implementation Phase.** Several actions must now occur before any project components are constructed. First, Congress must specifically authorize project components in the Water Resources Development Act (usually 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 District 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.

**1999 Legislative Activity.** The 1999 Legislature enacted Ch. 99-143, Laws of Florida, to support and facilitate the District's efforts in the Restudy, to ensure effective state oversight of project components resulting from the Restudy, and to ensure that implementation of these project components is consistent with state law. Among the specific provisions of Ch. 99-143, L.O.F.:

- ▶ The District is specifically authorized to serve as local sponsor for the Restudy.
  
- ▶ The District is given specific eminent domain authority for several projects (Kissimmee, 10 Mile Creek, C-111, and water preserve areas in Broward and Palm Beach counties), and is required to use state condemnation law when acquiring lands for Restudy project components.
  
- ▶ Restudy project components are subject to approval by DEP, and as part of the approval process, DEP reviews project components to determine if the District has met specified requirements in developing the components. These requirements relate to:

comprehensively addressing applicable water resource issues; efficiency and cost-effectiveness; permissibility; assurances regarding water supply, flood protection, and meeting the needs of the restored natural environment; and coordinating with existing utilities and public infrastructure.

- ▶ DEP must submit project components needing state funding as part of the agency budget request to be considered by the Legislature.

During the 1999 Regular Session, an amendment to the Florida Forever legislation to provide \$100 million annually for Restudy funding by issuing revenue bonds financed by documentary stamp tax proceeds was discussed. Although the amendment failed, one question raised in regard to this proposal was the sufficiency of documentary stamp tax revenues to provide the additional bonding capacity needed.

As a 1999 interim project, the Resource and Land Management Council reviewed Restudy funding, in coordination with the House Committee on Environmental Protection and the Joint Legislative Committee on Everglades Oversight. The purpose of the review was to identify the amounts and timing of funding necessary to implement project components resulting from the Restudy, and also to determine if the District would be capable of meeting its financial responsibilities as local sponsor for the Restudy.

An interim project report, Everglades Restudy Funding, was published in November 1999. The following summary is from the report:

“Considerable uncertainty exists regarding the Restudy implementation schedule as well as the amounts and timing of funding necessary for implementing Restudy project components. After having earlier demonstrated its capability to fund its share of initial Restudy implementation, the District is now providing information that suggests it may be facing significant Restudy funding deficits as soon as 2002, when the local sponsor’s share is estimated to be \$231 million. However, the District does have additional ad valorem authority within the statutory and constitutional caps that could potentially provide an additional \$105 million annually. In addition, the District has identified additional fiscal capacity within the region served by the C&SF Project. Although it appears that sufficient fiscal capacity exists within the region to fully fund the local share of Restudy implementation costs, the fiscal pressure on the region could be lessened by using state funding sources to augment regional funding.”

**District’s Funding Needs as Local Sponsor.** The District’s estimated share of the cost of implementing the Recommended Comprehensive Plan has often been discussed as \$200 million per year over a 20-year period. However, the actual cash flow is likely to vary significantly year-to-year, and the “\$200 million per year for 20 years” has been widely accepted as a convenient shorthand for discussing the local sponsor’s share of Restudy costs. Information provided by the District at the October 5, 1999 meeting of the Joint Legislative Committee on Everglades Oversight indicates that the local sponsor’s annual funding needs will range from \$8 million to \$312 million during the period FY 2000 to FY 2008. Moreover, based on this information, the average annual funding needed is approximately \$160 million, rather than \$200 million. Finally, the preliminary nature of these estimates should be kept in mind, recognizing that technical and cost uncertainties, as well

as institutional constraints, can significantly alter the implementation schedule for Restudy project components. Any changes in the implementation schedule will in turn impact the amounts and timing of funding needed.

**C. EFFECT OF PROPOSED CHANGES:**

This bill creates the Save Our Everglades Trust Fund within the Department of Environmental Protection to:

- implement the comprehensive plan contained within the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, April 1999".
- serve as the repository for specified state, local, and federal project contributions (see Fiscal Comments section for expansion of approved contributions).

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

Section 1. Creates the Save Our Everglades Trust Fund in the Department of Environmental Protection to implement the comprehensive plan contained within the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, April 1999". Directs the fund to serve as the repository for specified state, local, and federal project contributions. Exempts the fund from service charges imposed by s. 215.20(1), F.S. Provides that any balance remaining at the end of the fiscal year shall remain in the trust fund in order to carry out the purposes of the fund. States that the fund shall be terminated on July 1, 2004, unless terminated sooner, and prior to termination, shall be subject to the trust fund review process.

Section 2. Provides an effective date of July 1, 2000, contingent on HB 221 or similar legislation being adopted in the same legislative session or an extension thereof and becoming law.

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

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

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

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

1. Revenues:

See fiscal comments.

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2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The following funds may be deposited into the trust fund to finance implementation of the comprehensive plan:

1. In fiscal year 2000-2001, funds described in s. 259.101(3), F.S., for land acquisition programs.
2. For each year of the 10 consecutive years beginning with fiscal year 2000-2001:
  - a. \$75 million of the documentary stamp tax revenues normally deposited to general revenue described in s. 201.15(9), F.S.
  - b. \$25 million of the funds allocated to the South Florida Water Management District by the Department of Environmental Protection under s. 259.105(11)(a), F.S., for the acquisition of lands and capital project expenditures necessary to implement the district's priority lists.
3. Federal funds appropriated by Congress for implementation of the comprehensive plan.
4. Any additional funds appropriated by the Legislature for the purpose of implementing the comprehensive plan.
5. Gifts designated for implementation of the comprehensive plan from individuals, corporations, or other entities.

Disbursements from the trust fund are subject to annual appropriation by the Legislature.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to spend money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of municipalities or counties to raise revenue.

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

This bill does not reduce the percentage of a state tax shared with municipalities or counties.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

HB 1957 is tied to CS/HB 221 which relates to Everglades restoration and funding.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

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