

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: SB 1976

SPONSOR: Senators King and Holzendorf

SUBJECT: Recreation areas

DATE: April 7, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This bill designates an area in the floodplain of the Oklawaha River in Marion and Putnam counties as the Rodman Reservoir Recreation Area under the supervision of the Department of Environmental Protection (DEP). It authorizes the acquisition of additional land and requires the notification of persons with easements in the recreation area. A report to the Governor and the Legislature is required.

This bill creates s. 258.166 of the Florida Statutes.

**II. Present Situation:**

Rodman Reservoir was created in 1968 by the construction of the Rodman Dam on the Oklawaha River near Palatka. The 9000 acre reservoir was to play an integral role in the Cross Florida Barge Canal's operation by providing a constant source of water for the locks needed to move the barges though elevation changes. The barge canal project itself was authorized in the early 1930's with construction commencing in 1935. In that year, the Florida Ship Canal Navigation District was created by Chapter 17023, L.O.F. The district would serve as a source of revenue to finance the acquisition of rights-of-way by the authority if the federal government constructed a canal. (In 1961 the district's name was changed to the Cross Florida Canal Navigation District.) Shortly after beginning, however, construction ceased due to lack of funds; construction recommenced in 1964. This U.S. Army Corps of Engineers (Corps) project required the use of both federal and private lands, with the Corps acquiring flowage easements over several thousand acres of private lands. Many of the documents creating the easements contained reversionary clauses providing for the easements to revert to the fee simple owner if the land was no longer needed for the barge canal. Due to the belief that a completed barge canal would provide substantial economic benefits to the counties along the canal corridor, the counties contributed ad valorem revenues totaling more than \$9.3 million to the effort; with accrued interest, the amount grew to \$32 million until capped in 1985.

As work on the Canal progressed, environmental concerns grew. Particular attention was focused on possible contamination of the Floridan Aquifer and the desirability of preserving the Oklawaha River Valley relative to the questionable economic benefits associated with the canal.

A 1969 lawsuit opposing the continued construction of the project resulted in a preliminary injunction against further construction. Prior to the granting of a permanent injunction, President Nixon, by executive order, suspended further work on the project. Although the executive order was later held to be invalid, the earlier preliminary injunction was made permanent in 1974. Efforts to deauthorize the project continued, cumulating with President Bush's signing of P.L. 104-640, deauthorizing the project, on November 28, 1990. On January 22, 1991, Florida's Governor and Cabinet accepted the terms of the federal legislation through a Resolution, thereby officially deauthorizing the Canal project. Major features of the federal deauthorization law required a minimum 300 yard wide greenway corridor to be maintained along the former Canal project lands and required that the corridor counties be reimbursed \$32 million (based on moneys they had contributed for land acquisition plus interest up to 1985).

Section 253.7829, F.S., required the Canal Authority to develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal within two years of the date the canal project was deauthorized under federal law. A twenty-member advisory committee held a total of fifteen meetings, workshops, and public hearings to discuss and take public testimony on options for the management plan. The Governor and Cabinet adopted a recommended management plan for the lands in the former canal corridor on December 15, 1992. They recommended to the Legislature the restoration of the natural functioning ecosystem in the lower Oklawaha River.

During the 1993 Legislation Session, the Senate Natural Resources Committee created a subcommittee to review the management plan proposed for lands in the former canal corridor. The legislation that emerged recognized the management plan as a guidance document and declared that due to limited financial resources it is necessary to implement the Cross Florida Greenway in a conservative fashion. The greenway was to be managed by a special Office of Greenway Management (now the Office of Greenways and Trails), and has been designated the Cross Florida Greenways State Recreation and Conservation Area.

The most controversial aspect of these considerations is the issue of Rodman Dam (now named the Kirkpatrick Dam) and Reservoir. Since the cessation of the canal project, the focus of concern for environmental groups has been the removal of the dam and the return of the free-flowing Oklawaha. Among other concerns, they cite as justification the expense of operating the dam and locks, past fish kills, problems with aquatic weeds, the death of at least 10 manatees through interaction with the dam and locks, the value of removing a barrier to migrating fish and wildlife, and a DEP study indicating that the reservoir has a negligible economic impact on the locality.

On the other hand, there are a number of supporters for retaining the reservoir system. After the initial environmental damage was done in constructing the system, the environment adapted to the new lake-type system. Numerous wading birds and migratory waterfowl use the reservoir and several bald eagles have permanent nests in trees located over the water. Bass fishermen believe the reservoir could be managed as one of the state's most productive areas. When the Corps built

the reservoir they also built camping and boating facilities to access the open water areas. Local residents believe that the reservoir provides important economic benefits.

Faced with the dilemma in 1993 of deciding whether to restore the Oklawaha River or retain Rodman Reservoir, the Legislature called for more studies to be undertaken to assist in making a decision. Provisions in chapter 93-213, L.O.F., stated that:

“Prior to the final determination of the disposition of the canal works impounding the Oklawaha River at the Rodman Reservoir being made, the Department of Natural Resources shall study the efficacy, both environmental and economic, of complete restoration of the Oklawaha River, partial restoration of the river, total retention of the Rodman Reservoir, and partial retention of the reservoir. The department shall contact the U.S. Army Corps of Engineers to determine what elements of its study would mirror a federal environmental impact statement if required by the Corps before issuing permits regarding the disposition of the canal works. Based on all relevant information, the efficacy of the options for restoring the Oklawaha River, retaining the Rodman Reservoir, and partial restoration or retention shall be summarized and evaluated by the department. The department shall present its findings and recommendations to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives by January 1, 1995. The final determination as to the disposition of the Rodman Reservoir shall be made following the submission of these findings and recommendations.”

These studies have been completed and presented to the legislature. The Department of Environmental Protection provided a summary document for the approximately 1500 pages of research. The DEP summary document makes the following findings and recommendations:

1. The Oklawaha River should be restored;
2. The duties and functions associated with the restoration of the Oklawaha River should be undertaken by the St. Johns River Water Management District as part of the District's SWIM Program;
3. DEP will assist the St. Johns River Water Management District with the application of the appropriate permits for restoration of the Oklawaha River using the information contained in this study; and
4. Due to the extensive research conducted in this and previous studies addressing the question of whether or not the Oklawaha River should be restored, DEP finds that no further studies are necessary to answer this question.

The DEP studies estimated that under the full retention option for Rodman Reservoir there would be 302,214 recreation user days versus 145,414 recreation user days per year for river restoration. The report estimates the 40-year cumulative costs for full retention to be \$54.7 million versus \$45.6 million for river restoration.

Provisions in subsection (6) of s. 253.7829, F.S., state, “The final disposition of the water control structures must be outlined in this management plan as adopted by the Legislature. Such plan shall

not be implemented until state legislation specifically directing implementation of the submitted plan or a modified plan, as recommended, becomes effective.” Arguably, Chapter 93-213, L.O.F., recognized the proposed management plan but never “adopted” the plan because, among other things, the plan identified tens of millions’ of dollars needed for full implementation. For those financial reasons, the 1993 legislature considered the plan a “guidance document,” and stated it that way and did not “adopt” it as the above quoted law required. A recent Attorney General Opinion concluded that the legislature by its actions did adopt the management plan and DEP has sufficient authority to proceed with disposition of the water control structures and Rodman Reservoir. The DEP has begun the process of obtaining the necessary permits for a partial restoration estimated to cost at least \$29,135,546.

A special use permit for the Rodman Dam, issued to the state by the U.S. Forest Service in 1994 for the continued use of flooded forestry lands, expired at the end of 1999 but was extended for 12 months pending completion of an environmental impact study by the state. The extension also was granted to allow the U.S. Forest Service to consult with the U.S. Fish and Wildlife service regarding manatee deaths in the reservoir. At least 10 manatees have been killed by the dam or lock since 1977 according to Florida Marine Research Institute records.

In 1997, the DEP applied to the St. Johns River Water Management District for a permit to partially restore the Rodman Dam and recently met deadlines for additional information requests on the permit application.

Several lawsuits have been filed by landowners who gave easements with reverter clauses. They seek judgements of inverse condemnation or damages for trespass. Recently, the DEP has reached settlements in several of these cases by agreeing to acquire the underlying fee in these lands.

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

This bill creates the Rodman Reservoir Recreation Area (RRRA) which will include all state-owned lands within the floodplain of the Oklawaha River and those hereafter acquired by the state from Eureka Dam in Marion County to Buckman Lock in Putnam County. The RRRA will be managed by the DEP’s Division of Recreation and Parks (DRP) which must develop multipurpose recreational opportunities at the area and provide for the care, upkeep, maintenance, and beautification of the RRRA including all those dams, locks, and other structures transferred by the federal government to the state.

The bill requires that any action that would substantially alter the RRRA as it existed on January 1, 2000, be approved by the Legislature.

The DEP’s Division of State Lands (DSL) is authorized to acquire any additional property adjacent or contiguous to the RRRA, from private owners or from the United States Government for improved management and recreational opportunities. Any such acquisitions must be titled in the Board of Trustees of the Internal Improvement Trust Fund (Trustees).

The DSL is also required to identify, contact, and inform all property owners who entered into easements located within the taking line of the Rodman Reservoir of the designation of this area as a state recreation area.

By January 1, 2001, the DSL must submit a report to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives which:

- Identifies the entities that have an easement within the taking line of the reservoir.
- Indicates whether the holder of the easement is willing to sell the easement.
- Estimates the cost of acquiring the easements.
- Identifies any additional issues resulting from this designation.

The bill takes effect on becoming a law.

#### **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 bill has no immediate fiscal impact, although provisions directing the DSL to determine landowners desire to sell their easements could provide future benefits if the DEP should elect to acquire them.

##### **C. Government Sector Impact:**

The RRRRA is currently part of a designated state recreation area, having some development for recreational opportunities such as campsites, boat ramps, and the like. The redesignation of the RRRRA, in itself, does not require the expenditure of additional funds. While the bill charges DRP “with the duty of providing for the development of multipurpose recreational opportunities...,” it does not specify the nature or amount of such development. The DEP has provided several options for recreational development at three sites in the RRRRA; the cost of the developments ranges from a low of \$251,200 to a high of \$7,756,060. The DEP also reports a need for nine positions at a cost of \$589,997 to implement the bill. The bill does not

include an appropriation. While the DRP typically charges entrance fees at its parks, and could do so at the RRRRA, revenues from this source cannot be determined at this time.

In researching a recent interim project entitled “Review of Funding Needs For Proper Management of Conservation and Recreation Lands and the Management Practices for All State-Owned Lands” staff determined that land managing agencies have total unmet needs of approximately \$440 million, if adopted management plans were to be fully implemented. This indication that most, if not all, plans for conservation and recreation lands contain proposed development that is unlikely to be implemented in the short-term, yet the lands are providing significant recreational opportunities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.