

STORAGE NAME: h0221s1.ep

DATE: April 3, 2000

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

BILL #: CS/HB 221

RELATING TO: Everglades restoration and funding

SPONSOR(S): Committee on Environmental Protection and Representative Constantine

TIED BILL(S): HB 1957

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

- (1) ENVIRONMENTAL PROTECTION YEAS 14 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

CS/HB 221 establishes state funding to augment South Florida Water Management District (District) funds to ensure that the District is able to meet its financial responsibilities as local sponsor for the Comprehensive Review, or Restudy, of the Central and Southern Florida Project for Flood Control and Other Purposes (C&SF Project). The bill provides for \$130 million in state funds for FY 2000-2001 and \$100 million for each of the succeeding 9 years:

- o In FY 2000-2001, approximately \$30 million in "unallocated" P2000 interest is to be deposited in the Save Our Everglades Trust Fund.
- o Beginning in FY 2000-2001, and continuing for a period of 10 years, \$75 million per year in documentary stamp tax revenues is to be deposited in the Save Our Everglades Trust Fund.
- o Beginning in FY 2000-2001, and continuing for a period of 10 years, \$25 million per year in Florida Forever funds that would otherwise be allocated to the District is to be deposited in the Save Our Everglades Trust Fund.

The bill also provides legislative intent that a full and equal partnership be established between the state and federal governments, requires that the comprehensive plan resulting from the Restudy serve as the basis for a continuing planning process, and requires that project implementation reports be completed prior to the execution of a project cooperation agreement for the construction of a project component.

CS/HB 221 further provides that the Department of Environmental Protection (Department) distribute funds in the Save Our Everglades Trust Fund to the District in accordance with a legislative appropriation and s. 373.026(8)(b) and (c), F.S. It also requires comprehensive annual reporting.

CS/HB 221 provides revenues as described above, but requires no expenditures.

The bill provides that except as otherwise provided the act shall take effect June 30, 2000.

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 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.

After the sequential experiences of extreme flooding and extreme drought, 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
 - ▶ Florida Department of Agricultural and Consumer Services
 - ▶ Florida Department of Environmental Protection

- ▶ Florida Game and Freshwater Fish Commission
- ▶ 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 the Department. As part of this approval process, the Department reviews project components to determine if the District has met specified requirements in the development of project 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.

- ▶ Project components needing state funding are to be submitted by the Department as part its budget request for consideration by the Legislature.

During the 1999 Regular Session, there was discussion of the need to establish a dedicated funding source for financing implementation of Restudy project components. Although no bill was heard that would have established such funding, an amendment to the Florida Forever legislation that would have done so was considered but not adopted. It proposed to provide \$100 million annually for Restudy funding by issuing revenue bonds to be financed by documentary stamp tax proceeds. One question raised in regard to this proposal was whether the available documentary stamp tax revenues were sufficient to provide the additional bonding capacity needed. In addition, although it was generally acknowledged during debate on the amendment that committing state revenues to the Restudy was an appropriate action for the Legislature to take, it was argued that such action would be premature until there was more complete information available regarding Restudy funding.

As a 1999 interim project, the Resource and Land Management Council reviewed Restudy funding. This project was coordinated with the 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 to also 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:

CS/HB 221 establishes state funding to be used for implementing the comprehensive plan resulting from the Restudy. Funding is made available to augment District funds to ensure that the District is able to meet its financial responsibilities as local sponsor for the Restudy. The bill provides for \$130 million in state funds for FY 2000-2001 and \$100 million for each of the succeeding 9 years:

- o In FY 2000-2001, approximately \$30 million in "unallocated" P2000 interest is to be deposited in the Save Our Everglades Trust Fund.
- o Beginning in FY 2000-2001, and continuing for a period of 10 years, \$75 million per year in documentary stamp tax revenues that would otherwise be deposited into the General Revenue Fund is to be deposited in the Save Our Everglades Trust Fund.
- o Beginning in FY 2000-2001, and continuing for a period of 10 years, \$25 million per year in Florida Forever funds that would otherwise be allocated to the District is to be deposited in the Save Our Everglades Trust Fund.

The bill also provides legislative intent that for purposes of implementing the comprehensive plan a full and equal partnership be established between the state and federal governments. It requires that the comprehensive plan resulting from the Restudy serve as the basis for a continuing planning process, that reflects new scientific knowledge, the results of pilot projects, and the results of new and continuing feasibility studies. In addition, it requires that project implementation reports be completed prior to the execution of a project cooperation agreement for the construction of a project component and that the report identify any additional water supplies that will be made available as a result of the project component. CS/HB 221 requires that any additional water supplies made available be allocated or reserved by the District pursuant to its authority under Chapter 373, F.S.

CS/HB 221 further provides that the Department distribute funds in the Save Our Everglades Trust Fund to the District in accordance with a legislative appropriation and the process established s. 373.026(8)(b) and (c), F.S., for approving and requesting funding for Restudy project components. It also requires comprehensive annual reporting that includes both financial reports as well as reports regarding progress in implementing the comprehensive plan..

The bill provides that except as otherwise provided the act shall take effect June 30, 2000.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 201.15, F.S., providing for the deposit of \$75 million in documentary stamp tax revenue into the Save Our Everglades Trust Fund.

Section 2: Amends s. 201.15, F.S., effective July 1, 2001, renumbering a subsection.

Section 3: Amends s. 215.22, F.S., exempting the Save Our Everglades Trust Fund from the service charged imposed pursuant to s. 215.20(1), F.S.

Section 4: Amends s. 259.101, F.S., providing that excess cash balances from each Florida Preservation 2000 program be deposited into the Save Our Everglades Trust Fund; eliminating redistribution of unencumbered cash balances for Florida Preservation 2000 programs; proving corrected cross references and terms.

Section 5: Amends s. 259.105, F.S., providing that \$25 million of the Florida Forever Funds that would otherwise be allocated to the South Florida Water Management District be transferred into the Save Our Everglades Trust Fund.

Section 6: Amends s. 259.1051, F.S., providing an exception for distributions to the Save Our Everglades Trust to the requirement that distributions from the Florida Forever Trust Fund be expended within 90 days.

Section 7: Creates s. 373.470, F.S., the Everglades Restoration Investment Act, providing definitions; providing legislative findings and intent; providing for the use of the comprehensive plan; requiring project implementation reports and specifying their contents; providing for the deposit of specified funds into the Save Our Everglades Trust Fund; providing that distributions for the trust fund shall be in accordance with a legislative appropriation and s. 37.026(8)(b)-(c), F.S.; requiring annual reporting.

Section 8: Amends s. 373.470, F.S., effective July 1, 2001, providing an updated cross reference.

Section 9: Amends s. 375.045, F.S., providing an exception for distributions to the Save Our Everglades Trust to the requirement that distributions from the Florida Preservation 2000 Trust Fund be expended within 90 days.

Section 10: Provides that except as otherwise provided the act shall take effect June 30, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

CS/HB 221 provides for annual deposits into the Save Our Everglades Trust Fund of approximately \$130 million in FY 2000-2001 and \$100 million for each of the succeeding nine fiscal years, but does not require expenditures of these funds. Any expenditures would require that a legislative appropriation be made for acquiring lands needed for project components or funding project components approved by the Department as currently provided for in s. 373.026(b), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

CS/HB 221 will potentially reduce the need for the District to raise additional revenues to meet its financial responsibilities as local sponsor for the Restudy.

2. Expenditures:

By supplementing District funding, CS/HB 221 will potentially result in reduced expenditures by the District in providing the local share of costs for implementing the comprehensive plan.

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 to 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 in the aggregate.

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

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

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V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 23, 2000, the Committee on Environmental Protection adopted a substitute "strike everything amendment to HB 221. The original bill merely provided legislative intent that legislation be enacted to provide for state funding for implementing the comprehensive plan resulting from the Restudy and the amendment provided that plan. (See "Effect of Proposed Changes" and "Section-By-Section Analysis.") The Committee then adopted HB 221 as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

W. Ray Scott

Wayne S. Kiger