STORAGE NAME: h0221s2z.ep ****AS PASSED BY THE LEGISLATURE****
DATE: May 24, 2000 **CHAPTER # 2000- 129, Laws of Florida**

HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
ENVIRONMENTAL PROTECTION
FINAL ANALYSIS

BILL #: CS/CS/HB 221

RELATING TO: Everglades Restoration & Funding

SPONSOR(S): Committee on General Government Appropriations (FRC), Committee on Environmental Protection, Representative Constantine and others

TIED BILL(S): HB 1957 by Representative Constantine

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

(1) ENVIRONMENTAL PROTECTION YEAS 14 NAYS 0
(2) WATER & RESOURCE MANAGEMENT YEAS 9 NAYS 0
(3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 8 NAYS 0
(4)
(5)

I. SUMMARY:

CS/CS/HB 221 makes state funding available to assist the South Florida Water Management District (District) in meeting its financial responsibilities as local sponsor for the Comprehensive Review of the Central and Southern Florida Project for Flood Control and Other Purposes (C&SF Project), more commonly known as the "Restudy."

CS/CS/HB 221 provides the following:

- For fiscal year 2000-2001, $50 million in general revenue funds is appropriated to the Save Our Everglades Trust Fund.
- For fiscal year 2000-2001, $30 million in excess cash generated from interest earnings on Preservation 2000 funds will be redistributed by the Department of Environmental Protection (Department) to the Save Our Everglades Trust Fund.
- For a nine-year period beginning in fiscal year 2001-2002, $75 million of state funds will be deposited into the Save Our Everglades Trust Fund annually.
- For a 10-year period beginning in fiscal year 2000-2001, $25 million of the District's Florida Forever allocation will be deposited into the Save Our Everglades Trust Fund.

CS/CS/HB 221 confirms the Legislature's intent to establish a full and equal partnership between the state and federal governments for implementation of the comprehensive plan resulting from the Restudy. The bill requires that the comprehensive plan serve as the basis for ensuring that project components achieve purposes such as restoring and preserving the South Florida ecosystem, and the protection of water quality and reduction of fresh water loss in the Everglades.

CS/CS/HB 221 has a $1.005 billion fiscal impact on state funds over a 10-year period. However, disbursements from the Save Our Everglades Trust Fund are subject to annual appropriation by the Legislature and the Restudy approval process pursuant to s. 373.026(8)(b) and (c), F.S. For fiscal year 2000-2001, the Department may seek approval for additional spending authority to transfer available surpluses in other department trust funds to the Save Our Everglades Trust Fund. By fiscal year 2009-2010, distributions from the Save Our Everglades Trust Fund must be equally matched by the cumulative contributions from all local sponsors.

CS/CS/HB 221 does not trigger local-government mandate requirements, raise constitutional issues, or authorize new agency rulemaking authority.

Except where otherwise provided, CS/CS/HB 221 provides that the act will take effect on June 30, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

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 (DACS)

  - 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 the Department, and as part of the approval process, the Department 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; permittability; assurances regarding water supply, flood protection, and meeting the needs of the restored natural environment; and coordinating with existing utilities and public infrastructure.

- The Department 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:

CS/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 $105 million in state funds for FY 2000-2001 and $100 million for each of the succeeding 9 years:

- For fiscal year 2000-2001, $50 million in general revenue funds is appropriated to the Save Our Everglades Trust Fund.
- For fiscal year 2000-2001, $30 million in excess cash generated from interest earnings on Preservation 2000 funds will be redistributed by the Department to the Save Our Everglades Trust Fund.
- For a nine-year period beginning in fiscal year 2001-2002, $75 million of state funds will be deposited into the Save Our Everglades Trust Fund annually.
- For a 10-year period beginning in fiscal year 2000-2001, $25 million of the District's Florida Forever allocation will be deposited into 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/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/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. For fiscal year 2000-2001, the Department may seek approval for additional spending authority to transfer available surpluses in other department trust funds to the Save Our Everglades Trust Fund. By fiscal year 2009-2010, distributions from the Save Our Everglades Trust Fund must be equally matched by the cumulative contributions from all local sponsors. 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. 215.22, F.S., exempting the Save Our Everglades Trust Fund from the 7 percent general revenue service charge imposed pursuant to s. 215.20(1), F.S.

Section 2. Amends s. 259.101, F.S., providing that for fiscal year 2000-2001, excess cash generated from interest earnings on Preservation 2000 funds be deposited into the Save Our Everglades Trust Fund. Specifies that the funds must be used for land acquisition.

Deletes redistribution of unencumbered Preservation 2000 cash balances to the CARL program and to the Water Management Lands Trust Fund. Corrects cross-references and terms.

Section 3. Amends s. 259.105, F.S., providing that for a 10-year period, beginning with fiscal year 2000-2001, $25 million of Florida Forever funds to be distributed by the Department to the South Florida Water Management District will be transferred to the Save Our Everglades Trust Fund.

Section 4. Amends s. 259.1051, F.S., to provide that funds distributed by the Department from the Florida Forever Trust Fund to the Save Our Everglades Trust Fund are excluded from provisions requiring expenditure of funds by recipient within a 90-day period.

Section 5. 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; to require project implementation reports and specifying their contents; providing for the deposit of specified funds into the Save Our Everglades Trust Fund; providing that distributions from the trust fund shall be in accordance with a legislative appropriation and s. 373.026(8)(b)-(c), F.S.; providing that distributions from the trust fund be matched by the cumulative contributions from all local sponsors by FY 2009-2010; and to require annual reporting.

Section 6. Amends s. 375.045, F.S., providing that funds distributed by the Department from the Preservation 2000 Trust Fund to the Save Our Everglades Trust Fund are excluded from provisions requiring expenditure of funds by recipient within a 90-day period.

Section 7. Provides an appropriation of $50 million from the General Revenue Fund for FY 2000-2001 to the Save Our Everglades Trust Fund for the purposes of this act.

Section 8. Authorizes the Department to seek additional spending authority during FY 2000-2001 to transfer available surpluses from other department trust funds to the Save Our Everglades Trust Funds.

Section 9. 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/CS/HB 221 has a fiscal impact of $1.005 billion on state funds for a 10-year period. However, disbursements from the trust fund are subject to annual appropriation by the Legislature.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

CS/CS/HB 221 makes up to $105 million in state funds available in fiscal year 2000-2001 to supplement District revenues, and up to $100 million annually through fiscal year 2009-2010.

2. Expenditures:

As the local sponsor of the Restudy, the South Florida Water Management District will be responsible for the estimated $3.9 billion local share of project implementation costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The private sector may feel some of the effects of implementing the comprehensive plan to restore the Everglades should the South Florida Water Management District's governing board vote to increase its ad valorem assessments to the full .8 mill as authorized by statute.

D. FISCAL COMMENTS:

For a 10-year period beginning in 2000-2001, the Department has identified $23 million in recurring state land acquisition credits to the District as a source of revenue for funding Everglades restoration.

For fiscal year 2000-2001, the District has identified the following sources of revenue to pay for its share of the annual estimated total of $200 million necessary to implement the Restudy:

District's Redirected Effort

CERP	$13.9 million
Non-CERP	$ 8.0 million
Previously Dedicated Millage	$11.5 million*
Program Reductions/Cuts	$14.8 million
TOTAL (Recurring funds)	**$48.2 million**

*Previously dedicated millage is revenue previously directed towards water resource development.

Therefore, combined state and District funding for fiscal year 2000-2001 is as follows:

DEP - State land acquisition credits	**$ 23.0 million**
SFWMD - Redirected Effort	**$ 48.2 million**
State - Everglades Restoration Investment	**$ 105.0 million**
TOTAL FUNDS FOR FY 2000-2001	**$ 176.2 million**

CS/CS/HB 221 proposes to make state funding available through fiscal year 2009-2010. After that time period, legislation would be required to make additional state funding

available for the purpose of implementing the comprehensive plan resulting from the Restudy. It is anticipated that with dedicated state and District funding sources identified, the federal government will commit federal funds to implement the comprehensive plan. Although it is the Legislature's intent that the state and federal governments participate as equal partners, the full amount of any federal assistance forthcoming remains undetermined.

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

E. 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.

F. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

CS/CS/HB 221 is tied to HB 1957 which creates the Save Our Everglades Trust Fund within the Department of Environmental Protection.

V. 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.

On April 18, 2000, the Committee on General Government Appropriations adopted two amendments to CS/HB 221. One amendment deleted a repealer to ensure that the current distribution of P2000 funds is maintained in the remaining accounts. The other amendment removed provisions of the bill which identified documentary stamp tax revenue as a funding

source and added provisions to appropriate $50 million in GR for FY 2000-2001 to the Save Our Everglades Trust Fund and to provide $75 million in state funds to the trust fund in each of the subsequent nine years. The Committee then adopted CS/HB 221 as a committee substitute.

On April 28, 2000, the House took up CS/CS/HB 221, which was read a second time. No amendments were adopted. On May 3. 2000, the House took up CS/CS/HB 221 on third reading and then passed the bill by a vote of 119 yeas and 0 nays.

On May 4, 2000, the Senate adopted two amendments to CS/CS/HB 221, which it had taken up in lieu of the Senate companion, CS/CS/SB 1694. One amendment added the requirement that by FY 2009-2001 distributions from the Save Our Everglades Trust Fund be equally matched by the cumulative contributions from all local sponsors. A second amendment authorized the Department to seek additional spending authority to transfer up to $25 million from the Florida Forever Trust Fund to the Save Our Everglades Trust Fund during FY 2000-2001. The latter amendment was subsequently reconsidered and withdrawn on May 5, 2000. At the same time, an amendment was adopted that authorized the Department to seek additional spending authority to transfer available balances from other department trust funds to the Save Our Everglades Trust Fund during FY 2000-2001. The Senate then passed the CS/CS/HB 221 by a vote of 39 yeas to 0 nays. Upon receipt of the Senate message, the House concurred with the Senate amendments and passed CS/CS/HB 221 by a vote of 120 yeas to 0 nays.

VI. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:	Staff Director:
W. Ray Scott	Wayne S. Kiger

AS REVISED BY THE COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:	Staff Director:
Karon A. Molloy	Joyce Pugh

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:	Staff Director:
Cynthia P. Kelly	Cynthia P. Kelly

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:	Staff Director:
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