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**DATE:** February 20, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION  
ANALYSIS**

**BILL #:** HB 1477  
**RELATING TO:** Land Acquisition  
**SPONSOR(S):** Representative(s) Crow

**TIED BILL(S):**

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

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
  - (2) FISCAL POLICY & RESOURCES
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
- 

I. SUMMARY:

HB 1477 amends s. 259.101, F.S., relating to the Preservation 2000 Act (P2000), to expand the use of unencumbered and uncommitted funds in the P2000 Trust Fund for approved projects under the Florida Forever Act beginning in fiscal year 2001-2002. The bill further provides that after June 30, 2002, any unencumbered P2000 funds allocated to implement the Green Swamp Land Protection Initiative must be reallocated to the Florida Greenways and Trails Program to be used to acquire land for the Florida National Scenic Trail. After June 30, 2003, any unencumbered P2000 funds allocated to the Monroe County Comprehensive Plan Land Authority must be reallocated and used for the current selection list of the Florida Communities Trust (FCT) under the Florida Forever Program.

HB 1477 amends s. 380.507, F.S., relating to the FCT within the Department of Community Affairs (DCA), to require that the FCT's land acquisition rules must include procedures for awarding project excellence points for proposed projects that voluntarily resolve land-use conflicts and issues, and that involve local governments and private interests.

HB 1477 establishes that the Legislature recognizes the need to augment community efforts for revitalization and redevelopment of former industrial areas of the state's population centers, and recognizes that greenspace in urban settings is integral to healthy cities. The FCT governing board is authorized to award local governments 100 percent grants for preacquired and remediated sites having environmental damage.

HB 1477 takes effect July 1, 2002.

**(On February 20, 2002, the members of the Natural Resources & Environmental Protection Committee adopted a traveling "strike-everything" amendment to HB 1477 which is explained in the "Amendments & Committee Substitutes" section of this bill analysis.)**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

HB 1477 does support less government by providing financial incentives for local governments to purchase and remediate environmentally damaged lands thereby decreasing the state's responsibility for remediation of environmentally hazardous sites.

B. PRESENT SITUATION:

**Preservation 2000 Program – s. 259.101, F.S.**

Preservation 2000 was created in 1990 as a \$3 billion, 10-year land acquisition program funded through the annual sale of bonds. Each year, \$300 million in bond proceeds, less the cost of issuance, was distributed as follows:

- 50% to DEP for the purchase of public lands.
- 30% to the WMDs for the purchase of water management lands.
- 10% (about \$27 million) to FCT for land acquisition grants and loans to local governments.
  - \$3 million directed annually to the Green Swamp Initiative.
  - \$3 million directed annually to the Monroe County Land Authority.
- 2.9% to DEP for inholdings and additions.
- 2.9% to DACS for the Division of Forestry.
- 2.9% to the FWCC for the purchase of inholdings and additions.
- 1.3% to DEP for the Florida Greenways and Trails Program.

The P2000 program, designed to acquire environmentally sensitive lands, is administered by the Division of State Lands at the Department of Environmental Protection. As of September 30, 2001, the status of P2000 through Series Ten bond issue was about \$196 million - \$155.4 million was encumbered, \$4.2 million was expected to be encumbered by the end of the year, and \$36.4 million was the actual cash balance.

Previous appropriations out of the P2000 program for other than designated program purposes include \$25 million to the South Florida Water Management District for land acquisition costs related to the Lower East Coast Buffer Zone, and \$75 million to the Save Our Everglades Trust Fund. The 2000-2001 fiscal year was the last year funded from the sale of P2000 bonds.

**Florida Forever Program – s. 259.105, F.S.**

The Florida Forever Program was enacted by the Legislature in 1999 as a successor program to P2000. Florida Forever authorizes the issuance of not more than \$3 billion in bonds for land acquisition, water resource development projects, the preservation and restoration of open space and greenways, and for outdoor recreation purposes. Less the cost of issuance, annual bond proceeds are to be distributed as follows:

- 35% to the Department of Environmental Protection (DEP) for land acquisition and capital project expenditures to implement priority lists of the water management districts.
- 35% to DEP for land acquisition and capital project expenditures meeting the purposes of Florida Forever.
- 22% (about \$66 million) to FCT for grants to applicants for land acquisition related to community parks, open spaces, and greenways.
- 2% to DEP for the Florida Recreation Development Assistance Program (FRDAP).
- 1.5% to DEP for inholdings and additions.
- 1.5% to the Department of Agriculture & Consumer Services for the Division of Forestry.
- 1.5% to the Fish & Wildlife Conservation Commission for inholdings and additions.
- 1.5% to DEP for the Florida Greenways and Trails Programs.

**Florida Communities Trust – Part III, Chapter 380, F.S.**

The FCT program within the DCA was created by the Legislature in 1989 to assist local governments in complying with local comprehensive plans by meeting the conservation, recreation, open space, and coastal element requirements of those plans. The governing body of the FCT consists of the Secretary of DCA, the Secretary of the DEP, and four members of the public appointed by the Governor and confirmed by the Senate. The governing board must meet at least once a quarter, and may take action only upon the affirmative vote of at least four of the six members of the board. Projects which may be funded through FCT include redevelopment projects, resource enhancement projects, public access projects, and urban waterfront restoration projects.

From 1993 through 1999, the FCT used P2000 funds to provide more than \$130 million of the \$243 million used by local governments to acquire more than 27,000 acres of land. The use of P2000 funds is limited to land acquisition project costs, and at least half of the funds available from Trust must be matched by local governments on a dollar-for-dollar basis. Counties with populations of 75,000 or less, and cities with populations of 10,000 or less, are not required to provide a match. Under P2000, grant terms for awards to local governments may not exceed 24 months unless extended by the FCT governing board. If a project is not closed within 24 months and the grant term is not extended, the grant reverts to the balance of the FCT's unencumbered P2000 funds.

Until 1996, the FCT set aside 10 percent of its P2000 funds to fund the Areas of Critical State Concern Program. Beginning in 1996, the Legislature established set-asides of \$3 million each for the Green Swamp Initiative and the Monroe County Land Authority. The FCT indicates that through December, 2001, the Green Swamp Land Authority has \$12 million in encumbered but unspent funds; and the Monroe County Land Authority has \$6.1 million in encumbered but unspent funds. For the Areas of Critical State Concern Program, the encumbered but unspent balance is \$2.9 million.

Under the Florida Forever Program, the FCT is directed to emphasize funding in low-income or disadvantaged communities. At least 30 percent of Florida Forever funds must be granted to projects in metropolitan areas, and at least 50 percent of those funds must be spent in built-up

urban areas. The FCT must use no less than 5 percent of Florida Forever funds for the acquisition of recreational trail systems.

To receive land acquisition grants from FCT, local governments have to provide a minimum of 25 percent matching money. Counties with populations of 75,000 or fewer, and cities with populations of 10,000 or fewer are exempt from match requirements. Also, non-profit organizations that demonstrate an ability to develop and manage lands are eligible for non-matching FCT Florida Forever awards. Sources of matching funds include existing or future cash from a local government; cash or funds from a regional, state or federal agency; cash from a private donation; and the value of real property owned by the applicant in a qualified preacquisition.

### **OPPAGA Review – Florida Communities Trust**

In January of 2002, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued a special review of the Florida Communities Trust Program. While the review cited progress in the FCT's closing process, particularly noting a decrease in the time needed to close an acquisition, it also stated that the FCT is carrying a balance of approximately \$71 million in committed but unspent P2000 funds. The OPPAGA report contained the following recommendations to the Legislature:

- Repeal language authorizing the FCT's governing board to extend P2000 grants for more than 24 months.
- Require that the FCT's unspent Green Swamp and Monroe County Land Authority set-asides be expended by June, 2002.
- Require that the FCT's unspent Areas of Critical State Concern P2000 funds be expended by June, 2003.

The report further recommended that active grant contracts be completed by June, 2002, or funds should revert to the Preservation 2000 Trust Fund.

### **C. EFFECT OF PROPOSED CHANGES:**

HB 1477 proposes the following changes:

- Beginning in fiscal year 2001-2002, expands the use of unencumbered and uncommitted P2000 funds to projects that are eligible under the requirements of the Florida Forever Act.
- Provides that after June 30, 2002, unencumbered P2000 funds allocated to the Green Swamp Initiative must be reallocated to the Florida Greenways and Trails Program and used to acquire land for the Florida National Scenic Trail.
- Provides that after June 30, 2003, unencumbered P2000 funds allocated to the Monroe County Comprehensive Plan Land Authority must be reallocated and used for the FCT current selection list under the Florida Forever Program.
- Provides that FCT land acquisition rules must be expanded to include provisions for awarding project excellence points for projects that voluntarily resolve land-use conflicts and issues, and that involve local governments and private interests.
- Authorizes the FCT governing board to issue 100 percent grants to local governments for preacquired and remediated sites having environmental damage.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Amends subsection (3) of s. 259.101, F.S., effective July 1, 2002, to provide that beginning in fiscal year 2001-2002, funds from the unencumbered cash balance, less approved commitments, in the P2000 Trust Fund, can be used to fund Florida Forever projects under the provisions of s. 259.105, F.S., as well as P2000 projects.

Provides that unencumbered P2000 funds allocated for the implementation of the Green Swamp Initiative after June 30, 2002, must be reallocated to the Florida Greenways and Trails Program to be used to purchase lands for the Florida National Scenic Trail.

Provides that unencumbered P2000 funds allocated for the Monroe County Land Comprehensive Plan Land Authority after June 30, 2003, must be reallocated and used for the current selection list of the FCT under the Florida Forever program.

**Section 2.** Amends subsection (11) of s. 380.507, F.S., to provide that the FCT's rules for land acquisition must include procedures for awarding project excellence points for projects that voluntarily resolve land-use conflicts and issues by involving local governments and private interests.

**Section 3.** Amends subsection (3) of s. 380.510, F.S., to repeal the authority of the FCT governing board to extend P2000 grant terms for more than 24 months. Provides that grants for projects not closed within a 24-month period will revert to the FCT's unencumbered balance of P2000 funds.

**Section 4.** Creates chapter law to provide that the Legislature recognizes the need to augment community revitalization and redevelopment efforts in core urban areas and former industrial areas for the reclamation of open space and the enhancement of parks. Provides that the Legislature recognizes that greenspace in urban settings is important to a functioning environmentally and economically healthy city. Authorizes the FCT governing board to award local governments 100 percent grants for environmentally damaged lands that have been preacquired and remediated to meet the purposes of the FCT program.

**Section 5.** Provides that the act will 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:

Local governments will not see an increase in revenues under the provisions of HB 1477 although they will have access to additional funds, and can apply for reimbursement of the funds expended for acquisition, for projects meeting the purposes of the FCT program. Also,

local governments failing to close FCT projects funded with P2000 dollars within a two-year period from the award of the grant will lose those funds as they revert to the unencumbered balance of the FCT's P2000 funds.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Under the provisions of HB 1477, local governments are eligible to receive grants for 100 percent of the costs of preacquired and remediated environmentally damaged lands. Private enterprises that have participated in an acquisition project with a local government by expending funds for acquisition and remediation may be reimbursed by that local government.

D. FISCAL COMMENTS:

HB 1477 requires the redistribution of unencumbered FCT P2000 funds that have been set aside for certain programs. The FCT reports that there are no unencumbered funds remaining in the Trust's P2000 program, only committed funds which have not been spent due to delays in closing acquisition projects.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 1477 does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 1477 does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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

HB 1477 does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The FCT is authorized to expand land acquisition rules to create procedures for awarding project excellence points to specific projects.

C. OTHER COMMENTS:

HB 1477 takes effect July 1, 2002, but contains provisions that apply to fiscal year 2001-2002. Also, the redistribution of funds from the Monroe County Land Authority is applicable after June 30, 2003, although the OPPAGA report issued in January, 2002, recommends a redistribution from the Land Authority after June 30, 2002. The OPPAGA report also recommends a redistribution from the Areas of Critical State Concern Program after June 30, 2003.

Finally, language in HB 1477 creates a perception that P2000 funds will be allocated for the Green Swamp Initiative after June 30, 2002, and the Monroe County Land Authority after June 30, 2003. The last distribution of P2000 bonds was in fiscal year 2000-2001.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 20, 2002, the Natural Resources & Environmental Protection Committee unanimously adopted a traveling "strike-everything" amendment to HB 1477 which provides the following:

- Amends subsection (7) of s. 380.507, F.S., to authorize the Florida Communities Trust to use Florida Forever funds to provide local governments and non-profit organizations with 100% grants to cover the costs of preacquired remediated lands.
- Amends s. 215.91, F.S., to exempt direct support organizations and citizen support organizations from having an independent CPA audit unless annual expenses exceed \$100,000.
- Amends s. 259.101, F.S., to clarify that beginning in fiscal year 2002-2003, funds remaining in the P2000 Trust Fund sub-accounts can be used for Florida Forever or P2000 projects. Removes language from the bill directing the use of set-aside P2000 funds for other purposes.

VII. SIGNATURES:

COMMITTEE ON HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

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