

# wuvSENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1932

SPONSOR: Natural Resources Committee and Senator Latvala

SUBJECT: Florida Forever Funds

DATE: February 26, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gee	Voigt	NR	Favorable/CS
2.	_____	_____	CA	_____
3.	_____	_____	AGG	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill provides for the use of unexpended funds in the Preservation 2000 Trust Fund for fiscal year 2002-2003 for projects under the Florida Forever Program and the Florida Preservation 2000 Program. It also revises the authority of the board of directors of the Florida Communities Trust regarding grants and rules for resolution of land-use conflicts and provides recognition of the need to reclaim open space in urban areas. Rulemaking authority is provided, as well as an exemption for certain citizen support organizations from annual audits conducted by certified public accountants.

This bill amends ss. 215.981, 259.101, 380.502, 380.507, and 380.510, F.S.

**II. Present Situation:**

Pursuant to ss. 20.2551 and 258.015, F.S., Citizen Support Organizations (CSOs) are not for profit corporations which have been created to provide support to the state park system. Such CSOs are authorized to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in their own names, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the state park system or individual units of the state park system. Such CSOs must be approved by the Division of State Parks of the Department of Environmental Protection (DEP), which must determine that a CSO is consistent with the goals of the state park system and in the best interests of the state. Currently, CSOs or other direct-support organizations also exist to support the Fish and Wildlife Conservation Commission, the Department of State, and the public education system, at a minimum.

Because CSOs often have limited financial resources and expenditures, until recently they were not always required to have an annual audit conducted by an independent certified public accountant. Due to the expense of a typical audit, only CSOs having annual expenditures of \$100,000 or more were required to have such an independent audit. However, in enacting s. 22 of ch. 2001-266, L.O.F., the 2001 Legislature deleted the exemption from audits for CSOs having annual expenditures of less than \$100,000. The deleted provisions were included in an omnibus bill (SB 822) primarily relating to auditing matters. The bill consolidated a number of provisions of law establishing CSO and direct support organization audit requirements into four provisions, i.e., ss. 215.981, 237.40(4), 240.299(5), and 240.331(6), F.S. In these provisions, no such organizations were exempted from audit requirements.

The DEP reports that it currently has 77 CSOs supporting its operations. In recent years, no more than six have had expenditures of \$100,000 or more and required an audit. The DEP also reports that, for some CSOs, the cost of the required audit may exceed annual revenues. The Joint Legislative Auditing Committee estimates that a typical CSO audit would cost \$1,500-\$5,000. The DEP supports reinstating the \$100,000 annual expenditure threshold before an audit is required.

The Preservation 2000 (P-2000) program has provided approximately \$3 billion for the acquisitions of lands for conservation and recreation over the ten-year period ending in 2000. Of this, approximately \$48,130,000 remained unencumbered and not reserved for approved commitments on January 31, 2002.

The Florida Forever program, the successor to the P-2000 program, is also expected to provide up to \$3 billion in bond proceeds over the ten-year period ending 2010. Pursuant to s. 259.105(3), F.S., proceeds will be distributed and used as follows:

- (a) Thirty-five percent to the Department of Environmental Protection (DEP) for the acquisition of lands and capital project expenditures necessary to implement the water management districts' priority lists developed pursuant to s. 373.199, F.S. A minimum of 50 percent of the total funds provided over the life of the Florida Forever program must be used for the acquisition of lands.
- (b) Thirty-five percent to the DEP for the acquisition of lands and capital project expenditures. The Legislature intends that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge.
- (c) Twenty-two percent to the Department of Community Affairs for use by the Florida Communities Trust (FCT) for the purposes of part III of chapter 380, F.S., and grants to local governments or nonprofit environmental organizations for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans.
- (d) Two percent to the DEP for grants to implement the Florida Recreation Development Assistance Program.

- (e) One and five-tenths percent to the DEP for the purchase of inholdings and additions to state parks and for capital project expenditures.
- (f) One and five-tenths percent to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions. The implementation of reforestation plans or sustainable forestry management practices, and for capital project expenditures.
- (g) One and five-tenths percent to the Fish and Wildlife Conservation Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife and for capital project expenditures.
- (h) One and five-tenths percent to the DEP for the Florida Greenways and Trails Program to acquire greenways and trails or greenways and trail systems pursuant to chapter 260, F.S., including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail and for capital project expenditures.

This section also contains obsolete provisions redistributing certain unexpended funding, in FY 2000-2001 only, for Everglades restoration.

Pursuant to s. 259.101(3)(c), F.S., the funding provided to the FCT was subject to reallocation to implement the Green Swamp Land Protection Initiative as well as for the Monroe County Comprehensive Plan Land Authority to purchase property interests in either those lands subject to the Rate of Growth Ordinances adopted by local governments in Monroe County or those lands within the boundary of an approved Conservation and Recreation Lands project located within the Florida Keys or Key West Areas of Critical State Concern. In each case, \$3 million annually was reallocated for such purposes. As of January 31, 2002, the cash balance of funds reserved for the Green Swamp Land Protection Initiative was \$5,984,061, all of which is encumbered. The cash balance of the funds reserved for Monroe County was \$5,907,601, all of which is also encumbered.

The Florida National Scenic Trail, when completed, will reach from the Gulf Islands National Seashore near Pensacola to the Big Cypress National Preserve near Miami, providing over 1,300 miles of hiking trail. The DEP's Office of Greenways and Trails is authorized to acquire land for the trail, which is jointly managed by the Florida Trail Association, the U.S. Forest Service, and the public agencies whose lands the trail traverses.

Pursuant to s. 380.507(2), F.S., the FCT is authorized:

To undertake, coordinate, or fund activities and projects which will help bring local comprehensive plans into compliance and help implement the goals, objectives, and policies of the conservation, recreation and open space, and coastal elements of local comprehensive plans, or which will otherwise serve to conserve natural resources and resolve land use conflicts, including, but not limited to:

- (a) Redevelopment projects.
- (b) Resource enhancement projects.
- (c) Public access projects.
- (d) Urban waterfront restoration projects.
- (e) Site reservation.
- (f) Urban greenways and open space projects.

Pursuant to s. 380.510(3)(f), F.S., the FCT governing board may extend a grant beyond 24 months when a grant recipient demonstrates that significant progress is being made toward closing the project or that extenuating circumstances warrant an extension of time.

The FCT has rulemaking authority to govern the grant program under s. 380.507(11), F.S. This authorization does not specifically extend to rules relating to projects that help resolve land-use conflicts and issues or 100 percent grants for preacquired and remediated sites.

Rule ch. 9K-7.007(1)(a), F.A.C., authorizes evaluation points to be awarded for sites preacquired by local governments. Rule ch. 9K-7003(4), F.A.C., requires all local governments to provide a minimum 25 percent match toward project costs. However, an exception is made for certain small governments and nonprofit environmental organizations, which may receive 100 percent grants. (Pursuant to s. 259.105(3)(c), F.S., 75 percent of the FCT's land acquisition funding from the Florida Forever program must be matched by local governments dollar-for-dollar.)

A January, 2002 Special Review by the Office of Program Policy Analysis and Governmental Accountability recommended that, to improve the FCT's timeliness in spending funds, the Legislature:

- remove language authorizing the FCT's governing board to extend grants beyond 24 months;
- require that the FCT's unspent P-2000 funds for the Green Swamp Program and Monroe County Land Authority be expended by June 2002; and
- require that unspent P-2000 funds for Areas of Critical State Concern be expended by June 2003.

### III. Effect of Proposed Changes:

**Section 1.** Section 215.981, F.S., is amended to exempt CSOs from CPA-conducted annual audits unless their annual expenses exceed \$100,000.

**Section 2.** Section 259.101(3), F.S., is amended to provide that, beginning in FY 2002-2003, funds from the unencumbered cash balance less approved commitments remaining in the agency subaccounts in the P-2000 Trust Fund may be used by those agencies to fund projects described in s. 259.105(3)(a)-(h), F.S., (the Florida Forever program) which meet the criteria for funding pursuant to the Florida Forever Program or the Florida Preservation 2000 Program.

This section also reallocates certain unencumbered P-2000 funds as follows:

- Unexpended funds allocated to implement the Green Swamp Land Protection Initiative after June 30, 2004 are reallocated to the Florida Greenways and Trails Program; any such funds must be used to purchase land for the Florida National Scenic Trail.
- Unexpended funds allocated for the Monroe County Comprehensive Plan Land Authority after June 30, 2004 are reallocated and used to fund projects which meet the criteria for funding under the Florida Forever program administered by the FCT.

**Section 3.** Section 380.502, F.S., is amended to include provisions from section 4 of the bill that provide legislative recognition of the need to augment community efforts to revitalize and redevelop urban core and formerly industrial areas of the state's population centers by reclaiming open space and enhancing park opportunities. The Legislature also recognizes that greenspace in urban settings is an integral part and function of an environmentally and economically healthy municipality.

**Section 4.** Sections 380.507(7) and (11), F.S., are amended to require the FCT to adopt rules establishing procedures for the awarding of project excellence points for proposed projects that voluntarily help resolve land-use conflicts and issues under s. 380.502(3)(c), F.S., and to authorize the FCT to award 100 percent grants to local government for preacquired remediated sites having environmental damage, for the purposes of part III of ch. 380, F.S. Rulemaking authority is provided.

**Section 5.** Section 380.510(3)(f), F.S., is amended to delete, after July 1, 2002, authorization for the FCT's governing board to extend grants beyond 24 months and to clarify that any reverted funds will be redistributed to other eligible FCT Florida Forever projects.

**Section 6.** The act takes effect July 1, 2002.

#### **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:**

CSOs supporting the state park system that do not have annual expenses exceeding \$100,000 would not incur annual audit expenses estimated at \$1,500 - \$5,000.

Property owners in the Green Swamp Area of Critical State Concern and Monroe County who may wish to sell property through the P-2000 program could be negatively affected due to the reallocation of funds. Similarly, persons wishing to sell property for the Florida National Scenic Trail and to local governments through the FCT program could benefit from the reallocations, if any funding becomes available.

Property owners involved in land-use conflicts could benefit from the changes if the FCT were more likely to provide grants to resolve such conflicts.

**C. Government Sector Impact:**

Exempting CSOs from audit requirements could benefit the DEP because it is likely some CSOs would otherwise cease to operate due to the high audit expenses.

The ability to use unencumbered P-2000 funds for Florida Forever projects should have little overall impact, as the agencies have already incorporated their P-2000 acquisition lists with their Florida Forever acquisition lists.

The Green Swamp Land Protection Initiative and Monroe County would theoretically lose funding as of June 30, 2004. In fact, however, all the funds for the Green Swamp and Monroe County are currently encumbered and may well be expended by that date, and thus not subject to reallocation.

Some local governments may benefit if grants become available to acquire property involved in land-use conflicts. Benefits could also be realized if the limitation of grants to 24 months results in increased funding being available due to the redistribution of funds currently reserved for long-term projects.

It is not clear how the authorization for 100 percent grants for preacquired remediated sites would benefit local governments. The bill does not provide sufficient detail to evaluate its effect. The FCT can already make 100 percent grants for preacquired projects of local government that meet certain conditions and nonprofit environmental organizations. The bill does not specifically indicate whether the new statutory authorization for 100 percent grants would permit the FCT to use any of its funds for such grants or whether the existing requirement under s. 259.105(3)(c), F.S., that the FCT require a dollar-for-dollar match for 75 percent of its funds would limit 100 percent grants to the remaining 25 percent of the FCT's funds. Currently, the FCT's grants are for

appraised value, contemplating that the recipient will acquire property for specified purposes. The changes apparently will allow a local government to acquire contaminated property, remediate the damages, and be fully recompensed by the FCT if appraisals reflect the increased value after remediation. Considering that the costs of remediation can be quite high, it is not possible to evaluate the effects of this change.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---