

STORAGE NAME: h0607a.gga.doc
DATE: February 19, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: HB 607
RELATING TO: State land acquisition programs
SPONSOR(S): Representative(s) Atwater, Bense, Dockery, Greenstein, Weisman, and others
TIED BILL(S):

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

- (1) STATE ADMINISTRATION YEAS 5 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
- (3) FISCAL RESPONSIBILITY COUNCIL
- (4)
- (5)

I. SUMMARY:

The Florida Preservation 2000 program and the Florida Forever program are designed to acquire environmentally significant lands for preservation, conservation and recreational purposes. Both are funded through bond sales, which are deposited into their respective trust funds.

This bill authorizes issuance of up to \$375 million in Florida Forever bonds in Fiscal Year 2002-03, of which \$75 million must be deposited into the Florida Preservation 2000 Trust Fund. According to the bill, this is to "restore funds transferred from [the Florida Preservation 2000 Trust Fund] to the Save the Everglades Trust Fund in fiscal year 2001-02." *However, the bill actually restores the money twice, once in the form of an additional bonding authorization of \$75 million (in section 1) and once in the form of a \$75 million appropriation from general revenue (in section 8). The Committee on State Administration passed a "strike-everything" amendment that addresses this, and other, concerns (see "Amendments or Committee Substitute Changes" section of analysis). The amendment is traveling with the bill.*

Additionally, this bill:

- Attempts to prohibit future legislatures from transferring, redistributing, or otherwise diminishing funds deposited in the Florida Preservation 2000 Trust Fund, or the Florida Forever Trust Fund.
- Provides for an appropriation of \$75 million from the General Revenue Trust Fund to the Florida Preservation Trust Fund.
- Provides for an appropriation of \$5 million from the General Revenue Trust Fund for debt service requirements for the third series (third year) of the Florida Forever bonds.

This bill does not appear to have a fiscal impact upon local governments; however, it does have a negative fiscal impact of \$80 million on state government, by virtue of appropriating \$80 million from the General Revenue Fund, and depositing it into the Florida Preservation Trust Fund (\$75 million) and the Florida Forever Trust Fund (\$5 million). The bill has an effective date of July 1, 2002.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

When government purchases land for public use, government has made a determination that the land should *not* be available for personal or commercial use at the discretion of an owner. Such a decision is -- for good or ill -- an exercise of government will and authority over individual choice and individual responsibility.

B. PRESENT SITUATION:

Save Our Everglades Trust Fund

The Save Our Everglades Trust Fund¹ is a trust fund serving as a repository of both state and federal funds, designed to work in association with the Everglades Restoration Investment Act.² Broadly speaking, the monies in the trust fund go to restoring, preserving, and protecting the South Florida ecosystem, providing for the protection of water quality in and the reduction of the loss of fresh water from the Everglades, and providing such features as are necessary to meet the other water-related needs of the region, including flood control, and the enhancement of water supplies.³

Preservation 2000

Conceived in 1990 by then-Governor Bob Martinez, Preservation 2000⁴ (P2000) was a 10-year, \$3 billion,⁵ bond issuance program designed to acquire environmentally significant lands for preservation, conservation and recreational purposes.

The Legislature intended P2000 funds to be spent to acquire lands so as to "protect the integrity of ecological systems and to provide multiple benefits, including preservation of fish and wildlife habitat, recreation space, and water recharge areas,"⁶ as well as acquire, protect and preserve open space and recreational areas in urban settings. P2000, per its name, expired in the year 2000.⁷

¹ Section 373.472, F.S.

² Section 373.470, F.S.

³ Section 373.470(3)(b)2., F.S.

⁴ Section 259.101, F.S., was originally enacted in ch. 90-217, L.O.F.

⁵ The compilation of \$300 million in bonds issued yearly for 10 years, with the proceeds deposited into the Florida Preservation 2000 Trust Fund

⁶ Section 259.101(2)(c), F.S.

⁷ That is to say, no more bond issuance authority will be forthcoming. The program still has authority to properly spend such monies as are contained in the fund.

Florida Forever

In 1999, the Legislature enacted the Florida Forever⁸ program. The Florida Forever program was created as a continuation of the Preservation 2000 (P2000) program, and authorizes the issuance of bonds in an amount not to exceed \$3 billion⁹ for acquisition of land and water areas. This revenue is to be used for the purposes of restoration, conservation, recreation, water resource development, historical preservation and capital improvements to such lands and water areas. This program is intended to accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.

2001 General Appropriations Act (GAA)

The 2001 General Appropriations Act (GAA),¹⁰ along with the Florida Budget 2001 Implementing Act¹¹ provided for the transfer of \$75 million from the Florida Preservation 2000 Trust Fund to the Save Our Everglades Trust Fund.

Legislative Budget Commission

The Legislative Budget Commission¹² was created by section 37 of ch. 2000-371, L.O.F. It is charged with annually reviewing the amount of state debt outstanding and submitting to the President of the Senate and the Speaker of the House of Representatives an estimate of the maximum amount of additional state tax-supported debt that prudently may be authorized during the current fiscal year. The estimate is advisory and "shall in no way bind the Legislature."¹³

C. EFFECT OF PROPOSED CHANGES:

This bill restores funds (\$75 million) which were transferred in Fiscal Year 2001-02 from the Florida Preservation 2000 Trust Fund to the Save our Everglades Trust Fund.

In actuality, this bill restores this money *twice*, appropriating (in section 8 of the bill) \$75 million from general revenue, and transferring it to the Florida Preservation 2000 Trust Fund, and also allowing the state to raise (in section 1 of the bill) an additional \$375 million in Florida Forever bonds, with \$75 million of that to be deposited into the Florida Preservation 2000 Trust Fund. *This results in transferring \$150 million to the Florida Preservation 2000 Trust Fund.*

The bill also provides for an appropriation of \$5 million from the General Revenue Trust Fund for debt service for the third series (third year) of the Florida Forever bonds.

⁸ Section 259.105, F.S., was originally passed in ch. 99-247, L.O.F (CS/CS/SB 908)

⁹ The compilation of \$300 million in bonds, issued yearly for 10 years, and deposited into the Florida Forever Trust Fund.

¹⁰ Senate Bill 2000, Specific Appropriations Item 1742.

¹¹ Senate Bill 2002, section 36.

¹² Section 11.90, F.S. It is a standing joint committee of the Legislature, composed of 14 members as follows: seven members of the Senate appointed by the President of the Senate, to include the chair of the Senate Budget Committee or its successor, and seven members of the House of Representatives appointed by the Speaker of the House of Representatives, to include the chair of the Fiscal Responsibility Council or its successor. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature.

¹³ Section 11.90, F.S.

Finally, the bill attempts to prohibit any further money from being transferred from the Florida Preservation 2000 Trust Fund or the Florida Forever Trust Fund, in the future. See "*Other Comments*" section of this analysis.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 201.15, F.S., authorizing the issuance of \$375 million in Florida Forever bonds, of which \$75 million must be deposited into the Florida Preservation 2000 Trust Fund to restore funds transferred in 2001 to the Save our Everglades Trust Fund.

Section 2. Amends s. 215.618, F.S., providing that an appropriation of \$5 million must be provided in the 2002-03 GAA for debt service requirements for the third series of Florida Forever bonds. This section also provides that proceeds from bond sales deposited into the Florida Forever Trust Fund must not be subsequently transferred, redistributed, or otherwise diminished.

Section 3. Amends s. 259.101, F.S., providing legislation findings that the Florida Preservation 2000 program serves a valuable purpose, and that therefore the Legislature will replace the \$75 million transferred from the Florida Preservation 2000 Trust Fund in Fiscal Year 2001-2002. The section further provides that no other transfers, redistribution, or diminishment of funds intended for the Florida Preservation 2000 Trust Fund will be authorized unless a finding is issued by the Legislative Budgeting Commission determining that "the tax-supported debt will exceed the designated benchmark debt ratio necessary to address a critical state emergency."

Section 4. Amends s. 259.105, F.S., providing that no act of the Legislature will have the effect of transferring, redistributing, or otherwise diminishing funds deposited pursuant to the Florida Forever Act.

Section 5. Amends s. 259.1051, F.S., providing that no act of the Legislature will have the effect of transferring, redistributing, or otherwise diminishing funds deposited into the Florida Forever Trust Fund.

Section 6. Amends s. 373.470, F.S., providing that funds transferred from the Florida Forever Trust Fund, or the Florida Preservation 2000 Trust Fund, may not be deposited into the Save Our Everglades Trust Fund.

Section 7. Amends s. 375.045, F.S., providing that no act of the Legislature will have the effect of transferring, redistributing, or otherwise diminishing funds deposited into the Florida Preservation 2000 Trust Fund.

Section 8. Appropriates \$75 million from the General Revenue Fund to the Florida Preservation 2000 Trust Fund.

Section 9. Appropriates \$5 million from the General Revenue Fund to the Florida Forever Trust Fund.

Section 10. Provides that the act shall take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FLORIDA FOREVER TRUST FUND
\$300 million deposited (via prospective bond sales)

FLORIDA PRESERVATION 2000 TRUST FUND
\$75 million deposited (via prospective bond sales)

2. Expenditures:

GENERAL REVENUE TRUST FUND
\$ 5 million transferred into the Florida Forever Trust Fund
\$75 million transferred into the Florida Preservation 2000 Trust Fund
\$80 million transferred *from* the General Revenue Trust Fund

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

\$375 million will be made available for purchase of privately held land.

D. FISCAL COMMENTS:

The principal purpose of the bill, *as stated in the bill*, is to restore funds transferred from the Florida Preservation 2000 Trust Fund during the 2001 General Session of the legislature. However, in addition to allowing the sale of \$375,000,000 in Florida Forever bonds¹⁴ (and the deposit of \$75,000,000 of that money into the Florida Preservation 2000 Trust Fund), the bill *also* appropriates \$75,000,000 from General Revenue, to be placed in the Florida Preservation 2000 Trust Fund.

Therefore, rather than merely compensating the trust fund for \$75,000,000 in monies previously transferred, the bill instead adds \$150,000,000 in monies from both bonding and general revenue funds.

The Committee on State Administration passed an amendment, which is traveling with the bill, that addresses this, and other, concerns.

¹⁴ Yearly sales of Florida Forever bonds are generally capped at \$300,000,000.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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:

This 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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Ineffective provisions

This bill attempts to prohibit future legislatures from using any of the money deposited in the Florida Preservation 2000 Trust Fund, and the Florida Forever Trust Fund, for any other purposes than those designated at this time, and in this bill. As a general principle, one legislature cannot prohibit a future legislature's actions.

In *Gonzalez v. Sullivan*, 16 Fla. 791, 820 (Fla. 1878) (emphasis added), the Florida Supreme Court addressed a case in which the Legislature similarly sought to constrain the actions of future Legislatures:

The legislative power of the State was in this Legislature [only] for the time fixed as the term of office of the persons belonging to that [Legislature]. The *Constitution* provided that after that time this legislative power should be in *other* persons, and this Legislature could pass no law in derogation of this *constitutional grant of power to Legislatures following.*"

This means that the language in the bill, rather than having any binding power, may simply serve as legislative intent for future legislatures to take into consideration.

Department of Environmental Protection (DEP) concerns over the allocation of the \$75 million

DEP staff expressed concerns¹⁵ regarding the allocation of the \$75 million that would be returned to the Florida Preservation 2000 Trust Fund:

¹⁵E-mail to the Committee on State Administration, from staff, DEP, 12-26-02.

Although the bill proposes to restore the \$75,000,000 of P-2000 TF funds transferred for the Everglades funding needs, it would do this by allocating the \$75,000,000 to the land management agencies based on the statutory P-2000 formula rather than on the exact amount of P-2000 funding each of the land management agencies had to give up to come up with the total \$75,000,000. Our Division of Recreation and Parks (DRP), for instance, lost \$10,563,582, or 13.8% of the total \$75 million hit. Under the reimbursement formula indicated in the bill, however, DRP would only get their original 2.9% share of the annual P2000 allocations, or \$2,175,000, and thereby loses almost \$8.4 million needed for state park additions and inholdings. On the other hand, other land management agency(s) would receive a windfall of much more than they contributed originally.

This concern is addressed by the amendment adopted by the Committee on State Administration, which is traveling with the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Strike-everything amendment adopted by Committee on State Administration on 2-7-02:

The strike-everything amendment to HB 607 maintains the principal purpose of HB 607 -- to replace the \$75 million that was "borrowed" by the Save Our Everglades Trust Fund in 2001. Changes have been made pursuant to input from the Director of the Division of Bond Finance, House substantive committee staff (Natural Resources and State Administration), and House fiscal staff.

The primary substantive change made by the strike-everything is to remove any required appropriation. Additionally:

- Unnecessary language has been removed;
- Date deadlines for transfers of funds have been corrected;
- A provision correcting the distribution formula for the returned \$75 million is added (each program within DEP will receive the same amount of money it had taken from it last year, when the money was borrowed); and
- Language was added pursuant to the advice of the Division of Bond Finance to address technical concerns.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Gip Arthur

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Lynn Dixon

Staff Director:

Lynn Dixon