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HOUSE OF REPRESENTATIVES

COUNCIL FOR READY INFRASTRUCTURE
ANALYSIS

BILL #: HB 813

RELATING TO: Everglades Restoration

SPONSOR(S): Representative(s) Dockery

TIED BILL(S):

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

(1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 13 NAYS 0
(2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 11 NAYS 0
(3) COUNCIL FOR READY INFRASTRUCTURE
(4)
(5)

I. SUMMARY:

This bill authorizes the Department of Environmental Protection (DEP) to implement the Comprehensive Everglades Restoration Plan by issuing Everglades restoration bonds in amounts of up to $125 million annually or in additional amounts if requested by the DEP to address specified needs, for the next eight fiscal years, beginning in FY 2002-2003. No series of bonds may be issued unless the debt service due in the year of issuance has been appropriated by the Legislature. Debt service will be provided from documentary stamp tax proceeds. Any bond proceeds will be deposited into the Save Our Everglades Trust Fund.

The bill would limit the annual transfer of $25 million in Florida Forever funds, allocated to the South Florida Water Management District, to the Save Our Everglades Trust Fund. This annual transfer only applies to fiscal years 2000 – 2001 and 2001 – 2002.

Additionally, the bill provides for a series of legislative findings concerning the importance of the Everglades and the state's commitment to restoring this valuable ecosystem.

The bill is effective July 1, 2002.

On February 8, 2002, the House General Government Appropriations Committee considered this bill and adopted one amendment. The amendment provides for exemptions from permit requirements for certain project components under the Comprehensive Everglades Restoration Plan Regulation Act (CERP), s. 373.1502, F.S. The amendment is traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No [X]	N/A []
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:

Less Government: This bill expands the state government's ability to fund and bond the Comprehensive Everglades Restoration Plan.

B. PRESENT SITUATION:

The Comprehensive Everglades Restoration Plan (CERP) is an $8.2 billion plan designed to ensure that sufficient, timely, water is available for Everglades restoration and other water-related needs of the South Florida ecosystem. The CERP will be implemented over approximately a 40-year period and is to be funded equally by the State of Florida and the federal government. For the first 10 years of the project, Florida and the federal government have each agreed to provide $200 million annually. The state's share of these costs is divided equally between the South Florida Water Management District (SFWMD), the required local sponsor for the CERP, and state government. The U.S. Congress has authorized, but not funded, four pilot projects, ten initial projects, and an assessment and monitoring program. Florida's share of these costs will total more than $630 million.

Section 373.470, F.S., provides an unspecific mechanism for the $100 million annual state share of costs for the first 10 years of the CERP, but does not specify the source of $75 million of the state revenues to meet this obligation. For fiscal year 2000-2001, $50 million in general revenue was deposited into the Save Our Everglades Trust Fund, together with approximately $29 million in accumulated interest from the Preservation 2000 Trust Fund for which no spending authority existed. In addition, $25 million of the SFWMD's approximately $36 million annual Florida Forever allotment was counted as part of the state's share of the costs since the state provides funding for the Florida Forever program. For fiscal year 2001-2002 and the 8 consecutive years thereafter, the state's share of costs will be comprised of $25 million in the SFWMD's Florida Forever funding and $75 million in unspecified "state funds." The 2001 Legislature elected to use $75 million in unexpended and unencumbered Preservation 2000 funds as the "state funds." Although Everglades restoration is a statutorily authorized use of Preservation 2000 funds, the environmental community opposed this use. Concern has been expressed that, as there is no dedicated funding source for the state's $75 million share, the precedent has been established for the use of bond proceeds, such as Florida Forever funding, which are statutorily authorized for water restoration projects as well as land acquisition projects.

A further concern is that the 2001 Legislature enacted provisions in CS/SB 1468 that expressed the intent of the Legislature to restore the $75 million in Preservation 2000 funds used for the CERP to the Preservation 2000 Trust Fund in the General Appropriations Act for fiscal years 2002-2003. In a time of uncertain revenues, it may be difficult to continue to fund the CERP in fiscal year 2002-2003 from unspecified "state funds" as well as restore the $75 million to the Preservation 2000 Trust Fund, as no source of funds for the repayment was specified.

The Senate Natural Resources Committee recently completed an interim project report entitled "Alternatives for Funding the Comprehensive Everglades Restoration Plan." The report identified several different ways to provide the state's annual $75 million share of CERP funding for the next 8 years. When the report was presented, one alternative, the sale of bonds, evoked considerable interest. At the meeting, Audubon of Florida also advocated the issuance of bonds for Everglades restoration, primarily as a mechanism to acquire needed lands in advance of escalating land values. While there is no doubt land values in the areas to be restored are escalating, whether the rate of increase would justify the assumption of bonded indebtedness at this time is not known. The Joint Legislative Committee on Everglades Oversight is in the process of requesting the SFWMD to ascertain the expected increase in regional land values in areas where CERP acquisitions are expected to be made, but this has not yet been accomplished

The Office of Economic and Democratic Research has analyzed the impact of a new bond program totaling $800 million over an 8-year period beginning in FY 2002-2003 to fund CERP land acquisitions. The office reports that there are two major options for issuing bonds secured by the documentary stamp tax. The first is to issue them as junior and subordinate to all existing bonds secured by the documentary stamp tax pursuant to Article VII, s. 11(e) of the State Constitution. There are more than adequate funds available in the general fund share of the documentary stamp tax to pay the debt service and provide sufficient excess coverage. Junior lien bonds will receive a lower rating than the P-2000 and Florida Forever bonds and may, therefore, require some form of credit enhancement (e.g., insurance) to make them marketable. For these reasons, the costs of issuance and the debt service costs will be somewhat higher for junior lien bonds than for parity bonds.

The second option is to issue the bonds on a parity basis with the P-2000 and Florida Forever bonds. Bond covenants pertaining to the existing bonds permit the issuance of new bonds provided that the pledged revenues equal at least 150 percent of the maximum annual debt service for the outstanding bonds and the proposed additional bonds. The office's analysis indicates that, should a downturn in documentary stamp tax collections occur after the initiation of a new bond program, the size of the downturn in collections that would be required to cause a problem with respect to the coverage requirement declines over time as the amount of the annual debt service requirement grows with each new set of bonds. Thus, in 2004-2005, documentary stamp tax collections could decline by 22 percent over the prior year without resulting in a violation of the coverage requirement. By 2009-2010, a decline of 10.5 percent is sufficient to cause a coverage problem. Therefore, working within the current Preservation 2000/Florida Forever program seems questionable for reasons of coverage.

The 2001 Legislature enacted s. 215.98(1), F.S., which states in part, "…The Legislature declares that it is the policy of this state to exercise prudence in undertaking the authorization and issuance of debt. In order to implement this policy, the Legislature desires to authorize the issuance of additional state tax-supported debt only when such authorization would not cause the ratio of debt service to revenue available to pay debt service on tax-supported debt to exceed 6 percent. If the 6 percent target debt ratio will be exceeded, the authorization of such additional debt must be accompanied by a legislative statement of determination that such authorization and issuance is in the best interest of the state and should be implemented. The Legislature shall not authorize the issuance of additional state tax-supported debt if such authorization would cause the designated benchmark debt ratio of debt service to revenues available to pay debt service to exceed 7 percent unless the Legislature determines that such additional debt is necessary to address a critical state emergency."

It appears that the state's current debt ratio slightly exceeds 6 percent. Increases in Public Education Capital Outlay (PECO) borrowing and transportation spending could further increase the ratio.

C. EFFECT OF PROPOSED CHANGES:

Please refer to the Section-by-Section Analysis for a description of the bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Section 201.15(1) is amended to authorize the use of documentary stamp tax proceeds to pay debt service and other obligations relating to the issuance of Everglades restoration bonds.

Section 2. Section 215.619, F.S., is created to authorize the issuance of Everglades restoration bonds to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the CERP pursuant to s. 11(e), Art. VII, of the State Constitution. Everglades restoration bonds, except refunding bonds, may only be issued in fiscal years 2002-2003 through 2009-2010 and may not be issued in an amount exceeding $125 million per fiscal year, unless the Department of Environmental Protection (DEP) has requested additional amounts in order to achieve cost savings or accelerate the purchase of land. This section limits the duration of Everglades restoration bonds to 20 annual maturities and such bonds may mature no later than December 31, 2030. Except for refunding bonds, no series of bonds may be issued unless an amount equal to the debt service coming due in the year of issuance has been appropriated by the Legislature.

The section specifies that the state covenants will not take any action that will materially and adversely affect the rights of Everglades Restoration bond holders so long as such bonds are outstanding, including, but not limited to a reduction in the portion of documentary stamp taxes distributable pursuant to s. 201.15(1), F.S., for payment of debt service on Preservation 2000 bonds, Florida Forever bonds, or Everglades restoration bonds.

Everglades restoration bonds shall be payable from, and secured by a first lien on, taxes distributable pursuant to s. 201.15(1)(b), F.S., and shall not constitute a general obligation of, or a pledge of the full faith and credit of, the State of Florida. Everglades restoration bonds shall be junior and subordinate to bonds secured by moneys distributable pursuant to s. 201.15(1)(a), F.S.

The DEP is directed to request the Division of Bond Finance to issue Everglades restoration bonds pursuant to the State Bond Act. The DEP must coordinate with the Division of Bond Finance to issue such bonds in a cost effective manner consistent with cash needs.

The proceeds of Everglades restoration bonds, less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds will be deposited into the Save Our Everglades Trust Fund. The bond proceeds deposited into the Save Our Everglades Trust Fund will be distributed by the DEP as provided in s. 373.470, F.S.

This section prohibits the sale, disposition, lease, easement, license or other use of any land, water areas, or related property interests acquired or improved with proceeds of Everglades restoration bonds which would cause all or any portion of the interest on such bonds to be included in gross income for federal income tax purposes.

Any complaint for validation of bonds issued pursuant to this section may be filed only in the circuit court of the county where the seat of state government is situated. The notice required to be published by s. 75.06, F.S., shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

Section 3. Section 259.105, F.S., is amended to limit that transfer of Florida Forever funds allocated to the South Florida Water Management District. For fiscal years 2000-2001 and 2001-

2002, $25 million of the district's $36 million allotment has been transferred to the Save Our Everglades Trust Fund to assist in meeting the state's requirement to provide 50% or $100 million annually towards CERP costs.

Section 4. Section 373.470, F.S., to provide that as an alternative to the existing requirement that $75 million in unspecified state funds be deposited into the Save Our Everglades Trust Fund, proceeds of bonds issued under s. 215.619, F.S., may be deposited into the Save Our Everglades Trust Fund. To enhance flexibility, funds to be deposited into the Save Our Everglades Trust Fund may consist of any combination of state funds and Everglades restoration bonds.

Section 5. Section 373.472, F.S., concerning the Save Our Everglades Trust Fund is amended to allow for the payment of debt service on these bonds.

Section 6. A legislative finding is provided that the issuance of Everglades restoration bonds is in the best interest of the state and should be implemented.

Section 7. The act would take effect July 1, 2002.

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:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The bonding proposal would generate up to $1 billion in funding over the next 8 years. Under current law, $800 million is expected to be provided for Everglades Restoration with $25 million per year from Florida Forever bonds and $75 million per year from unspecified "state funds."

Using an estimate of 6.5 percent for debt service, the cost of issuing $125 million in bonds would be $11,345,000 annually. The maximum annual debt service requirement on the bonds, when the program is fully implemented, would be approximately $91 million per year. This amount would be in addition to the $600 million annual debt service payments required when

the Preservation 2000/Florida Forever programs are fully implemented. If $125 million in bonds were to be sold for each of the 8 years authorized, the total cost to the State, based on 20-year maturities, would be approximately $2 billion.

One of the advantages of a bond-funded program is that it will provide more certainty about the source of funding for Everglades restoration rather than the current uncertainty about the year-to-year funding mechanism.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

None

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None

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

None

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 8, 2002, the House General Government Appropriations Committee considered this bill and adopted one amendment. The amendment provided for exemptions from permit requirements for certain project components under the Comprehensive Everglades Restoration Plan Regulation Act (CERP), s. 373.1502, F.S. These exemptions would be for those components having de minimis environmental impact. The amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by: Staff Director:

Wayne S. Kiger Wayne S. Kiger

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:	Staff Director:
Lynn Dixon	Lynn Dixon

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:	Council Director:
C. Scott Jenkins	Thomas J. Randle