

SENATE 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: SB 1336

SPONSOR: Senators Garcia and Bullard

SUBJECT: Trust Funds

DATE: April 11, 2003

REVISED: 4/15/03

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Favorable</u>
2.	<u>Molloy</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/1 amendment</u>
3.	<u>Mannelli</u>	<u>Kelly</u>	<u>ATD</u>	<u>Favorable</u>
4.	<u> </u>	<u> </u>	<u>AP</u>	<u>Withdrawn: Favorable</u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill creates the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund.

This bill creates s. 403.185 of the Florida Statutes.

II. Present Situation:

Areas of Critical State Concern

The Areas of Critical State Concern (ACSC) program protects areas of the state where unsuitable land development would endanger resources of regional or statewide significance and ensures orderly and well-planned growth of the area by regulating its development. The governor and cabinet, sitting as the Administration Commission, designate ACSCs upon the recommendation of the Department of Community Affairs (DCA). Designation may be made for areas with significant environmental resources, historical resources or sites, or areas affected by an existing or proposed major public facility. ACSCs have been established in the Florida Keys and the City of Key West, the Green Swamp, the Big Cypress Swamp, and the City of Apalachicola (Apalachicola Bay).¹

Florida Keys Area of Critical State Concern

Section 380.0552, F.S., governs the administration of the Florida Keys Area of Critical State Concern. The boundaries² of this ACSC include all lands in Monroe County, except:

¹ See s. 380.05, F.S.; <http://www.csc.noaa.gov/opis/html/summary/florida/felwma.htm>

² 28-29.002, F.A.C.

- the portion of Monroe County included within the designated exterior boundaries of the Everglades National Park and areas north of the park;
- all lands more than 250 feet seaward of the mean high water line owned by local, state, or federal governments;
- federal properties; and
- the area within the incorporated boundaries of the City of Key West.

State, regional, and local agencies and units of government in the Florida Keys ACSC are required to coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as set forth in s. 380.0552(7), F.S., which include, in part:

- To protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat;
- To limit the adverse impacts of development on the quality of water throughout the Florida Keys;
- To limit the adverse impacts of public investments on the environmental resources of the Florida Keys; and
- To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

Key West Area of Critical State Concern

Chapter 28-36, F.A.C., designates the City of Key West as an Area of Critical State Concern and provides guiding principles for the development within this area. These guiding principles include the conservation and protection of the natural, environmental, historical and economic resources, the scenic beauty, and the public facilities within the ACSC.

One of the objectives to be achieved by the rule is to minimize the adverse impacts of development on the quality of water in and around the City of Key West and throughout the Florida Keys. To accomplish this objective, the City of Key West is required to establish criteria and regulations for the methods and location of the disposal of all solid waste and waste-water effluents and residuals. Site alteration and subdivision regulations must provide for:

- Retention of runoff or discharge of such runoff into adequately sized natural vegetative filtration areas in a manner approximating the natural runoff regime;
- Permanent drainage systems which make maximum use of natural drainage patterns, vegetative retention and filtration; and
- Maintenance of habitat for wildlife species, prevent the introduction of noxious vegetation, and minimize the alteration of transitional wetlands.

Ch. 99-395, L.O.F.

Section 6 of ch. 99-395, L.O.F., establishes uniform sewage treatment and disposal standards for systems permitted either by Department of Environmental Protection (DEP) or Department of Health in the Florida Keys. This section provided for stronger minimum treatment standards for phosphorus removal than the then current onsite sewage treatment and disposal systems (OSTDS) requirements, and the overall OSTDS treatment levels were relaxed from advanced

waste treatment requirements in the then current statutes. Treatment standards for DEP-permitted systems were strengthened by eliminating all surface water discharges by the year 2006. Finally, this section required the upgrading of all systems to meet the enhanced sewage treatment requirements specified in the act by the year 2010.

Water Pollution Control Loans

Section 403.1835, F.S., establishes a self-perpetuating loan program to accelerate the implementation of water pollution control projects. Projects that may be funded are those eligible under s. 603 of the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as amended. Activities that may be funded include, but are not limited to, planning, design, construction, and implementation of wastewater management systems, stormwater management systems, non-point source pollution management systems, and estuary conservation and management.

III. Effect of Proposed Changes:

Section 1 creates s. 403.185, F.S., to establish the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund in the Department of Community Affairs (DCA) to receive state appropriations and state and federal grants. The purpose of the fund is to fund priority wastewater and stormwater management project in the Florida Keys and Key West Areas of Critical State Concern (ACSC).

Subsections (3) – (8) authorize DCA to:

- Award funds from the trust fund to a local government agency, including the Florida Keys Aqueduct Authority, responsible for wastewater or stormwater management services;
- Award funds from the trust fund to property owners for the purpose of upgrading unpermitted individual residential onsite treatment and disposal systems, consistent with the requirements of chapter 99-395, L.O.F., in areas not planned for central wastewater facilities by 2010;
- Establish a maximum amount of funds to be awarded to any one recipient in any given year or in total;
- Award funds only for projects that are consistent with the Monroe County Wastewater Master Plan and any locally adopted wastewater master plan, or a locally adopted stormwater master plan;
- Award funds for the specific purpose of making affordable a loan under s. 403.1835, F.S., with affordability criteria established by DCA, in consultation with DEP, and
- Prioritize, in consultation with DEP, “ready-to-proceed” projects, as defined by this act, to receive money from the trust fund.

Subsection (9) authorizes DCA to adopt rules necessary to administer this act.

Subsection (10) provides that any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

Subsection (11) provides that the trust fund will be terminated on July 1, 2007, and must be reviewed by the Legislature prior to its scheduled termination.

Subsection (12) provides that the trust fund, if not repealed sooner, is repealed 5 years after the date the area of critical state concern designation is removed from both the Florida Keys and Key West Areas.

Section 2 provides that this act shall take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to Article III, Section 19(f), Florida Constitution, no trust fund of the State of Florida or any public body may be created by law without a three-fifths vote of the membership of each house of the Legislature. A bill creating the trust fund must be separate from any related substantive bill. Additionally, all trust funds must expire no later than four years after the date they are created.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides that the Department of Community Affairs may award funds under the program for making loans under the Water Pollution Control Financial Assistance Program affordable.

The Water Pollution Control Financial Assistance Program is a revolving loan program funded through bonds issued by the Florida Water Pollution Control Financing Corporation. The Corporation was provided authority to issue bonds over a three-year period starting in fiscal year 2000-2001, and ending in this fiscal year. Also, since the program created by this bill depends upon state appropriations, any funds awarded by the Department for purposes of making loans under the Water Pollution Control Financial Assistance Program affordable could result in the use of general revenue to pay down loans funded with bond proceeds.

VIII. Amendments:

#1 by Natural Resources:

The amendment clarifies that the Department of Community Affairs, in conjunction with the Department of Environmental Protection, shall prioritize ready-to-proceed local government projects when awarding money from the trust fund.

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