

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: CS/SB 1956

SPONSOR: Appropriations Subcommittee on Transportation and Economic Development,
Committee and Senators Constantine and Webster

SUBJECT: Local Government/Growth Management

DATE: April 23, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CP	Favorable
2.	Branning	Kiger	NR	Fav/1 amendment
3.	Arthur	Kelly	ATD	Fav/CS
4.			AP	Withdrawn: Fav/CS
5.				
6.				

I. Summary:

This bill renames the “Wekiva River Protection Act” as the “Wekiva River Basin and Springs Protection and Planning Act.” Creates the “Wekiva River Basin Planning Act.” Provides legislative intent and findings. Provides legislative intent that regional transportation facilities be located, designed, and constructed in a manner that assures the protection of the Wekiva River Basin ecosystem. Provides definitions. Requires the Governor and Cabinet, sitting as the Administration Commission, to establish by rule a Wekiva River Springshed Protection Area to complement the Wekiva River Protection Area. The boundary for the Wekiva River Springshed Protection Area shall be based on certain specified criteria.

Requires the state land planning agency, in consultation with the Department of Environmental Protection, the St. Johns River Water Management District, and the Department of Agriculture and Consumer Services to adopt by rule minimum criteria for land use strategies and development standards within the Wekiva River Springshed Protection Area. Provides that the rules become effective only after they have been reviewed by the Legislature.

Requires local governments to adopt certain comprehensive plan amendments.

Requires the state land planning agency to coordinate the development of an integrated plan for future transportation, land use, and water resource needs in the area of the Wekiva River Basin. Requires affected local governments to incorporate the integrated plan in their respective comprehensive plans by amendment. The integrated plan includes certain lands in Lake and Orange Counties. During a certain period of time, amendments to increase the density or intensity of development are prohibited.

Notwithstanding any other prohibitions, a local government may amend its plan as needed to plan, design, engineer, and acquire the right-of-way for the Wekiva Parkway or the U.S. 441 Bypass. A local government's authority to implement its current comprehensive plan is not limited.

Provides that the state land planning agency shall coordinate the development of the Wekiva Basin Integrated Transportation, Land Use, and Water Resource Plan with other specified entities. Provides for comprehensive plan amendments by affected local governments.

Requires the Department of Transportation to provide a report to the Governor and the Legislature with recommendations.

Requires the Orlando-Orange County Expressway Authority, the Seminole County Expressway Authority, the Department of Transportation, and the Turnpike Enterprise to locate the precise corridor and interchanges for the Wekiva Parkway within the corridor generally depicted in Figure 3, "Recommended Corridor for the Wekiva Parkway," of the Wekiva Basin Area Task Force's Final Report. Requires the transportation agencies to apply the "Guiding Principles for the Wekiva Parkway Design Features and Construction" to the construction of the Wekiva Parkway and, as applicable, to the U.S. 441 Bypass.

Requires the state planning agency and appropriate state and regional agencies to provide planning assistance to the affected local governments in the development of comprehensive plan amendments.

Provides for duties of the Department of Agriculture and Consumer Services regarding best management practices.

Provides that comprehensive plan amendments related to the implementation of the Wekiva River Basin Planning Act are not subject to the twice-a-year amendment restriction.

Provides certain duties of the St. Johns River Water Management District regarding springshed protection.

Requires the Department of Environmental Protection to develop a program to encourage and provide incentives for the inspection and maintenance of onsite wastewater treatment and disposal systems and for the installation of enhanced onsite treatment and disposal systems within the Wekiva River Springshed Protection Area.

Encourages the St. Johns River Water Management District to purchase certain lands.

Encourages agencies to acquire certain parcels of land.

Provides that the act is repealed on July 1, 2008, unless purchase of the right-of-way for the Wekiva Parkway or the U.S. 441 Bypass has been commenced.

This bill amends ss. 369.301, 163.3187, 373.139, and 369.307, F.S.

This bill creates ss. 369.3011 and 373.0425, F.S.

II. Present Situation:

The Wekiva Basin, consisting of the Wekiva River, the St. Johns River and their tributaries along with associated lands in central Florida, is part of a vast wildlife corridor that connects northwest Orange County with the Ocala National Forest. In recent years, the state has acquired more than 60,000 acres of conservation lands at a cost of \$139 million. These conservation lands provide habitat for the Florida black bear, burrowing owl, sandhill crane, Florida scrub-jay, gopher tortoise, and the limpkin.

The Wekiva River and its tributaries have been designated an Outstanding Florida Water, a National and Scenic River, a Florida Wild and Scenic River, and a Florida Aquatic Preserve. The river is a spring-fed system associated with 19 springs that are connected to the Florida Aquifer. Eleven of these springs are second and third magnitude springs, meaning those springs discharge 10 to 100 cubic feet per second or 1 to 10 cubic feet per second, respectively.

The central Florida region has experienced tremendous growth in the last twenty years resulting in increasing transportation demands and development pressure on lands within the Wekiva Basin. During the period between 1980 and 1990, the growth rate in Lake, Seminole, and Orange Counties exceeded 30 percent. The growth rate for this three-county area is expected to exceed 20 percent through the year 2010. While projected growth for the state between 2010 and 2020 is 13 percent, the growth rate for central Florida is expected to be 17 percent. The desire to balance the transportation needs associated with this projected growth and protection of the Wekiva Basin prompted Governor Bush to create the “Wekiva Basin Area Task Force” on September 26, 2002.^{1 2} The task force was charged with evaluating and making recommendations on the most appropriate location for a highway route connecting State Road 429 to Interstate 4 while providing the greatest protection to the Wekiva Basin. Also, the task force was asked to evaluate and recommend a transportation plan that considers the potential expansion of roads and corridors within the Wekiva Basin to address, among other issues, land acquisition, springshed protection, innovative road design, protection of rural character, protection of habitat, utilization of financial resources, and the adequacy of local governments relating to transportation corridors.³

The task force’s recommendations, as contained in its final report, may be summarized as follows:

- All recommendations should be taken as a whole and integrated into a unified plan of integration;
- Appropriate transportation agencies should use the “Recommended Corridor for the Wekiva Parkway” to undertake the environmental and engineering studies for determining the precise alignment;
- Appropriate transportation agencies should use the “Guiding Principles for the Wekiva Parkway Design Features and Construction” and also apply those principles to the expansion and construction of new expressways;

¹ See Executive Order No. 2002-259.

² See Wekiva Basin Area Task Force, *Final Report: Recommendations for Planning and Locating the Wekiva Parkway while Preserving the Wekiva River Basin Ecosystem*, Jan. 15, 2003.

³ See *id.* at 2.

- Certain design and construction elements for the Wekiva Parkway should be employed so that when completed, the parkway creates a scenic roadway through the basin;
- The Department of Transportation, the Orlando-Orange County Expressway Authority, and the Seminole County Expressway Authority should consider the task force's recommendations and report to the Governor and Legislature on their joint recommendations for the appropriate entity to operate the Wekiva Parkway;
- The plan for mitigating impacts of the Wekiva Parkway should ensure, to the maximum extent possible, that land acquisition and mitigation occur within the Wekiva River Protection Area, Wekiva River Basin, or Wekiva River Springshed;
- Not more than five interchanges should be located along the Wekiva Parkway and recommends locations;
- Local governments should review their long-range transportation improvement plans in light of the task force's recommendations;
- Appropriate "Guiding Principles for Designing and Construction" should be applied if there are any improvements to State Road 44 through the Wekiva River Protection Area;
- Establishment of the Wekiva River Springshed Protection Area with certain limitations on comprehensive plan amendments within the area as detailed by the task force;
- Legislation creating the Wekiva River Springshed Protection Act should include specific content requirements for the springshed sector plan as enumerated by the task force;
- Legislation creating the Wekiva River Springshed Protection Area and the related sector planning process should include planning requirements for each potential interchange recommended for the Wekiva Parkway;
- Legislation creating the Wekiva River Springshed Protection Area should result in new permitting criteria to be applied by the St. Johns River Water Management District through its existing permit programs governing the Management and Storage of Surface Waters and Environmental Resource Permits and Consumptive Uses of Water; and

- The State should use all means at its disposal to complete the Wekiva-Ocala Greenway Florida Forever Project and recommends giving the highest priority to specific parcels prior to the construction associated with the Wekiva Parkway.

III. Effect of Proposed Changes:

Section 1. Section 369.301, F.S., is amended to rename the "Wekiva River Protection Act" as the "Wekiva River Basin and Springs Protection and Planning Act."

Section 2. Section 369.3011, F.S., is created to provide for the "Wekiva River Basin Planning Act." Provides legislative intent regarding population growth and the future transportation and water resources needs of the central Florida region. The Legislature finds that the Final Report, dated January 15, 2003, of the Wekiva Basin Area Task Force which was created by Executive Order 2002-259, are valuable and should be implemented.

In addition to finding that the population growth and future transportation and water needs of the central Florida region are legitimate and compelling state interests, there exists a state interest in respecting and recognizing judicially acknowledged or statutorily and constitutionally protected property rights. It is the intent of the Legislature that state agencies and county and municipal

governments with jurisdiction in the area of the Wekiva River Basin establish policies to guide and coordinate local decisions relating to growth and development and implement their decisions without imposing undue restrictions on vested property rights in violation of the laws and constitutions of Florida and the United States. Further, the Legislature recognizes sensitivity to private property rights as stated in s. 163.3167(8), F.S. The bill does not limit or modify rights of any person to complete any development that has been authorized as a development of regional impact pursuant to ch. 380, F.S., or who has been issued a final local development order and development has commenced and is continuing in good faith as of the effective date of this act.

Provides a finding that the water resources and ecosystems of the Wekiva River Basin and associated springshed areas that sustain the spring-fed Wekiva River and tributaries are of irreplaceable value to the quality of life and well-being of the people of Florida. It is the Legislature's intent that regional transportation facilities be located, designed, and constructed in a manner that assures the protection of the Wekiva River Basin ecosystem. To accomplish this, the Legislature directs that the completion of transportation improvements, including but not limited to the Wekiva Parkway and U.S. 441 Bypass, be accomplished in the context of a well-coordinated plan which simultaneously assures that the natural resources of the Wekiva River Basin, including the springshed, are protected against adverse impacts.

The following terms are defined: "springshed," "U.S. 441 Bypass," and "Wekiva Parkway."

The Governor and Cabinet, sitting as the Administration Commission, shall establish by rule a Wekiva River Springshed Protection Area, which shall complement the Wekiva River Protection Area as defined in s. 369.303(9), F.S. Not later than September 30, 2003, the state land planning agency shall begin this process by giving notice of negotiated rulemaking, pursuant to s. 120.54(2)(d), F.S., for the purpose of recommending to the Administration Commission boundaries for the Wekiva River Springshed Protection Area. The boundary for the Wekiva River Springshed Protection Area shall be based upon, but not limited to, the following criteria:

- The protection area must encompass an area no larger than the Wekiva River Springshed;
- The boundary of the protection area shall be based upon the best available data from the St. Johns River Water Management District, the Department of Environmental Protection, the Department of Agriculture and Consumer Services and other sources; and
- The boundary of the protection area shall be established in a manner that ensures predictability and uniformity of implementation, which may require aligning boundaries with recognizable geographic features that are not subject to change.

Within 45 days after receipt of the recommended boundaries, the Governor and Cabinet, sitting as the Administration Commission, must adopt, modify, or reject the recommendation and establish by rule the boundaries of the Wekiva River Springshed Protection Area.

The state land planning agency in consultation with the Department of Environmental Protection, the St. Johns River Water Management District, and the Department of Agriculture and Consumer Services, shall, not less than 60 days prior to the next regular Legislative session, adopt by rule, minimum criteria for land use strategies and development standards within the Wekiva River Springshed Protection Area. The rules are not subject to rule challenges under

s. 120.56(2), F.S. The rules will become effective only after they have been submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature. The Legislature may accept, reject, modify, or take no action on the rules. If no action was taken, the agency rules shall become effective.

The rules for the land use strategies and development standards shall protect the quality and quantity of recharge that replenishes and maintains spring flows for the Wekiva River. The land use strategies and development controls are to apply throughout the Wekiva River Springshed Protection Area and shall consider, but not be limited to the following:

- Ensuring appropriate drainage, wastewater treatment, and water supply to support new or existing development;
- Locating low-impact land uses near the Wekiva River springs;
- Minimizing impervious surfaces to reduce runoff and retain recharge;
- Maintaining open space and natural recharge areas to protect groundwater resources and wildlife habitat through standards for open space and impervious surface coverage, clustering, transfer of land use credits or development rights, and land acquisition, purchase of development rights, and conservation easements;
- Managing stormwater impacts to reduce runoff and maintain water quality of recharge;
- Providing enhanced wastewater treatment for septic tanks, central treatment systems, and a septic tank maintenance program;
- Using landscape design and maintenance to reduce impacts from chemicals and conserve water resources, including golf course design and maintenance;
- Siting, constructing, and maintaining golf courses using special management zones, integrated pest management, and a natural resource management plan to prevent, manage, and monitor potential impacts to water resources; and
- Adopting local programs for public education, partnerships with property owners, consideration of land use or development rights acquisition, cooperative management of public owned lands, economic development, and ecotourism.

Within 1 year of the ratification of the rules for land use strategies and development standards for the protection area, or after the approval of the rules as part of any comprehensive plan amendment that proposes to increase the density or intensity of development within the protection area, whichever occurs first, a local government must adopt the required comprehensive plan amendments. A local government may not amend its comprehensive plan if it does not adopt the required amendments. The Administration Commission may impose the sanctions provided by s. 163.3184(11), F.S., against any local government that fails to adopt the required amendments. All existing local governments are required to adopt the required comprehensive plan amendments as amendments to their respective comprehensive plans. Any municipality incorporated within the protection area after the effective date of this act shall include applicable portions of the comprehensive plan amendments for compliance as defined in s. 163.3184, F.S.

The state land planning agency, in collaboration with affected local governments, other state and regional agencies, appropriate federal agencies, and interested parties shall coordinate the development of an integrated plan for future transportation, land use, and water resources needs

in the Wekiva River Basin. Affected local governments shall incorporate the integrated plan in their respective comprehensive plans by amendment. The integrated plan shall include certain specified lands in Lake and Orange Counties. During the period of time between the effective date of this act and the adoption of the plan amendments, a local government with jurisdiction in the area shall not amend its comprehensive plan to increase the density or intensity of development.

Notwithstanding the above restrictions, a local government may amend its plan as needed to plan, design, engineer, and acquire the right-of-way for the Wekiva Parkway or the U.S. 441 Bypass. This bill does not limit a local government's authority to implement its current comprehensive plan including the ability to approve development consistent with its current comprehensive plan and provide public facilities and services as provided in the 5-year capital improvement element, or consistent with a joint planning agreement.

The purpose of the integrated plan for future transportation, land use, and water resource needs is to assist affected local governments in completing the planning needed to prepare for the construction and related mitigation of the Wekiva Parkway and the U.S. 441 Bypass and further protection of the Wekiva River Springshed. The state land planning agency shall coordinate development of this plan with the Department of Environmental Protection, the St. Johns River Water Management District, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Department of Agricultural and Consumer Services, the East Central Florida Regional Planning Council, the Orlando-Orange County Expressway Authority, the Seminole County Expressway Authority, appropriate federal agencies, interest groups represented on the Wekiva Basin Area Task Force, and other interested parties.

By December 31, 2004, or as part of any comprehensive plan amendment that proposes to increase the density or intensity of development within the integrated planning area, whichever comes first, a local government must adopt the required comprehensive plan amendments. The plan amendments must consider certain specified plans and designs.

The Administration Commission may impose certain sanctions if the comprehensive plan amendments are not adopted.

By January 30, 2005, the state land planning agency shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives any land use compatibility issues with respect to the Wekiva River Protection Area, including recommendations to address any identified compatibility issues.

By September 15, 2004, the Department of Transportation, in collaboration with the Turnpike Enterprise, the Orlando-Orange County Expressway Authority and the Seminole County Expressway Authority shall provide to the Governor and the Legislature a report of their joint recommendations to implement the Wekiva Basin Area Task Force recommendations in its Final Report dated January 15, 2003. Specifies what the report must contain.

The Orlando-Orange County Expressway Authority, the Seminole County Expressway Authority, the Department of Transportation, and the Turnpike Enterprise shall locate the precise corridor generally depicted in Figure 3, "Recommended Corridor for the Wekiva Parkway," of

the Final Report of the Wekiva Basin Area Task Force dated January 15, 2003. The determination of the final alignment of the Wekiva Parkway within Seminole County shall be subject to approval by the Seminole County Expressway Authority. The transportation agencies shall apply the “Guiding Principles for the Wekiva Parkway Design Features and Construction” to the construction of the Wekiva Parkway and, as applicable, to the U.S. 441 Bypass and to the expansion of existing expressways within the Wekiva River Springshed Protection Area and the Wekiva River Protection Area, as recommended by the Task Force in Recommendations 2 and 8 of its Final Report.

The specific design features included within Recommendations 3, 4, 6, and 7 of the Task Force Final Report shall be incorporated within the design of the Wekiva Parkway and the U.S. 441 Bypass where those expressways extend into or across the Wekiva River Protection Area or the Wekiva River Springshed Protection Area.

The Administration Commission may impose certain sanctions if a local government fails to timely adopt required plan amendments; however, the local government’s failure to adopt the amendments by December 31, 2004, shall not preclude construction of the Wekiva Parkway or the U.S. 441 Bypass. Further, nothing precludes the immediate planning, design, engineering and right-of-way acquisition of the U.S. 441 Bypass pursuant to Recommendation 11 of the Task Force’s Final Report.

The state land planning agency and appropriate state and regional agencies shall provide planning assistance to the affected local governments in the development of comprehensive plan amendments to meet the requirements of this act. The state land planning agency shall develop model land development regulations for the implementation of this act. Further, the state land planning agency is authorized to prioritize the expenditure of funds appropriated for the purpose of providing technical assistance to local governments to those local governments with jurisdiction in the Wekiva River Springshed Protection Area and the integrated planning area.

The Department of Agriculture and Consumer Services shall assist local governments in implementing the provisions of s. 369.3011, F.S., and local governments shall consult with the Department of Agriculture and Consumer Services to determine if agricultural best management practices should be included in the comprehensive plan. Following consultation with a local government, any agricultural best management practices referenced or required in a comprehensive plan amendment shall be developed and adopted by the Department of Agriculture and Consumer Services.

Section 3. Section 163.3187, F.S., is amended to provide that the restriction against amending a comprehensive plan more than two times in any calendar year does not apply to any comprehensive plan amendment related to the implementation of the Wekiva River Basin Planning Act.

Section 4. Section 373.0425, F.S., is created to provide for duties of the St. Johns River Water Management District regarding springshed protection. The district shall complete a review of its existing permitting rules authorized under parts II and IV of ch. 373, F.S., to determine the appropriateness of adding criteria within the Wekiva River Springshed Protection Area to protect the water quality and flow of springs in the Wekiva River System. The district shall consider

Recommendation 15 of the Task Force's Final Report. The review, which is to be completed by December 1, 2003, shall include but not be limited to:

- Aquifer recharge protection;
- Permitting thresholds to prevent significant adverse impacts to the springs;
- Concurrent action on consumptive use permit and environmental resource permit applications;
- Landscaping to reduce irrigation needs;
- Protection of spring water quality; and
- Use of reclaimed water to reduce the use of groundwater.

If rule amendments are determined to be appropriate, the district shall commence the rulemaking process within 90 days of the adoption of the boundary of the Wekiva River Springshed Protection Area by the Administration Commission. If rule amendments include amendments to ch. 40C-44, F.A.C., governing the regulation of agricultural surface water management systems, the district shall consult with the Department of Agriculture and Consumer Services to develop such rule amendments.

Section 6. Section 373.139, F.S., is amended to encourage the St. Johns River Water Management District to pursue the fee simple or less-than-fee-simple purchase of lands in the Wekiva Basin Area that contribute surface water and groundwater to spring flow as a means to protect the Wekiva River Springs.

Section 7. Section 369.307, F.S., is amended to encourage agencies to use all means at their disposal for completing the acquisition of the Wekiva-Ocala Greenway Florida Forever Project. In addition, it is the Legislature's intent to give the highest priority for acquisition of those parcels identified in Recommendation 16 of the Task Force's Final Report prior to construction associated with the Wekiva Parkway and the U.S. 441 Bypass. Further, efforts should be made to identify and acquire additional lands located within the Wekiva River Springs recharge area. Agencies are encouraged to pursue binding purchase agreements for the acquisitions of these properties to the greatest extent practicable, prior to the commencement of construction of the Wekiva Parkway.

Section 8. This act is repealed effective July 1, 2008, unless purchase of the right-of-way for the Wekiva Parkway or the U.S. 441 Bypass has commenced. Chapter 369, part II, F.S., shall not be repealed by operation of this section.

Section 9. This act takes effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill requires affected local governments to revise their comprehensive plans to include the Wekiva Sector Plan. These local governments will expend funds on preparation of the sector plan and the comprehensive plan amendment incorporating the sector plan and associated public hearings.

The St. Johns River Water Management District is required to conduct a review of its permitting rules to determine if additional permitting criteria is needed within the Wekiva River Springshed Protection Area to protect the water quality and flow of springs in the Wekiva River System. If rule amendments are appropriate and needed, the district would be required to commence the rulemaking process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.