

# 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 2804

SPONSOR: Natural Resources Committee and Senator Dockery

SUBJECT: Greenways and Trails

DATE: March 30, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Molloy</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CP</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill renames chapter 260, Florida Statutes, as "Florida Greenways and Trails", establishes the Legislature's intent to recognize the Florida National Scenic Trail (Trail) as Florida's official statewide nonmotorized trail from the Florida Panhandle to the Everglades and the Florida Keys, and recognizes the federal government's major contributions made in furtherance of the establishment of the Trail and the efforts of private landowners, state government, and not-for-profit entities. This bill establishes the Legislature's intent to encourage private landowners to continue to allow the use of private property for Trail purposes through incentives and liability protection, and encourages state and local agencies responsible for ecotourism to recognize the importance of the Trail in bringing nature-based recreation tourism to local communities along the Trail route.

This bill extends liability protection to persons who own or operate an off-highway vehicle (OHV) facility that is designed as part of the Trail system and that is open to the public except for special events. The bill revises term limits and duties for members of the Florida Greenways and Trails Council, and requires outside appraisals for Trail acquisitions regardless of the estimated value of the property.

This bill provides that a nonprofit corporation formed for the purpose of reclaiming mined phosphate lands for trail purposes is exempt from sales tax under state law regardless of its status under s. 501(c)(3) of the United States Internal Revenue Service Code, and that it is considered a s. 501 (c) (3) nonprofit corporation for all state and local requirements. Any funds provided in the 2004 General Appropriations Act, and any future appropriations of \$200,000 or less are required to be paid directly to the nonprofit. The corporation is authorized to expend funds for any valid purpose of the corporation, and is exempt from state competitive bidding requirements when letting contracts of less than \$100,000.

This bill substantially amends ss. 260.012, 260.0125, 260.013, 260.0141, 260.0142, 260.015, 260.016, 373.199, and 378.036, Florida Statutes.

## **II. Present Situation:**

### **National Scenic Trail System**

The National Scenic Trail System Act of 1968 created a program for the preservation of trail corridors that typically allow hiking and sometimes horseback riding, but not mechanized transport. The trails are generally long, and frequently cross state lines. Three categories of trails were created in the 1968 Act: national scenic trails, national recreation trails, and side-and-connecting trails. In 1978, Congress created a fourth category known as national historic trails. The national scenic trails are long-distance trails running more than 100 miles and are created through an Act of Congress. The Florida National Scenic Trail is one of eight national trails in existence right now.

### **Florida Trail / Florida National Scenic Trail**

In 1979, the Legislature enacted Chapter 79-110, Laws of Florida, entitled the Florida Recreational Trails Act of 1979. The purpose of the Act was to provide for a network of trails to be used for hiking, biking, horseback riding, and jogging. The Act also proposed to establish a series of canoe trails. In developing the Recreational Trail System, the DEP (formerly the Department of Natural Resources) was encouraged to use areas within or connecting state parks and forests, national parks and forests, local parks, public rights-of-way, and existing trails.

In 1983, the Florida Trail was designated as a Florida National Scenic Trail. More than 700 miles of the trail are certified. When completed, the Florida National Scenic Trail will stretch at least 1,300 miles from the Panhandle of Florida down to Big Cypress National Park in South Florida. Portions of the trail are components of the Florida Greenways and Trails program, the successor to the Recreational Trails System.

In 1987, the Florida Rails to Trails program at DEP was created to provide an emphasis on the acquisition and development of abandoned rail corridors for use as public recreational trails, and to contribute to the preservation of wildlife habitat. Many railroad lines run along river corridors and coastal plains, areas with the most scenic views and productive habitat. Until 1990, the program depended on annual legislative appropriations, but the creation of the Florida Preservation 2000 (P2000) program changed that. The P2000 program was created as a 10-year, \$3 billion bond program to acquire environmentally sensitive lands for conservation, protection, restoration, and preservation purposes. The Rails to Trails program was provided with \$3.9 million a year in funding under P2000 through 1996.

In 1996, the Florida Legislature enacted Chapter 96-389, Laws of Florida, which renamed the Recreational Trails System Act as the Florida Greenways and Trails Act, and which provided for a statewide system of greenways and trails for recreational and conservation purposes and uses. Greenways were defined to be "linear open spaces established along either a natural corridor, such as a riverfront, stream valley, or ridgeline, or over land along a railroad-right-of-way converted to recreational use..." and trails were defined to mean "linear corridors and any adjacent support parcels on land or water providing public access for recreation or authorized

alternative modes of transportation". P2000 funding for Rails to Trails was extended thru 2000, and was succeeded by funding from the Florida Forever program, as well as other state and federal funding and grant programs.

Other funding programs include the Florida Communities Trust program at the Department of Community Affairs, which provides grants to city and counties for the acquisition of greenways and trails, and related access locations, and the Florida Recreation Development Assistance Program (FRDAP) at the DEP which provides funding for the acquisition or development of lands for recreational trails, as well as for the acquisition or development of land for public outdoor recreation purposes.

### **Florida Trail Association**

The Florida Trail Association is a private, non-profit volunteer organization founded in 1966 whose goal is the development of a continuous hiking trail that runs the length of the state. Association volunteers are responsible for building and maintaining the continuous foot path, as well as the loop and side trails throughout the state.<sup>1</sup>

### **Florida Greenways & Trails Council**

The 21-member Florida Greenways & Trails Council was established to advise the DEP in the execution of its duties with respect to the establishment of greenways and trails. The Council is composed of the following members:

- 5 members appointed by the Governor (can be reappointed for 2-year terms),
- 3 members appointed by the President of the Senate (can be reappointed for 2-year terms),
- 3 members appointed by the Speaker of the House of Representatives (can be reappointed for 2-year terms)
- The Secretary of Environmental Protection or a designee (serves until replaced),
- The Executive Director of the Fish & Wildlife Conservation Commission or a designee (serves until replaced),
- The Secretary of Community Affairs or a designee (serves until replaced),
- The Secretary of Transportation or a designee (serves until replaced),
- The Director of the Division of Forestry at the Department of Agriculture & Consumer Services or a designee (serves until replaced),
- The Director of the Division of Historical Resources at the Department of State or a designee (serves until replaced),
- 1 representative from the water management districts (serves 1 year with membership rotating among the districts),
- 1 representative from a federal land management agency as identified by the Secretary of Environmental Protection (serves until replaced),
- 1 representative of the regional planning councils appointed by the Secretary of Environmental Protection in consultation with the Secretary of Community Affairs (can serve a single 2-year term with membership rotating among the councils), and
- 1 local government representative appointed by the Secretary of Environmental Protection in consultation with the Secretary of Community Affairs (can serve for one 2-

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<sup>1</sup> "Florida's Footpath Forever", *Florida Trail Association Trailhead*, [www.florida-trail.org](http://www.florida-trail.org)

year with membership alternating between a county representative and a municipal representative).

### **Recreational opportunities on lands mined for phosphate**

In Special Session 2003E, the Legislature enacted ch. 2003-423, Laws of Florida, which directed the Florida Wildlife Federation, Audubon Florida, and the Rails-to-Trails Conservancy, in partnership with the Florida Phosphate Council to form a nonprofit corporation for the purpose of creating plans and assisting in the development of recreational opportunities on lands mined for phosphate. The board of the nonprofit corporation is to be composed of one member designated by the Florida Phosphate Council, one member designated by the Florida Wildlife Federation, Audubon Florida, and the Rails-to-Trails Conservancy, and one member appointed by the other two designees. Annual reports of the nonprofit corporation's activities, including a certified audit, must be presented to the Secretary of Environmental Protection by October 31 of each year following incorporation. The corporation is dissolved on January 1, 2009, unless previously dissolved by the Legislature or by the corporation's board of directors. Funding in the amount of up to \$200,000 was provided in the 2003 General Appropriations Act.

In October 2003, the Florida-Mining Recreation, Inc. nonprofit corporation was created.

## **III. Effect of Proposed Changes:**

**Section 1.** Renames chapter 260, F.S., as "Florida Greenways and Trails."

**Section 2.** Amends s. 260.012, F.S., to establish the Legislature's intent to recognize the efforts of the federal government and private citizens in establishing the Florida National Scenic Trail. Establishes legislative recognition of the economic benefit of natural resource based recreation.

Encourages all state, regional, and local agencies that purchase lands to include acquisition of lands over which the trail passes and to consider the trail a single project with multiple phases for purposes of listing and acquisition.

Officially recognizes the trail route for establishment and acquisition purposes as determined in the "Preferred Routing for the Florida National Scenic Trail" publication, published by the United States Forestry Service and the Florida Trail Association.

Encourages private landowners to continue to allow the use of lands for trail purposes through existing and future incentives and liability protection. Encourages state and local agencies with ecotourism development responsibilities to recognize the importance of the trail in bringing nature-based recreation to local communities along the trail.

**Section 3.** Amends s. 260.0125, F.S., to provide that off-highway vehicle facilities that are designated as part of the trail system are provided with liability limitations if the facility is open to the public except for special events. The facility may charge a fee necessary for the financial viability of the operation of the facility.

Requires written authorization from private property landowners prior to the DEP determining that public access on greenways and trails located on private lands is appropriate. Provides that the DEP's determination of appropriate access must be noticed under s. 120.525, F.S., and requires that the DEP provide the private landowner with at least 7 days notice in writing, prior to holding any public meeting regarding the intent to authorize access.

**Section 4.** Amends s. 260.013, F.S., to define "Office" for the purposes of chapter 260, F.S., as the Office of Greenways and Trails at the DEP. Repeals provisions for written authorization for public access to private lands (see Section 2. above).

**Section 5.** Amends s. 260.0141, F.S., to repeal provisions requiring that greenways and trails must be acquired pursuant to the provisions of chapter 260, F.S., and allow the acquisition of greenways and trails under the state's land acquisition programs created in chapters 259 and 380, F.S.

**Section 6.** Amends s. 260.0142, F.S., to revise the membership and terms of members on the Florida Greenways and Trails Council. Revises the trail user community representative definition to include users of off-highway vehicles. Provides that all members of the council will serve a 2-year term unless otherwise specified. Authorizes certain council members to be reappointed for no more than two consecutive terms.

**Section 7.** Amends s. 260.015, F.S., to repeal provisions authorizing the use of an appraisal prepared by the DEP when property is valued at \$100,000 or less, and the DEP finds that the costs of obtaining an outside appraisal are not justified.

**Section 8.** Amends s. 260.016, F.S., to revise requirements of the DEP relating to the publishing and distribution of trail maps. Authorizes the Legislature as well as the DEP to add on to the Big Bend Historic Saltwater Paddling Trail. Requires that the DEP evaluate lands for recognition based on the landowner's willingness to sell, as well as evaluating the importance and functions of suitable corridors for inclusion in the state trail system.

**Section 9.** Amends s. 373.199, F.S., to require that when the water management districts identify proposed public access for projects with land acquisition components, the Florida National Scenic Trail must be included.

**Section 10.** Amends s. 378.036, F.S., to provide that Florida Mining-Recreation, Inc., the corporation created by the Florida Wildlife Federation, Audubon Florida, and the Rails-to-Trails Conservancy in partnership with the Florida Phosphate Council for the purpose of creating plans and assisting in the development of recreational opportunities on lands mined for phosphate, is exempt from sales tax under state law regardless of its status under s. 501 (c) of the Internal Revenue Service Code. Provides that the corporation is considered a 501 (c) (3) nonprofit corporation for all state and local requirements.

Authorizes all funds appropriated to the corporation in the 2004 General Appropriations Act, and any future appropriations of \$200,000 or less to be paid directly to the corporation. Funds paid or appropriated to the corporation may be expended for any valid purpose of the corporation including the formation and management of the corporation, securing the services of experts and

consultants, conducting audits, developing engineering plans, assisting in obtaining permits and approvals from governmental agencies, as well as other actions that further the goals of the corporation.

Exempts the corporation from competitive bid requirements for contracts of less than \$100,000. Annual audits of corporation activities must set forth the manner in which corporate funds have been spent and an inventory of all corporate physical assets.

**Section 11.** Provides that the act shall take effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

C. Government Sector Impact:

The DEP expects no fiscal impact from the provisions of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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

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