

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 849 w/CS Wekiva River Basin Act
SPONSOR(S): Brummer
TIED BILLS: **IDEN./SIM. BILLS:** SB 1214

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>19 Y, 0 N w/CS</u>	<u>Grayson</u>	<u>Cutchins</u>
2) <u>Natural Resources</u>	<u>16 Y, 0 N w/CS</u>	<u>Camechis</u>	<u>Lotspeich</u>
3) <u>Appropriations</u>	<u></u>	<u>Dixon</u>	<u>Baker</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

On March 16, 2004, the Wekiva River Basin Coordinating Committee, a 28-member committee appointed by Governor Bush, recommended development of the Wekiva Parkway in conjunction with environmental safeguards, in order to meet current and future regional transportation needs associated with expanding populations and economic growth in Orange, Seminole, and Lake Counties. This bill creates the “Wekiva Study Area and Wekiva Parkway Act” to generally implement the Committee’s recommendations regarding development and construction of the Parkway. In part, the bill:

- Provides legislative findings and intent;
- Requires location of the Parkway consistent with the Act and establishes the boundaries of the Wekiva Study Area;
- Implements, with some exceptions, the Committee’s recommendations related to construction of the Parkway and specifies locations of interchanges;
- Authorizes the Department of Transportation to exercise the power of eminent domain with regard to specified lands, provides for acquisition of those lands, and requires acquisition of certain right-of-way prior to commencement of construction;
- Requires water quality studies, rulemaking, and reporting by state agencies;
- Requires certain local governments to amend comprehensive plans and adopt land use regulations by a date certain, develop wastewater facility plans, develop master stormwater management plans, and establish water reuse and irrigation programs;
- Requires coordination of land use and water supply within the Wekiva Study Area;
- Creates the Wekiva River Basin Commission to monitor and ensure implementation of efforts with regard to the recommendations of the Wekiva River Basin Coordinating Committee; and
- Repeals the Act effective July 1, 2009, unless “the purchase of the right-of-way for the Wekiva Parkway has been completed.”

The bill appropriates \$7.75 million from the General Revenue Fund to the Department of Community Affairs to fund the cost of comprehensive plan amendments to impacted local governments, and \$4 million to the Department of Environmental Protection for implementation of wastewater collection facilities for certain residential communities in Seminole and Lake Counties.

Application of the “Mandates” provision in Art. VII, s. 18, State Constitution, is indeterminate. (See: Applicability of Municipality/County Mandates Provision.)

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0849d.ap.doc
DATE: March 31, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

General Background of the Wekiva Basin

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 Floridan 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 20 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.

Wekiva Basin Task Force

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” (“Task Force”) on September 26, 2002.¹ 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. The Task Force was directed to evaluate and recommend a transportation plan that considered 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 government plans regarding growth related impacts of transportation corridors.²

¹ See Executive Order No. 2002-259, and the 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.

² 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.

The Task Force issued its *Final Report* on January 15, 2003, including recommendations in four broad areas: a proposed corridor for the beltway connector; enhanced land use planning and water resources regulation to protect the springshed; priorities for acquiring conservation lands; and an implementation plan. Legislation to implement the Task Force's recommendations was considered, but not enacted, during the 2003 legislative session.³

Wekiva River Basin Coordinating Committee

On July 1, 2003, Governor Bush issued Executive Order No. 03-112, creating the 28-member Wekiva River Basin Coordinating Committee ("Committee"). The Executive Order directed the Committee to:

- Be a forum to identify enhanced land use planning strategies and development standards that are consistent with protected property rights and which improve and assure protection of surface and groundwater resources, including the recharge potential of the Wekiva Study Area;
- Consider the recommendations of the Wekiva Basin Area Task Force;
- Consider the most current and new information being developed regarding quantity, quality, distribution and timing of groundwater recharge in the Wekiva Study Area and wildlife in the Wekiva Study Area.⁴
- Consider the use of innovative planning and development strategies such as rural land stewardship and other mechanisms for concentrating development in appropriate areas, and the use of the latest science-based information and methods and performance-based planning strategies and development standards;
- Address issues of compatibility with the existing comprehensive plans and land development regulations of those local governments with jurisdiction over lands located within the Wekiva River Protection Area;⁵ and
- Present a report with its recommendations for enhanced land use planning strategies and development standards to the Governor and the Department of Community Affairs.

In addition, the Executive Order specifically directed the Committee to consider, evaluate, and make recommendations concerning:

- Mechanisms for coordinating state, federal, regional and local efforts to protect the Wekiva Study Area's rivers, springs, wetlands, and ground water recharge;
- Recommendations for state and regional agency action;
- Recommendations for public education; and
- Recommendations for implementing land use planning strategies and development standards in communities, including an implementation schedule and provisions for monitoring implementation activities.⁶

Wekiva River Basin Coordinating Committee Recommendations

The Committee issued its *Final Report* on March 16, 2004, concluding that completion of the beltway corridor is an essential component of meeting regional transportation needs including regional connectivity, improved safety, projected growth, and increased travel demands.⁷ The Committee's general recommendations include the following:

- 1) Build the Wekiva Parkway;
- 2) Protect the Wekiva River Basin environment;

³ See SB 1956 and HB 1333 (2003 Session).

⁴ Executive Order Number 03-112, July 1, 2003, page 3.

⁵ See Id.

⁶ See Id.

⁷ *Wekiva River Basin Coordinating Committee Final Report*, March 16, 2004, p.15, <http://www.wekivacommittee.org/wekivacc/February%2004/finalreportdraft.pdf> (3/23/04).

- 3) Promote innovative planning and development; and
- 4) Implement the recommendations using specified strategies.

The Committee's *Final Report* included 19 separate recommendations, some of which do not appear to require legislative implementation. The Committee's recommendations that appear to require legislative implementation are very briefly summarized as follows:

Rec. No.	Summary of Recommendations Requiring Legislative Implementation (Please see the <i>Final Report</i> for additional information regarding all Recommendations)
1	Endorsed Task Force Recommendations 2, 3, 4, 7, 9, and 10 regarding location and design of Wekiva Parkway.
2	Consistent with Task Force Recommendation 13, local governments hosting an interchange on the Parkway should adopt into their comprehensive plans interchange land use plans to address specific issues.
3	Supported initiation of legislative action and appropriations to expedite acquisition of four parcels, including right-of-way acquisition and mitigation of environmental impacts.
4	Endorsed the SJRWMD recommendations regarding water quantity and quality with certain revisions.
5	Where needed to achieve reductions in agricultural non-point source pollutants, DACS should undertake rulemaking for new or revised BMPs for improving and protecting water bodies, including those basins with impaired water bodies addressed by the TMDL program.
6	SJRWMD should establish pollution load reduction goals for the Study Area by December 1, 2005, to assist the DEP in adopting TMDLs for the Study Area by December 1, 2006.
7	Each local government in the Study Area should: develop a Master Stormwater Management Plan; develop a water reuse and irrigation program to minimize pumpage of groundwater for non-potable usage; and amend comprehensive plans to ensure implementation of the Master Plan to address pollution load reductions.
8	DEP should study and, if necessary, initiate rulemaking addressing water quality and wastewater treatment standards to achieve nitrogen reduction using best available technologies.
9	DOH should study and, if necessary, initiate rulemaking to achieve nitrogen reduction for on-site disposal systems to protect water quality.
12	Recommends that DCA and SJRWMD review local government comprehensive plan amendments to ensure that amendments increasing development potential demonstrate that adequate potable water consumptive use permit capacity is available; local government comprehensive plans should include updated local water supply facility work plans by January 1, 2006; SJRWMD should coordinate with affected entities to implement countywide or multi-county development of alternative water sources.
13	Local governments should develop a wastewater facility plan and establish a water reuse program allowing for reuse of reclaimed water to minimize pumpage of groundwater for non-potable usage.
14	Local governments should amend comprehensive plans to establish land use strategies that optimize open space and promote patterns of development on a jurisdiction-wide basis that protect most effective recharge areas, karst features, and sensitive natural habitats while recognizing property rights and other circumstances.
15	Recommends planned community initiatives that assure protection of surface and groundwater resources while promoting compact, ecologically, and economically sustainable growth.
18	Recommends adoption of necessary comprehensive plan amendments by January 1, 2006, and adoption of implementing land development regulations by January 1, 2007. Prior to adoption of these comprehensive plan amendments, amendments that apply to lands within the Wekiva Study Area should protect surface and groundwater resources and be reviewed by the DCA using best available data.

19	Recommends establishment of the Wekiva River Basin Resource Commission to monitor and assure implementation of these recommendations.
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EFFECT OF PROPOSED CHANGES

HB 849 creates the Wekiva Study Area and Wekiva Parkway Act (the Act), part III, ch. 369, F.S., consisting of new ss. 369.314, 369.315, 369.316, 369.317, 369.318, 369.319, 369.320, 369.321, 369.322, 369.323, and 369.324, F.S. These new sections are summarized as follows:

Section 369.314, F.S. – Provides for the Act’s popular name, the “Wekiva Study Area and Wekiva Parkway Act.”

Section 369.315, F.S. – Provides general legislative findings regarding the status of Florida’s springs and includes a statement of intent that the recommendations of the Committee contained in its March 16, 2004 Final Report will be implemented to improve and ensure protection of surface water and groundwater resources, and that coordination of local comprehensive plans and the regional water supply plan is important for the protection of water resources to promote effective planning and development. Subsection (4) specifically provides that it is not the intent of the legislature to place an undue burden on local governments within the Wekiva Study Area.

Section 369.316, F.S. – Provides a legal description of the Wekiva Study Area, which includes portions of Lake, Orange, and Seminole Counties.

Section 369.317, F.S.

- Defines the “Wekiva Parkway” as a limited access highway or expressway constructed between SR 429 and Interstate 4 or SR 417, and specifically incorporates the corridor alignment recommendation of the Wekiva River Basin Area Task Force.
- Requires compliance with certain guiding principles for the design and construction of the Wekiva Parkway.
- Limits the number of interchanges to 5 and specifies interchange locations.
- Prohibits commencement of construction of the Parkway until the right-of-way is acquired from SR 46 in Lake County to I-4 or SR 417 in Seminole County.
- Requires that, in Seminole County, the precise corridor and interchanges for the Wekiva Parkway will be located by the Seminole County Expressway Authority, the Department of Transportation (DOT), and the Florida Turnpike Enterprise, consistent with the intent and other provisions of the Act.
- Provides DOT with specific authority to acquire lands and exercise eminent domain to condemn necessary property and interests in certain lands and sets forth specific provisions regarding disposition of acquired lands.⁸ Further provides that the DOT will be the lead agency for acquisition purposes with the participation and coordination of the Department of Environmental Protection (DEP), the Department of Community Affairs (DCA), the St. John’s River Water Management District (SJRWMD), the Orlando-Orange County Expressway Authority, and other land acquisition entities.
- Requires land acquisition entities to cooperate and establish funding responsibilities and partnerships by agreement to the extent funds are available. DOT is not required or assumed to fund acquisition beyond the agreements and funding provided by the other land-acquisition entities.
- Appropriates the following amounts in FY2004-2005:
 - \$7.75 million from the General Revenue Fund to the DCA to fund the cost to impacted cities of comprehensive land use plan amendments.
 - \$4 million to DEP for the implementation of wastewater collection facilities for specified residential communities in Seminole and Lake Counties.

⁸ State of Florida, Office of the Governor, Executive Order No. 2002-259.

Section 369.318, F.S. – Requires DEP, DOH, SJRWMD, and DACS to conduct studies and initiate rulemaking activities as follows:

- Department of Environmental Protection
 - Requires DEP to study the efficacy and applicability of water quality and wastewater treatment standards needed to achieve nitrogen reductions protective of water quality within the Wekiva Study Area and report to the Governor and DCA by December 1, 2004.
 - Based upon the results of the study, by March 1, 2005, DEP must initiate rulemaking to achieve nitrogen reductions protective of water quality or recommend legislation that grants any statutory authority needed to implement the report recommendations.
- Department of Health
 - Requires DOH, in coordination with DEP, to study the efficacy and applicability of onsite disposal system standards needed to achieve protective nitrogen reductions within the Wekiva Study Area and report to the Governor and DCA by December 1, 2004.
 - Based upon the results of the study, by March 1, 2005, DOH must initiate rulemaking to achieve nitrogen reductions protective of water quality or recommend legislation that grants any statutory authority needed to implement the report recommendations.
- SJRWMD
 - Requires SJRWMD to study, in conjunction with DEP, the recharge volume conditions in the Wekiva Study Area and make recommendations to implement new standards to provide that postdevelopment recharge volume conditions approximate predevelopment recharge volume conditions.
 - The district must initiate rulemaking to apply the recharge criteria in current rules to the most effective recharge areas within the Wekiva Study Area.
 - By March 1, 2005, the district must initiate rulemaking to implement new standards to provide that postdevelopment recharge volume conditions approximate predevelopment recharge volume conditions.
 - By December 1, 2007, the district must initiate rulemaking to update the minimum flows and levels for Rock Springs and Wekiva Springs, and revise consumptive use permit thresholds in the Wekiva Study Area to address, with specific conditions, proposed water withdrawals above 50,000 gallons per day.
 - By December 1, 2005, the district must establish pollution load reduction goals for the Wekiva Study Area to assist DEP in adopting total maximum daily loads by December 1, 2006.
- Department of Agriculture and Consumer Affairs
 - DACS is designated as the lead agency in coordinating the reduction of agricultural nonpoint sources of pollution.
 - DACS is required to study new or revised best management practices for improving and protecting water bodies, including basins with impaired water bodies addressed by the Clean Water Act's Total Maximum Daily Loads Program.
 - If necessary, DACS is required to initiate rulemaking to implement new or revised best management practices for improving and protecting those water bodies.

Section 369.319, F.S. – Requires each local government within the Wekiva Study Area to develop a master stormwater management plan that:

- Assesses existing community problems and deficiencies;
- Identifies projects to meet long-range needs;
- Establishes priorities to address existing deficiencies;
- Establishes measures to address redevelopment;
- Establishes a schedule to complete needed improvements;
- Evaluates the feasibility of stormwater reuse;
- Includes requirements for inspection and maintenance of facilities; and
- Identifies a funding source to fund implementation of the plan and maintenance program.

Additionally, each local government is required to establish a water reuse and irrigation program that allows for reuse of stormwater to minimize pumpage of groundwater for nonpotable usage.

Section 369.320, F.S.

- Requires local governments to develop a wastewater facility plan in joint planning areas and utility service areas where central wastewater systems are not readily available. The plan is required to include:
 - The delineation of areas within the utility service area that will be served by central facilities within 5 years;
 - A financially feasible schedule of improvements;
 - An infrastructure work plan to build the facilities needed to implement the facility plan, including those needed to meet enhanced treatment standards adopted by DEP;
 - A phase-out of existing onsite septic tank systems where central facilities are available; and
 - A long-range component that addresses service of the joint planning area or utility service area.
- Requires local governments to establish a water reuse program that allows for reuse of reclaimed water to minimize pumpage of groundwater for nonpotable usage.
- Requires local governments to update their wastewater facility plans for those basins in which the Clean Water Act's Total Maximum Daily Loads Program requires reductions in point source pollutants or as otherwise required by legislation for enhanced treatment standards.

Section 369.321, F.S.

- Requires each local government within the Wekiva Study Area to amend its comprehensive plan by January 1, 2006, including its capital improvement element, to include the following:
 - An interchange land use plan, with required features, for those local governments within the boundaries of which an interchange is planned to be located;
 - Appropriate elements to ensure implementation of the master stormwater management plan;
 - Appropriate elements to ensure implementation of the wastewater facility plan; and
 - Land use strategies meeting certain criteria.
- Requires that land use strategies encourage the use of planned development initiatives and economically sustainable growth.
- Requires DCA review of local government comprehensive plans and amendments implementing this section and exempts those amendments from s. 163.3187(1), F.S. (the twice a year limitation on plan amendments).
- Requires each of the local governments located within the Wekiva Study Area to adopt, by January 1, 2007, land development regulations to implement the required comprehensive plan amendments.
- Requires that, prior to adoption of the required comprehensive plan amendments, plan amendments adopted by counties and cities within the Wekiva Study Area must protect surface water and groundwater resources and be reviewed by DCA.

Section 369.322, F.S.

- Requires comprehensive plan amendments for property located within the Wekiva Study Area to be reviewed by DCA and SJRWMD to ensure that amendments increasing development potential demonstrate availability of adequate potable water consumptive use permit capacity.
- Requires local governments located within the Wekiva Study Area to coordinate with SJRWMD and other public and private utilities, on a county-wide or multi-countywide basis, to implement cooperative solutions for development of alternative water sources necessary to supplement groundwater supplies consistent with the SJRWMD Regional Water Supply Plan.

Section 369.323, F.S. Requires DCA to review comprehensive plans and plan amendments to ensure compliance.

Section 369.324, F.S.

- Creates the Wekiva River Basin Commission to monitor and ensure the implementation of state, regional, and local efforts regarding the recommendations of the coordinating committee for the Wekiva Study Area.
- Requires the East Central Florida Regional Planning Council to provide staff support and requires the DCA to provide funding assistance.
- Provides that the commission will consist of 19 members appointed by the Governor as follows:
 - 9 voting members including:
 - 3 members, 1 each from the Boards of County Commissioners for Lake, Orange, and Seminole Counties;
 - 3 municipal elected officials to serve as representatives of municipalities located in Lake, Orange, and Seminole Counties;
 - 1 citizen representing an environmental organization, a conservation organization, or an agricultural entity;
 - 1 citizen representing a local property owner; and
 - 1 at-large citizen who will serve as chair.
 - 10 ad-hoc nonvoting members including one representative from each of the following entities:
 - SJRWMD
 - DCA
 - DEP
 - Department of Health
 - Department of Agriculture and Consumer Affairs
 - Florida Fish and Wildlife Conservation Commission
 - DOT
 - MetroPlan Orlando
 - Orlando-Orange County Expressway Authority
 - Seminole County Expressway Authority.
- Voting members serve 3-year staggered terms and serve at the expense of the entity each member represents.
- Meetings are held at the call of the Chair in one of the three affected counties, but at least twice annually.
- Requires the East Central Florida Regional Planning Council, in coordination with the applicable regional and state agencies, to serve as a clearinghouse of baseline or specialized studies through modeling and simulation, including the collection and dissemination of demographic, economic, and environmental data regarding the Wekiva Study Area. This data must include the changing conditions of the Wekiva River surface water and groundwater basin and associated influence on the Wekiva River and Wekiva Springs.
- Requires the commission to provide an annual report to the Governor, President of the Senate, Speaker of the House of Representatives, and the DCA regarding the progress of implementing the coordinating committee's recommendations.

Section 3 of the bill requires the St. Johns River Water Management District to create a mitigation bank on the New Garden Coal property, which will be acquired in conjunction with the establishment of the Wekiva Parkway. Establishment of the mitigation bank is intended to preserve the property without expending public funds. The bill finds that the mitigation bank will generate mitigation credits that may offset adverse impacts associated with the construction of the Wekiva Parkway. The mitigation service

area of the mitigation bank must include the entire Wekiva Study Area. The bill requires the SJRWMD to consider, when determining the number of mitigation credits to award the mitigation bank, the ecological value generated by preserving the New Garden Coal property without the expenditure of public funds.

C. SECTION DIRECTORY:

Section 1. Creates the Wekiva Study Area and Wekiva Parkway Act, part III, ch. 369, F.S., consisting of ss. 369.314, 369.315, 369.316, 369.317, 369.318, 369.319, 369.320, 369.321, 369.322, 369.323, and 369.324, F.S.; appropriates \$7.5 million from the General Revenue Fund to the DCA and \$4 million to the DEP.

Section 2. Amends s. 163.3184(1)(b), F.S., to revise the definition of "in compliance" to include provisions created by this bill.

Section 3. Provides for the establishment of the New Garden Coal mitigation bank.

Section 4. Provides for the July 1, 2009 repeal of the Act unless the purchase of the Wekiva Parkway right-of-way is complete.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a revenue impact on the state budget.

2. Expenditures:

Section 369.317(8), F.S., provides two appropriations as follows:

- \$7.75 million is appropriated from the General Revenue Fund to the DCA to fund the cost to impacted cities of comprehensive land use plan amendments.
- \$4 million is appropriated to the DEP for the implementation of wastewater collection facilities for the residential communities in Seminole County on Wekiva River Drive and in the Wekiva River Oaks subdivision, and in Lake County in the residential community known as Wekiva Falls east of and on Wekiva River Road.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill appropriates \$7.75 million to the Department of Community Affairs to assist local governments in making local comprehensive plans and amendments necessary to comply with this bill. Additionally, the bill appropriates \$4 million to the Department of Environmental Protection for implementation of wastewater collection facilities for specific residential communities in Seminole and Lake Counties.

2. Expenditures:

Although the bill imposes certain planning and program requirements on local governments within the Wekiva Study Area, the fiscal impact of these requirements is indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. However, the bill provides for the development and construction of a major transportation corridor through Seminole, Lake, and Orange Counties, which may result in economic development in surrounding areas.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill imposes certain requirements on local governments impacted by the development and construction of the Wekiva Parkway, including the following:

- Section 369.319, F.S., requires each local government within the Wekiva Study Area to develop a master stormwater management plan and establish a water reuse and irrigation program that allows for reuse of stormwater to minimize pumpage of groundwater for nonpotable usage.
- Section 369.320, F.S., requires local governments to develop a wastewater facility plan in joint planning areas and utility service areas where central wastewater systems are not readily available, establish a water reuse program that allows for reuse of reclaimed water to minimize pumpage of groundwater for nonpotable usage, and update their wastewater facility plans for those basins in which the Clean Water Act's Total Maximum Daily Loads Program requires reductions in point source pollutants or as otherwise required by legislation for enhanced treatment standards.
- Section 369.321, F.S., requires each local government within the Wekiva Study Area to amend its comprehensive plan by January 1, 2006, including its capital improvement element, to include certain elements. Each of the local governments located within the Wekiva Study Area is also required to adopt, by January 1, 2007, land development regulations to implement the required comprehensive plan amendments.
- Section 369.322, F.S., requires local governments located within the Wekiva Study Area to coordinate with SJRWMD and other public and private utilities, on a county-wide or multi-countywide basis, to implement cooperative solutions for development of alternative water sources necessary to supplement groundwater supplies consistent with the SJRWMD Regional Water Supply Plan.

Section 369.315(4), F.S., as created by this bill, specifies that the Legislature does not intend to impose an undue burden on local governments in the Wekiva Study Area. Section 369.317(8), F.S., contains a \$7.75 million appropriation to the Department of Community Affairs to fund the cost of the comprehensive land use amendments to impacted cities, and an additional \$4 million appropriation to the Department of Environmental Protection for the implementation of wastewater collection facilities for specific residential communities. However, these appropriations do not appear to apply to the county governments of Lake, Seminole, and Orange Counties.

The "Mandates" provision appears to apply based upon the above. However, the cost of local government compliance with the requirements imposed by this bill is indeterminate at this time, so applicability of the "insignificant fiscal impact" exemption is uncertain. Therefore, it is unclear whether these requirements constitute a "mandate" under Art. VII, s. 18, of the Florida Constitution.

If the bill is a mandate, but does not qualify for an exemption or exception, the bill must include a statement of important state interest and pass by a 2/3 vote of the membership of each house.

2. Other:

None.

B. **RULE-MAKING AUTHORITY:** This bill requires certain agency rulemaking within existing statutory authority and requires agencies to provide recommendations regarding additional rulemaking authority necessary to implement the provisions of the Act.

C. **DRAFTING ISSUES OR OTHER COMMENTS:**

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Committee on Local Government & Veterans' Affairs provided the following unedited comments:

The Committee on Local Government & Veterans' Affairs at its March 16, 2004, meeting, adopted one substitute strike all amendment. The substitute strike all amendment made the following changes to the original strike all amendment.

- s. 369.315(4), F.S., is created to provide: "It is not the intent of the Legislature to place an undue burden on local governments within the Wekiva Study Area.
- s. 369.318(3)(a), F.S., is created to require the St. Johns River Water Management District (SJRWMD) to initiate rulemaking to apply the recharge criteria of Rule 40C-41.063(3), F.A.C., to the most effective recharge areas within the Wekiva Study Area.
- 369.321(b), F.S., is created to require certain local government comprehensive plans to include "appropriate elements to ensure implementation of a master stormwater management plan."
- s. 369.321(c), F.S., is created to require certain local comprehensive plans to include "appropriate elements to ensure implementation of a wastewater facility plan."
- s. 369.321(d), F.S., is created to among other things require the SJRWMD to map, using specific data, the most effective recharge area and sensitive upland habitats for this purpose.

On March 25, 2004, the Committee on Natural Resources adopted two amendments described as follows:

- **Amendment #1:** Clarifies that the location of the corridor and interchanges of the Wekiva Parkway located in Seminole County must be consistent with the legislative intent and other provisions of the Act.
- **Amendment #2:** Requires the SJRWMD to establish a mitigation bank on the New Garden Coal property to preserve the property without expending public funds and provides guidelines for establishment of the bank.