

# 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.)

Prepared By: Community Affairs Committee

BILL: SB 674

SPONSOR: Senator Saunders

SUBJECT: Big Cypress Area of Critical State Concern

DATE: February 15, 2005

REVISED: 02/22/05

| ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION          |
|-----------|----------------|-----------|-----------------|
| 1. Herrin | Yeatman        | CA        | Fav/1 amendment |
| 2.        |                | EP        |                 |
| 3.        |                |           |                 |
| 4.        |                |           |                 |
| 5.        |                |           |                 |
| 6.        |                |           |                 |

## Please see last section for Summary of Amendments

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Technical amendments were recommended

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Amendments were recommended

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Significant amendments were recommended

## I. Summary:

The bill revises the boundaries of the Big Cypress Area of Critical State Concern to remove an urban area consisting of mobile home sites.

This bill amends section 380.055 of the Florida Statutes.

## II. Present Situation:

### *Areas of Critical State Concern*

With the enactment of the Florida Environmental Land and Water Management Act of 1972, the Legislature provided for the designation of areas of critical state concern (ACSC). Section 380.05, F.S., authorizes the Governor and Cabinet, sitting as the Administration Commission, to reject or adopt the recommendation of the state land planning agency to designate an ACSC.

In order to be designated an ACSC, the area must be:

- An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and

- aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources;
- An area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts; or
  - An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment including, but not limited to, highways, ports, airports, energy facilities, and water management projects.<sup>1</sup>

The Governor and Cabinet designates an ACSC by rule and such rule must include:

- A detailed boundary description of the area;
- Principles for guiding development;
- A precise checklist of actions which, when implemented, will result in repeal of the designation by the Governor and Cabinet, and the agencies or entities responsible for taking those actions;
- A list of issues or programs for which mechanisms must be in place to assure the ongoing implementation of the actions which will lead to a repeal of the designation; and
- A list of state agencies which will administer the programs that affect the purpose of the designation.<sup>2</sup>

Areas of Critical State Concern 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).<sup>3</sup>

After adopting a rule designating an ACSC, the Governor and Cabinet must submit the rule and principles for guiding development to the President of the Senate and the Speaker of the House of Representatives no later than 30 days before the next regular legislative session. Each rule presented to the Legislature must also include a detailed legal description of the boundary of the ACSC.<sup>4</sup>

Section 380.05(12), F.S., allows the Governor and Cabinet to remove, contract, or expand the boundary of an ACSC at the request of a substantially interested person, a local government or regional planning agency within the designated area, or the state land planning agency. However, a boundary may not be modified without a specific finding by the Governor and Cabinet that the changes are consistent with necessary resource protection.<sup>5</sup>

### ***Big Cypress Area of Critical State Concern***

The Legislature enacted s. 380.055, F.S., “The Big Cypress Conservation Act of 1973,” to govern the administration of the Big Cypress ASCS. This legislation required the state land

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<sup>1</sup> Section 380.05(2), F.S.

<sup>2</sup> Section 380.05(1)(b), F.S.

<sup>3</sup> See <http://www.csc.noaa.gov/opis/html/summary/florida/felwma.htm>

<sup>4</sup> Section 380.05(1)(c), F.S.

<sup>5</sup> Section 380.05(12), F.S.

planning agency to recommend definitive boundaries for the Big Cypress ASCS to the Governor and Cabinet. The Administration Commission was then required to adopt, modify, or reject the agency's recommendation and establish the boundaries of the Big Cypress Area by rule.<sup>6</sup> The boundaries for the Big Cypress ACSC are found in Rule 28-25.001, Florida Administrative Code. Proponents of this bill contend the map used to draw the boundaries of the Big Cypress ASCS was an older map of Collier County that did not include the Plantation Island Mobile Homesites. The area is described as "a dredge and fill subdivision developed in the 1960's, or maybe before, with about 100 or more mobile homes, all on canals leading to the Gulf."<sup>7</sup>

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

**Section 1** removes the Plantation Island Subdivision (unrecorded) that is located in Sections 13 and 24, Township 53 South, Range 29 East, Collier County, Florida from the boundaries of the Big Cypress Area of Critical State Concern.

**Section 2** provides 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.

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

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

By removing these mobile home lots from the designated area of critical state concern, a lot owner applying for a permit to build or improve a structure on the lot will no longer be subject to heightened review of the permit application.

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<sup>6</sup> Section 380.05(3), F.S.

<sup>7</sup> See Letter to Marjorie Student, Assistant County Attorney, Collier County Legal Department, from Mr. Harold L. Hall, dated December 8, 2004.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

It has not yet been determined if the Department of Community Affairs or the Administration Commission would require additional rulemaking authority to implement the boundary changes in this bill.

**VII. Related Issues:**

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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## **VIII. Summary of Amendments:**

Barcode 664882 by Community Affairs:

Technical amendment clarifying a legal description.

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