

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1023

Playgrounds

SPONSOR(S): Planas

TIED BILLS:

IDEN./SIM. BILLS: SB 1892

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Agriculture & Environment Appropriations Committee			
3) Governmental Operations Committee			
4) Fiscal Council			
5)			

SUMMARY ANALYSIS

The Florida Recreation Development Assistance Program (FRDAP) is established by the Department of Environmental Protection (DEP) and funded by a portion of the funds credited to the Land Acquisition Trust Fund and Florida Forever Trust Fund. FRDAP provides grants to qualified local government entities to acquire or develop land for public outdoor recreation.

This bill creates a boundless playground program under FRDAP. The boundless playground program would be an additional program, requiring separate rules and consideration for projects that meet the definition of a boundless playground provided in the bill. The boundless playground program would require DEP to create a rule to set aside a portion of FRDAP's funds specifically for boundless playground projects.

This bill requires funds currently granted to all projects based on competitive rankings to be divided in such a way that allows for a separate allocation to boundless playgrounds without having them ranked in the same competitive system.

This bill would take effect July 1, 2006.

This bill does not require additional state expenditures, but may negatively impact smaller cities and counties by reducing funds available under FRDAP for the other projects that must compete in the ranking system. The bill has the potential to directly benefit the private company - Boundless Playgrounds®.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government- This bill assigns an additional responsibility to the Department of Environmental Protection (DEP) by requiring DEP to create a new program. After implementing rules for the program, DEP will also then bear the responsibility of distributing the funds under this program each year.

B. EFFECT OF PROPOSED CHANGES:

Florida Recreation Development Assistance Program (FRDAP)

The Florida Recreation Development Assistance Program (FRDAP) provides grants to qualified local government entities so they may acquire or develop land for public outdoor recreation purposes.¹ Funding for the program is based upon not less than 5% of the money credited to the Land Acquisition Trust Fund and from the Florid Forever Trust Fund as determined in s. 259.105(d), F.S., which is currently 2%. Because it is based on percentages, FRDAP's budget varies each year.

In distributing funds, the Department of Environmental Protection (DEP) has adopted rules and procedures within a competitive selection process to maximize the benefits to the public.² In the Florida Administrative Code, DEP has developed a point score ranking system. The system allows eligible projects to earn points for meeting various criteria within general criteria, developmental criteria, acquisition criteria, and trail consideration criteria.³ Many of the criteria are based on meeting the outdoor recreation goals, objectives, and priorities in the Statewide Comprehensive Outdoor Recreation Plan (SCORP).⁴

FRDAP grants are only awarded to projects with the sole purpose of providing outdoor recreational opportunities to the public. To be eligible, the site of the project must be either owned by the applicant or leased to them for a sufficient period of time to satisfy the dedication period. DEP has the ability to make exceptions for what is considered an eligible site. In addition, DEP must also consider the project to be viable and practical. A project that does not receive at least 53 points in the ranking system is considered to be nonviable.⁵ After points are awarded, the projects that received at least 53 points are then ranked and listed on a priority list, with funds going to the projects with the highest points first. The minimum point requirement is to help in securing larger, more inclusive projects. Under this system, it is hard, if not impossible, for stand alone projects to qualify for funding.⁶

FRDAP funds are distributed as reimbursements with match requirements.⁷ There is a maximum grant limit of \$200,000 for each project. No local government may apply for more than two grants each application period, nor may a local government have more than three active projects receiving grant funds per fiscal year.⁸ In three of the last five years (not including 2006), all projects on the priority list have received funding. There have been instances when a project has not made the list but was funded by the Legislature in a separate line item appropriation.⁹

¹ Section 375.075(1), F.S.

² Section 375.075(2), F.S.

³ Fla. Admin. Code R. 62D-5.

⁴ The purpose of SCORP is to provide a guide for the "development of a diverse, balanced, statewide outdoor recreation system toward meeting current and future needs." It is intended to be comprehensive in both planning and implementation. www.dep.state.fl.up/parks/planning/default.htm

⁵ Fla. Admin. Code R. 62D-5.056.

⁶ E-mail from Bruce Deterding of DEP, March 6, 2006.

⁷ Fla. Admin. Code R. 62D-5.055.

⁸ Section 375.075(3), F.S.

⁹ E-mail from Bruce Deterding of DEP, March 6, 2006.

Effect of Bill

The bill creates a separate program under FRDAP to specifically fund boundless playground projects. The bill defines a boundless playground as:

A playground with a barrier-free environment designed for children of all abilities, including those with physical, developmental, cognitive, and sensory disabilities, to experience independent self-directed play, each at his or her own highest level of ability, and includes accessible play components and equipment that engage and provide access for children with various motor impairments.

Consistent with the statutory requirements of FRDAP, DEP is directed to adopt, by rule, a program to fund boundless playgrounds. This requires DEP to set aside a certain amount of FRDAP's funds to fund the boundless playground program.

Projects being defined as boundless playgrounds by this bill are technically eligible to be funded under the current FRDAP program. However, under the current FRDAP program, these projects are subjected to the minimum 53 point requirements and the same competitive ranking system as all other qualifying projects. For boundless playgrounds to be funded under the current FRDAP, they normally must be part of a larger project.¹⁰ By creating a separate program, boundless playground projects could be initiated as stand alone projects and would only have to compete with other boundless playground projects for the funds set aside for that purpose.

C. SECTION DIRECTORY:

Section 1: Amends directory language of s. 375.075, F.S., to include boundless playgrounds and creates subsection (4) to provide for a boundless playground program.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no effect on state revenues.

2. Expenditures:

This bill may negatively impact the normal expenditures from the FRDAP grant program, which may negatively impact smaller counties and cities and their eligibility under the FRDAP grant program.¹¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

¹⁰ E-mail from Bruce Deterding of DEP, March 6, 2006.

¹¹ Department of Environmental Protection: Draft Bill Analysis 2006 (HB 1023).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will directly benefit a private company- Boundless Playgrounds®.¹²

D. FISCAL COMMENTS:

This bill may negatively impact the normal expenditures from FRDAP grants by focusing on a particular playground built by a particular company. Due to the expense of this company's product, DEP suggests that the FRDAP statutory limits on grants be raised. This bill may negatively impact smaller cities and counties since there may not be as much FRDAP revenue available due to the cost of these playgrounds.¹³

If the bill passes, DEP suggests that because Boundless Playgrounds® cost approximately \$300,000, s. 375.075, F.S., should be amended to raise the statutory limit on FRDAP, which is presently \$200,000.¹⁴

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill directs DEP to adopt by rule a new program to fund boundless playgrounds.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

It is unclear how the additional program will impact the application process. Under current law, a local government is limited to two grant applications each application period.¹⁵ By creating a new program under FRDAP so that two programs exist where previously only one did, it is unclear if there will be two applications per program or two applications total.

The same issue arises under the permissible number of active projects. Currently, a local government may not have more than three active projects using FRDAP granted funds during the fiscal year.¹⁶ Whether this will be applied as three projects under each program, or three total projects under FRDAP is unclear.

The term boundless playground also is the name of a private company, Boundless Playgrounds® and using this term could be seen as endorsing this company's product.

¹² Department of Environmental Protection: Draft Bill Analysis 2006 (HB 1023).

¹³ Department of Environmental Protection: Draft Bill Analysis 2006 (HB 1023).

¹⁴ Department of Environmental Protection: Draft Bill Analysis 2006 (HB 1023).

¹⁵ Section 375.075(3), F.S.

¹⁶ Section 375.075(3), F.S.

The current statute contains an incorrect cross reference to s. 259.105(3)(c). The correct cross reference should be s. 259.105(3)(d). This is being corrected in a revisers bill, HB 7067(42).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.