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CHAMBER ACTION

1 The Environmental Regulation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to environmental protection; providing
7 legislative intent regarding funding for the Florida
8 Forever program; amending s. 201.15, F.S.; revising
9 provisions governing distribution of a portion of the
10 proceeds of the excise tax on documents to the Land
11 Acquisition Trust Fund; amending s. 373.4144, F.S.;
12 removing provisions requiring the Department of
13 Environmental Protection to develop a mechanism
14 consolidating federal and state wetland permitting
15 programs; authorizing implementation of a statewide
16 programmatic general permit by the department and water
17 management districts for certain dredge and fill
18 activities; specifying conditions applicable to such
19 permit; authorizes the department to adopt rules and apply
20 program criteria; providing for use of such general permit
21 within the Northwest Florida Water Management District;
22 amending s. 373.4211, F.S.; revising provisions concerning
23 the vegetative index used to delineate the landward extent

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24 | of wetlands and surface waters; providing a definition;
 25 | providing for permit modification under certain
 26 | circumstances; providing for certain declaratory
 27 | statements from the department; providing exemptions for
 28 | certain permit petitions and applications relating to
 29 | specified activities; providing effective dates.

30 |

31 | Be It Enacted by the Legislature of the State of Florida:

32 |

33 | Section 1. The Legislature finds that rising land costs
 34 | have reduced the effectiveness of the Florida Forever program.
 35 | It is therefore the intent of the Legislature that the
 36 | distribution of funds to the Florida Forever program be
 37 | accelerated in order to complete the appropriations anticipated
 38 | under s. 215.618, Florida Statutes, by the 2007-2008 fiscal year
 39 | by lifting the annual limit on debt service for Florida Forever
 40 | bonds and allowing appropriations for the Florida Forever
 41 | program to rise to \$600 million in the 2006-2007 and 2007-2008
 42 | fiscal years.

43 | Section 2. Paragraph (a) of subsection (1) of section
 44 | 201.15, Florida Statutes, is amended to read:

45 | 201.15 Distribution of taxes collected.--All taxes
 46 | collected under this chapter shall be distributed as follows and
 47 | shall be subject to the service charge imposed in s. 215.20(1),
 48 | except that such service charge shall not be levied against any
 49 | portion of taxes pledged to debt service on bonds to the extent
 50 | that the amount of the service charge is required to pay any
 51 | amounts relating to the bonds:

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52 (1) Sixty-two and sixty-three hundredths percent of the
53 remaining taxes collected under this chapter shall be used for
54 the following purposes:

55 (a) Amounts as shall be necessary to pay the debt service
56 on, or fund debt service reserve funds, rebate obligations, or
57 other amounts payable with respect to Preservation 2000 bonds
58 issued pursuant to s. 375.051 and Florida Forever bonds issued
59 pursuant to s. 215.618, shall be paid into the State Treasury to
60 the credit of the Land Acquisition Trust Fund to be used for
61 such purposes. The amount transferred to the Land Acquisition
62 Trust Fund for such purposes shall not exceed \$300 million in
63 fiscal year 1999-2000 and thereafter for Preservation 2000 bonds
64 and bonds issued to refund Preservation 2000 bonds, and \$300
65 million in fiscal year 2000-2001 and thereafter for Florida
66 Forever bonds. The annual amount transferred to the Land
67 Acquisition Trust Fund for Florida Forever bonds shall not
68 exceed \$30 million in the first fiscal year in which bonds are
69 issued. The limitation on the amount transferred shall be
70 increased by an additional \$30 million in each ~~subsequent~~ fiscal
71 year through 2004-2005, and by \$60 million in each subsequent
72 fiscal year, but shall not exceed a total of \$300 million in any
73 fiscal year for all bonds issued. It is the intent of the
74 Legislature that all bonds issued to fund the Florida Forever
75 Act be retired by December 31, 2030. Except for bonds issued to
76 refund previously issued bonds, no series of bonds may be issued
77 pursuant to this paragraph unless such bonds are approved and
78 the debt service for the remainder of the fiscal year in which
79 the bonds are issued is specifically appropriated in the General

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80 Appropriations Act. For purposes of refunding Preservation 2000
 81 bonds, amounts designated within this section for Preservation
 82 2000 and Florida Forever bonds may be transferred between the
 83 two programs to the extent provided for in the documents
 84 authorizing the issuance of the bonds. The Preservation 2000
 85 bonds and Florida Forever bonds shall be equally and ratably
 86 secured by moneys distributable to the Land Acquisition Trust
 87 Fund pursuant to this section, except to the extent specifically
 88 provided otherwise by the documents authorizing the issuance of
 89 the bonds. No moneys transferred to the Land Acquisition Trust
 90 Fund pursuant to this paragraph, or earnings thereon, shall be
 91 used or made available to pay debt service on the Save Our Coast
 92 revenue bonds.

93 Section 3. Effective July 1, 2007, paragraph (a) of
 94 subsection (1) of section 201.15, Florida Statutes, as amended
 95 by section 1 of chapter 2005-92, Laws of Florida, is amended to
 96 read:

97 201.15 Distribution of taxes collected.--All taxes
 98 collected under this chapter shall be distributed as follows and
 99 shall be subject to the service charge imposed in s. 215.20(1),
 100 except that such service charge shall not be levied against any
 101 portion of taxes pledged to debt service on bonds to the extent
 102 that the amount of the service charge is required to pay any
 103 amounts relating to the bonds:

104 (1) Sixty-two and sixty-three hundredths percent of the
 105 remaining taxes collected under this chapter shall be used for
 106 the following purposes:

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107 (a) Amounts as shall be necessary to pay the debt service
108 on, or fund debt service reserve funds, rebate obligations, or
109 other amounts payable with respect to Preservation 2000 bonds
110 issued pursuant to s. 375.051 and Florida Forever bonds issued
111 pursuant to s. 215.618, shall be paid into the State Treasury to
112 the credit of the Land Acquisition Trust Fund to be used for
113 such purposes. The amount transferred to the Land Acquisition
114 Trust Fund shall not exceed \$300 million in fiscal year 1999-
115 2000 and thereafter for Preservation 2000 bonds and bonds issued
116 to refund Preservation 2000 bonds, and \$300 million in fiscal
117 year 2000-2001 and thereafter for Florida Forever bonds. The
118 annual amount transferred to the Land Acquisition Trust Fund for
119 Florida Forever bonds shall not exceed \$30 million in the first
120 fiscal year in which bonds are issued. The limitation on the
121 amount transferred shall be increased by an additional \$60 ~~\$30~~
122 million in each subsequent fiscal year, but shall not exceed a
123 total of \$300 million in any fiscal year for all bonds issued.
124 It is the intent of the Legislature that all bonds issued to
125 fund the Florida Forever Act be retired by December 31, 2030.
126 Except for bonds issued to refund previously issued bonds, no
127 series of bonds may be issued pursuant to this paragraph unless
128 such bonds are approved and the debt service for the remainder
129 of the fiscal year in which the bonds are issued is specifically
130 appropriated in the General Appropriations Act. For purposes of
131 refunding Preservation 2000 bonds, amounts designated within
132 this section for Preservation 2000 and Florida Forever bonds may
133 be transferred between the two programs to the extent provided
134 for in the documents authorizing the issuance of the bonds. The

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135 Preservation 2000 bonds and Florida Forever bonds shall be
136 equally and ratably secured by moneys distributable to the Land
137 Acquisition Trust Fund pursuant to this section, except to the
138 extent specifically provided otherwise by the documents
139 authorizing the issuance of the bonds. No moneys transferred to
140 the Land Acquisition Trust Fund pursuant to this paragraph, or
141 earnings thereon, shall be used or made available to pay debt
142 service on the Save Our Coast revenue bonds.

143 Section 4. Subsection (1) of section 373.4144, Florida
144 Statutes, is amended to read:

145 373.4144 Federal environmental permitting.--

146 (1) In order to effectuate efficient wetland permitting
147 and avoid duplication, the department and water management
148 districts are authorized to implement a voluntary statewide
149 programmatic general permit for all dredge and fill activities
150 impacting 10 acres or less of wetlands or other surface waters,
151 including navigable waters, subject to agreement with the United
152 States Army Corps of Engineers in accordance with the following
153 conditions:

154 (a) By seeking to use the statewide programmatic general
155 permit authorized by this section, an applicant consents to the
156 department or district applying the landward-most delineation of
157 wetlands or other surface waters applicable pursuant to this
158 part or the regulations implementing s. 404 of the Clean Water
159 Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.,
160 and s. 10 of the Rivers and Harbors Act of 1899. In the
161 implementation of the 1987 Corps of Engineers Wetlands Manual
162 Technical Report (87-1), the department or district shall equate

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163 high organic matter in the surface horizon in accordance with
164 the National Resource Conservation Service indications for
165 hydric soils approved for use in this state. The department
166 shall ensure statewide coordination and consistency in the
167 delineation of surface waters and wetlands, pursuant to the
168 statewide programmatic general permit authorized by this part,
169 by providing training and guidance to the department and
170 districts in the implementation of such permit.

171 (b) By seeking to use the statewide programmatic general
172 permit authorized by this subsection an applicant consents to
173 applicable substantive federal wetland regulatory criteria,
174 which are not included pursuant to this part, but which are
175 authorized by the regulation implementing s. 404 of the Clean
176 Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et
177 seq., and s. 10 of the Rivers and Harbors Act of 1899 as
178 required by the Corps of Engineers, notwithstanding the
179 provisions of s. 373.4145 and for the limited purposes of
180 implementing the statewide programmatic general permit
181 authorized by this section.

182 (c) The department is authorized to adopt rules and apply
183 environmental resource permitting program criteria adopted
184 pursuant to s. 373.414(9) to both waters of the state and
185 isolated wetlands. Upon adoption of such rules, applicants in
186 the Northwest Florida Water Management District may elect to
187 pursue use of the statewide programmatic general permit
188 authorized by this section. ~~The department is directed to~~
189 ~~develop, on or before October 1, 2005, a mechanism or plan to~~
190 ~~consolidate, to the maximum extent practicable, the federal and~~

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191 ~~state wetland permitting programs. It is the intent of the~~
192 ~~Legislature that all dredge and fill activities impacting 10~~
193 ~~acres or less of wetlands or waters, including navigable waters,~~
194 ~~be processed by the state as part of the environmental resource~~
195 ~~permitting program implemented by the department and the water~~
196 ~~management districts. The resulting mechanism or plan shall~~
197 ~~analyze and propose the development of an expanded state~~
198 ~~programmatically general permit program in conjunction with the~~
199 ~~United States Army Corps of Engineers pursuant to s. 404 of the~~
200 ~~Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss.~~
201 ~~1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899.~~
202 ~~Alternatively, or in combination with an expanded state~~
203 ~~programmatically general permit, the mechanism or plan may propose~~
204 ~~the creation of a series of regional general permits issued by~~
205 ~~the United States Army Corps of Engineers pursuant to the~~
206 ~~referenced statutes. All of the regional general permits must be~~
207 ~~administered by the department or the water management districts~~
208 ~~or their designees.~~

209 Section 5. Subsection (19) of section 373.4211, Florida
210 Statutes, is amended to read:

211 373.4211 Ratification of chapter 17-340, Florida
212 Administrative Code, on the delineation of the landward extent
213 of wetlands and surface waters.--Pursuant to s. 373.421, the
214 Legislature ratifies chapter 17-340, Florida Administrative
215 Code, approved on January 13, 1994, by the Environmental
216 Regulation Commission, with the following changes:

217 (19) (a) Rule 17-340.450(3) is amended by adding, after the
218 species list, the following language:

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219 "Within Monroe County and the Key Largo portion of Dade
220 County only, the following species shall be listed as
221 facultative: *Alternanthera paronychioides*, *Byrsonima lucida*,
222 *Ernodea littoralis*, *Guapira discolor*, *Marnilkara bahamensis*,
223 *Pisonis rotundata*, *Pithecellobium keyensis*, *Pithecellobium*
224 *unquis-cati*, *Randia aculeata*, *Reynosia septentrionalis*, and
225 *Thrinax radiata*."

226 (b) Pursuant to s. 373.421, and subject to the conditions
227 described herein, the Legislature ratifies the changes to rule
228 62-340.450(3), Florida Administrative Code, approved on February
229 23, 2006, by the Environmental Regulation Commission that add
230 slash pine (*pinus elliotti*) and gallberry (*flex glabral*) to the
231 list of facultative plants. However, this ratification and the
232 rule revision shall not take effect until 60 days after the date
233 the statewide programmatic general permit authorized by s.
234 373.4144(1) becomes effective, covering no less than 5 acres of
235 wetland impact.

236 (c) Surface water and wetland delineations identified and
237 approved by a permit issued under rules adopted pursuant to this
238 part prior to the effective date of the statewide programmatic
239 general permit authorized by s. 373.4144(1) shall remain valid
240 until expiration of such permit, notwithstanding the changes to
241 rule 62-340.450(3), Florida Administrative Code, as described in
242 this subsection. For purposes of this paragraph, the term
243 "identified and approved" means:

244 1. The delineation was field-verified by the permitting
245 agency and such verification was surveyed as part of the
246 application review process for the permit; or

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247 2. The delineation was field-verified by the permitting
248 agency and approved pursuant to the permit.

249
250 Where surface water and wetland delineations were not identified
251 and approved pursuant to the permit issued under rules adopted
252 pursuant to this part, delineations within the geographical area
253 to which such permit applies shall be determined pursuant to the
254 rules applicable at the time the permit was issued,
255 notwithstanding the changes to rule 62-340.450(3), Florida
256 Administrative Code, as described in this subsection. This
257 paragraph shall also apply to any modification of the permit
258 issued under rules adopted pursuant to this part, which does not
259 constitute a substantial modification, within the geographical
260 area to which the permit applies.

261 (d) Any declaratory statement issued by the department
262 under s. 403.914, 1984 Supplement to the Florida Statutes 1983,
263 as amended, pursuant to rules adopted thereunder, or by the
264 department or a water management district under s. 373.421, in
265 response to a petition filed on or before the effective date of
266 the statewide programmatic general permit authorized by s.
267 373.4144(1), shall continue to be valid for the duration of such
268 declaratory statement. Any such petition pending on or before
269 the effective date of the statewide programmatic general permit
270 authorized by s. 373.4144(1), shall be exempt from the changes
271 to rule 62-340.450(3), Florida Administrative Code, as described
272 in this subsection, and shall be subject to the provisions of
273 chapter 62-340, Florida Administrative Code, in effect prior to
274 such change. Activities proposed within the boundaries of a

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275 valid declaratory statement issued pursuant to a petition
276 submitted to either the department or the relevant water
277 management district on or before the effective date of the
278 statewide programmatic general permit authorized by s.
279 373.4144(1), or a revalidated jurisdictional determination prior
280 to its expiration, shall continue thereafter to be exempt from
281 the changes to rule 62-340.450(3), Florida Administrative Code,
282 as described in this subsection.

283 (e) A permit application under this part for dredging and
284 filling or other activity which is pending on or before the
285 effective date of the statewide programmatic general permit
286 authorized by s. 373.4144(1) shall be exempt from the changes to
287 rule 62-340.450(3), Florida Administrative Code, as described in
288 this subsection.

289 (f) Activities associated with mining operations as
290 defined by and subject to ss. 378.201-378.212 and 378.701-
291 378.703 and included in a conceptual reclamation plan or
292 modification application submitted on or before the effective
293 date of the statewide programmatic general permit authorized by
294 s. 373.4144(1) shall be exempt from changes to rule 62-
295 340.450(3), Florida Administrative Code, as described in this
296 subsection.

297 Section 6. Except as otherwise expressly provided in this
298 act, this act shall take effect upon becoming a law.