

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Environmental Preservation and Conservation Committee

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BILL: SB 1930

INTRODUCER: Senator Oelrich

SUBJECT: State Reserves

DATE: April 23, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	<b>Unfavorable</b>
2.			GA	
3.				
4.				
5.				
6.				

**I. Summary:**

This bill designates and establishes the George Kirkpatrick State Reserve in Marion and Putnam counties. The Reserve will include all state-owned lands within the floodplain of the Ocklawaha River. Once the bill becomes law, all lands acquired by the state from the Eureka Dam in Marion County to Buckman Lock in Putnam County will become part of the Reserve. The Office of Greenways and Trails in the Department of Environmental Protection will have supervision of the Reserve. The Office will be responsible for providing for development of multipurpose recreational opportunities at the Reserve, and for the care, upkeep, maintenance and beautification of the Reserve. The bill provides that any action that could substantially alter the area encompassing the Reserve, as the area existed on January 1, 2007, must be approved by law.

This bill creates section 258.166, Florida Statutes.

**II. Present Situation:**

The Cross Florida Barge Canal Project was initially authorized in 1935 to create a shipping route across the state of Florida from the Atlantic Ocean to the Gulf of Mexico, but ran out of funds within one year of the start of construction. Construction did not start again until 1964 when the US Army Corps of Engineers received federal funding to restart the project. The Rodman Reservoir was created in 1968 when construction of the Rodman Dam was completed, blocking off and re-routing 16 miles of the Ocklawaha River. The 9,000 acre Rodman Reservoir was designed to provide a constant source of water for the locks needed to move barges through the elevation changes of the Cross Florida Barge Canal Project.

Completion of the dam project included use of federal forest lands, and the purchase of easements on private property which the Army Corps of Engineers could use for flooding purposes to create the Reservoir. The private property easements usually contained a "reverter" clause which provided that the easements would revert to the original property owner if use of the easement for purposes of the Canal project was discontinued.

In 1969, a preliminary injunction against construction of the Canal Project was issued as a result of a lawsuit filed by the Environmental Defense Fund and others. In 1971, before a permanent injunction could be issued, President Nixon suspended work on the Canal Project through an Executive Order. More than \$74 million had been spent on land acquisition and construction at that time, including construction of the Rodman Dam.

In 1974, the permanent injunction was issued, and in 1990, President Bush de-authorized the Canal Project on the federal level. In 1991, Florida's Governor and Cabinet adopted a resolution accepting the federal legislation, and the Canal Project was officially de-authorized. This led to the creation of the Cross Florida Greenway State Recreation and Conservation Area, now known as the Marjorie Harris Carr Cross Florida Greenway. The Rodman Reservoir is managed for multiple use purposes by the Office of Greenways & Trails at the Department of Environmental Protection as part of the Cross Florida Greenway.

The federal de-authorization law required that a minimum 300 yard wide greenway corridor be maintained along the former Canal projects lands. Corridor counties were to be reimbursed up to \$32 million based on ad-valorem contributions for land acquisition and interest. Also, lawsuits were filed by private property owners to recover easement rights since the Canal was never completed. Some settlement agreements have been authorized by the Governor and the Cabinet; however there is no litigation outstanding at this time. The state is still negotiating acquisitions with private property owners, and easement areas associated with the Eureka Dam have not been mapped or appraised.

About 600 acres of the Reservoir are flooded federal forestry lands which were managed under a special-use permit issued to the state by the US Forest Service. The permit, which expired in 1998, was extended for a 12 month period pending completion of an environmental impact study by the state. In 2001, the Department of Environmental Protection applied for a permit to occupy and use the national forest system land for the operation and maintenance of the Rodman Dam, the Rodman Reservoir, and the Eureka Lock. In early 2002, the U.S. Forest Service told the state to start working on restoring the Ocklawaha River. Water draw-downs in the Reservoir to a level of 4 feet will allow about 2,000 feet of the dam to be removed to let the river flow through. If the state fails to begin restoration efforts, the Forestry Service can step in to tear down the dam and force the state to pay for the work.

A study completed by the Department of Environmental Protection in 1995, recommended that the Ocklawaha River be partially restored to a free flowing river by removal of the Rodman Dam. The Governor directed the Department to proceed with partial restoration and applications for necessary state and federal permits are pending. However, removal of the dam faces substantial opposition and no funds for dam removal have been appropriated by the Legislature.

In 1997, the department through the professional services of Post, Buckley, Schuh and Jernigan, Inc. (PBS&J), submitted a combined Environmental Resource Permit (ERP) and U.S. Army Corps of Engineers Dredge and Fill Permit application. The permit applications were for the restoration of the Ocklawaha River that included the removal of the Rodman Reservoir Dam, closing of the Buckman Lock, and re-establishing the 9,600 acre hardwood floodplain of the river.

The applications were determined complete by the St. Johns River Water Management District (SJRWMD) in 1998 but they did not provide sufficient documentation for reasonable assurance in meeting ERP and Consumptive Use Permit (CUP) public interest test. As such, the SJRWMD staff could not recommend approval of the applications to their board. Subsequently, the department requested that SJRWMD not take agency action and the permits were put on hold.

Finally, on November 21, 2006, the department contracted with PBS&J to; review previously submitted permit application materials; evaluate potential groundwater impacts; assess new issues and conditions; identify potential variances and waivers; and prepare and submit modified permit applications to the SJRWMD for the restoration of the Ocklawaha River that includes the removal of the Rodman Dam and closing of Buckman Lock. The DEP estimates the completion of this review and submission of the modified permit application by May 2008.

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

This bill designates the George Kirkpatrick State Reserve in Marion and Putnam counties. All state-owned lands within the floodplain of the Ocklawaha River, and any lands acquired by the state from Eureka Dam in Marion County to Buckman Lock in Putnam County, are part of the Reserve. The bill provides that the Office of Greenways and Trails in the Department of Environmental Protection will have supervision over the Reserve. The Office is responsible for developing multipurpose recreational opportunities in the Reserve, and is responsible for the care, upkeep, maintenance and beautification of the George Kirkpatrick State Reserve.

The Fish & Wildlife Conservation Commission is authorized to allow public hunting in the Reserve.

Property adjacent or contiguous to the Reserve can be purchased from private property owners or the federal government by the Division of State Lands within the Department of Environmental Protection to improve management and recreational opportunities on the Reserve.

This bill provides that any action that would substantially alter the area encompassing the Reserve as the area existed on January 1, 2007, must be approved by law, but an exception is provided so that the Office of Greenways and Trails can perform necessary maintenance and improvements as required for the continued operation of the dams, locks, or other structures or facilities within the George Kirkpatrick State Reserve.

This act will take effect July 1, 2007.

**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:

SB 1930 has no immediate impact on the private sector. However, provisions of the bill authorizing the Division of State Lands to acquire property from willing sellers could provide future financial benefits to private property owners.

## C. Government Sector Impact:

The DEP estimates that the total cost to repair and upgrade the Buckman Lock, Eureka Lock and Dam, and Kirkpatrick Dam and spillway would exceed \$14 million.

With regard to management of the Reserve, the Office of Greenways and Trails will incur recurring operating and maintenance expenses, and non-recurring fixed capital outlay expenses. Also, the Office may see increased revenues due to increased public use of Reserve lands.

The Division of State Lands at the Department of Environmental Protection will incur expenses due to the requirement that the Division identify, contact, and inform all property owners holding easements within the taking line of the Rodman Reservoir of the State Reserve designation. The Division will incur costs in preparing the required report which will estimate the cost of acquiring the private property easements owned within the Reserve. Also, the Division is authorized to expend state funds to acquire property adjacent or contiguous to the Reserve for improved management and recreational opportunities. The department has not yet determined the cost of activities or acquisitions.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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

None.

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