

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 447 Local Government Environmental Financing

SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee; Agriculture & Natural Resources Subcommittee; Raschein

TIED BILLS: **IDEN./SIM. BILLS:** SB 770

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N, As CS	Moore	Harrington
2) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N, As CS	Helpling	Massengale
3) State Affairs Committee			

SUMMARY ANALYSIS

The bill revises various policies relating to local government environmental financing, including, but not limited to:

- Requiring the Department of Environmental Protection (DEP) to annually consider the recommendations of the Department of Economic Opportunity (DEO) relating to purchases of land within an area of critical state concern or lands outside an area of critical state concern that directly impact an area of critical state concern, which may include lands used to preserve and protect water supply, and to make recommendations to the Board of Trustees of the Internal Improvement Trust Fund (Board) with respect to the purchase of fee or any lesser interest in specified types of lands.
- Allowing local governments and special districts within an area of critical state concern to make recommendations to the Board for additional land purchases that were not included in DEO's recommendations.
- Authorizing a land authority to acquire and dispose of real and personal property or any interest therein when the acquisition is necessary or appropriate to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern, and to contribute funds to DEP for the purchase of lands by DEP. The acquisition or contribution must not be used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.
- Modifying legislative intent provisions to specify that it is the intent of the Legislature to protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities.
- Providing additional principles for guiding development within the Florida Keys Area of Critical State Concern.
- Expanding the purposes for which the local government infrastructure surtax can be used to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern.
- Extending the timeframe in which Everglades restoration bonds may be issued and increasing the maturation date of Everglades restoration bonds.
- Expanding the uses for Everglades restoration bonds to include projects that protect, restore or enhance nearshore water quality and fisheries, and protect water resources available to the Florida Keys.
- Providing a procedure to dispose of certain lands purchased with Everglades restoration bond proceeds.
- Providing a 10-year appropriation of at least \$5 million annually through the Florida Forever Act for land acquisition within the Florida Keys Area of Critical State Concern.

The bill has no fiscal impact on the state, a positive fiscal impact on local governments in the Florida Keys Area of Critical State Concern, and no impact on the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Areas of Critical State Concern

The Governor and Cabinet, sitting as the Administration Commission,¹ are authorized to designate certain areas within the state that contain resources of statewide significance as areas of critical state concern.² An area of critical state concern may be designated for an area:

- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, 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;³
- 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;⁴ or
- 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, highways, ports, airports, energy facilities, and water management projects.⁵

The designated areas of critical state concern in the state are: the Big Cypress Area,⁶ the Green Swamp Area,⁷ the Florida Keys Area, the City of Key West Area,⁸ and the Apalachicola Bay Area.⁹

The Florida Keys Area of Critical State Concern

Present Situation

In 1975, the Florida Keys were designated as an area of critical state concern. The designation includes the municipalities of Key West,¹⁰ Islamorada, Marathon, Layton and Key Colony Beach, and unincorporated Monroe County.¹¹ The designation is intended to:

- Establish a land use management system that protects the natural environment of the Florida Keys; conserves and promotes the community character of the Florida Keys; promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services; and promotes and supports a diverse and sound economic base;¹²
- Provide affordable housing in close proximity to places of employment in the Florida Keys;¹³
- Protect the constitutional rights of property owners to own, use, and dispose of their real property;¹⁴

¹ See ss. 380.031(1) and 14.202, F.S.

² Section 380.05, F.S.

³ Section 380.05(2)(a), F.S.

⁴ Section 380.05(2)(b), F.S.

⁵ Section 380.05(2)(c), F.S.

⁶ Section 380.055, F.S.

⁷ Section 380.0551, F.S.

⁸ Section 380.0552, F.S.

⁹ Section 380.0555, F.S.

¹⁰ The City of Key West challenged the designation as a critical area and after litigation in 1984 was given its own area of critical state concern designation. See *2013 Florida Keys Area of Critical State Concern Annual Report* available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2>.

¹¹ Section 380.0552, F.S.; *2013 Florida Keys Area of Critical State Concern Annual Report* available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2>.

¹² Section 380.0552(2)(a)-(c) and (e), F.S.

¹³ Section 380.0552(2)(d), F.S.

- Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys;¹⁵
- Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys;¹⁶
- Protect and improve the nearshore water quality of the Florida Keys through the construction and operation of wastewater management facilities, as applicable;¹⁷ and
- Ensure that the population of the Florida Keys can be safely evacuated.¹⁸

State, regional and local governments in the Florida Keys Area of Critical State Concern are required to coordinate development plans and conduct programs and activities consistent with principles for guiding development that:

- Strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation;¹⁹
- Protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat;²⁰
- Protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (e.g., hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat;²¹
- Ensure the maximum well-being of the Florida Keys and its citizens through sound economic development;²²
- Limit the adverse impacts of development on the quality of water throughout the Florida Keys;²³
- Enhance natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys;²⁴
- Protect the historical heritage of the Florida Keys;²⁵
- Protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
 - The Florida Keys Aqueduct and water supply facilities;
 - Sewage collection, treatment, and disposal facilities;
 - Solid waste treatment, collection, and disposal facilities;
 - Key West Naval Air Station and other military facilities;
 - Transportation facilities;
 - Federal parks, wildlife refuges, and marine sanctuaries;
 - State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
 - City electric service and the Florida Keys Electric Co-op; and
 - Other utilities, as appropriate;²⁶
- Protect and improve water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems;²⁷

¹⁴ Section 380.0552(2)(f), F.S.

¹⁵ Section 380.0552(2)(g), F.S.

¹⁶ Section 380.0552(2)(h), F.S.

¹⁷ Section 380.0552(2)(i), F.S.

¹⁸ Section 380.0552(2)(j), F.S.

¹⁹ Section 380.0552(7)(a), F.S.

²⁰ Section 380.0552(7)(b), F.S.

²¹ Section 380.0552(7)(c), F.S.

²² Section 380.0552(7)(d), F.S.

²³ Section 380.0552(7)(e), F.S.

²⁴ Section 380.0552(7)(f), F.S.

²⁵ Section 380.0552(7)(g), F.S.

²⁶ Section 380.0552(7)(h), F.S.

²⁷ Section 380.0552(7)(i), F.S.

- Ensure the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems;²⁸
- Limit the adverse impacts of public investments on the environmental resources of the Florida Keys;²⁹
- Make available adequate affordable housing for all sectors of the population of the Florida Keys;³⁰
- Provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan;³¹ and
- Protect the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.³²

Section 380.0552(9)(a), F.S., provides that a land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency³³ (DEO). Amendments to local comprehensive plans must also be reviewed for compliance with the following:

- Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed criteria for wastewater treatment and disposal facilities or onsite sewage treatment and disposal systems; and
- Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time must be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by DEO.³⁴

In 2011, the Administration Commission, directed DEO and the Division of Emergency Management to enter into a Memorandum of Understanding (MOU) with Monroe County, Village of Islamorada, and the cities of Marathon, Key West, Key Colony Beach, and Layton regarding hurricane evacuation modeling.³⁵ The MOU is the basis for an analysis on the maximum build-out capacity of the Florida Keys while maintaining the ability of the permanent population to evacuate within 24 hours.³⁶ Based on the MOU that stipulates the input variables and assumptions, DEO has determined that an additional 3,550 residential building allocations could be constructed while still maintaining the 24-hour hurricane evacuation clearance time.³⁷ Thus, once 3,550 additional residential units are constructed, the evacuation time for the Florida Keys will be at the 24-hour mark. Unless the highway is widened or s. 380.0552(9)(a)2., F.S., is amended to allow additional hurricane evacuation times, no new residential permits could be issued for the area.³⁸

Effect of Proposed Changes

²⁸ Section 380.0552(7)(j), F.S.

²⁹ Section 380.0552(7)(k), F.S.

³⁰ Section 380.0552(7)(l), F.S.

³¹ Section 380.0552(7)(m), F.S.

³² Section 380.0552(7)(n), F.S.

³³ Section 380.031(18), F.S., defines the “state land planning agency” as the Department of Economic Opportunity.

³⁴ Section 380.0552(9)(a)1. and 2., F.S.

³⁵ DEO Florida Keys Hurricane Evacuation available at <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/city-of-key-west-and-the-florida-keys/florida-keys-hurricane-evacuation>.

³⁶ *Id.*

³⁷ *2013 Florida Keys Area of Critical State Concern Annual Report* available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2>.

³⁸ *Id.*

The bill amends s. 380.0552(2)(i), F.S., relating to the Florida Keys Area of Critical State Concern, providing that it is the intent of the Legislature to protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities.

The bill also amends s. 380.0552(7)(i), F.S., to provide additional principles for guiding development within the Florida Keys Area of Critical State Concern. Development plans must be consistent with the principle of protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of other water quality and water supply projects, including direct and indirect potable reuse.

Purchase of Lands in Areas of Critical State Concern

Present Situation

Within 45 days of being designated as an area of critical state concern, the Department of Environmental Protection (DEP) must consider the recommendations of DEO relating to the purchase of lands within the proposed area and must make recommendations to the Board of Trustees of the Internal Improvement Trust Fund³⁹ (Board) with respect to the purchase of fee or any lesser interest in any lands situated in an area of critical state concern as environmentally endangered lands or outdoor recreation lands.⁴⁰ DEP, and a land authority within an area of critical state concern,⁴¹ may make recommendations with respect to additional purchases which were not included in DEO's recommendations.

In carrying out the purposes of the areas of critical state concern program, the land authority is also authorized to:

- Acquire and dispose of real and personal property or any interest therein when the acquisition is necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide affordable housing to families whose income does not exceed 160 percent of the median family income for the area, or provide access to management of acquired lands;
- Acquire interests in land by means of land exchanges;
- Contribute tourist impact tax revenues received to its most populous municipality or the housing authority of such municipality, at the request of the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality; and
- Enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback arrangements.⁴²

Effect of Proposed Changes

The bill amends s. 259.045, F.S., to require DEP to annually consider the recommendations of DEO relating to purchases of land within an area of critical state concern or lands outside an area of critical state concern that directly impact an area of critical state concern. These may include lands used to preserve and protect water supply, and to make recommendations to the Board with respect to the purchase of fee or any lesser interest in lands that are:

- Environmentally endangered lands;
- Outdoor recreation lands;
- Lands that conserve sensitive habitat;
- Lands that protect, restore, or enhance nearshore water quality and fisheries;

³⁹ Section 259.03(2), F.S.

⁴⁰ Section 259.045, F.S.

⁴¹ Section 380.0663, F.S., provides that each county in which one or more areas of critical state concern are located is authorized to create, by ordinance, a public body corporate and politic, to be known as a land authority.

⁴² Section 380.0666(3), F.S.

- Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or
- Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern.

The bill also allows local governments and special districts within an area of critical state concern to make recommendations to the Board for additional purchases that were not included in DEO's recommendations.

The bill amends s. 380.0666(3), F.S., to authorize a land authority to acquire and dispose of real and personal property or any interest therein when the acquisition is necessary or appropriate to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern. The bill also allows a land authority to contribute funds to DEP for the purchase of lands by DEP. The bill provides that an acquisition or contribution is not to be used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

Discretionary Sales Surtaxes

Present Situation

There are eight discretionary sales surtaxes that serve as potential revenue sources for county and municipal governments and school districts.⁴³ They are:

- The charter county and regional transportation system surtax;⁴⁴
- The local government infrastructure surtax;⁴⁵
- The small county surtax;⁴⁶
- The indigent care and trauma center surtax;⁴⁷
- The county public hospital surtax;⁴⁸
- The school capital outlay surtax;⁴⁹
- The voter-approved indigent care surtax;⁵⁰ and
- The emergency fire rescue services and facilities surtax.⁵¹

The Local Government Infrastructure Surtax

A county may levy a discretionary sales surtax of 0.5 percent or 1 percent pursuant to ordinance enacted by a majority of the members of the county and approved by a majority of the electors of the county voting in a referendum on the surtax.⁵² If municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax must be placed on the ballot and will take effect if approved by a majority of the electors of the county voting on the surtax.⁵³

Surtax proceeds and any accrued interest must be expended by the school district within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;

⁴³ Section 212.055, F.S.

⁴⁴ Section 212.055(1), F.S.

⁴⁵ Section 212.055(2), F.S.

⁴⁶ Section 212.055(3), F.S.

⁴⁷ Section 212.055(4), F.S.

⁴⁸ Section 212.055(5), F.S.

⁴⁹ Section 212.055(6), F.S.

⁵⁰ Section 212.055(7), F.S.

⁵¹ Section 212.055(8), F.S.

⁵² Section 212.055(2)(a)1., F.S.

⁵³ *Id.*

- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or
- Finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of DEP.⁵⁴

Proceeds and any interest may not be used for operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure.⁵⁵

For purposes of the local government infrastructure surtax, the term “infrastructure” means:

- Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any related land acquisition, land improvement, design, and engineering costs;⁵⁶
- A fire department vehicle, an emergency medical service vehicle, a sheriff’s office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years;⁵⁷
- Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities;⁵⁸
- Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government;⁵⁹ or
- Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing.⁶⁰

Effect of Proposed Changes

The bill amends s. 212.055(2)(d), F.S., to expand the purposes for which proceeds and accrued interest from the local government infrastructure surtax can be used to include acquiring *any interest* in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern.

The bill amends the definition of “infrastructure” in s. 212.055(2)(d)1.a., F.S., to include any fixed capital expenditure or capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, including all other professional and related costs required to bring public facilities into service. By including “all other professional and related costs” the bill expands the array of costs that can be paid from this surtax. Such an expansion may include costs associated with land acquisition or attorney fees among other related costs.

The bill also defines the term “public facilities” to mean facilities as defined in three other sections of law, regardless of whether the facilities are owned by the local taxing authority or another governmental entity. The three sections of law are:

⁵⁴ Section 212.055(2)(d), F.S.

⁵⁵ *Id.*

⁵⁶ Section 212.055(2)(d)1.a., F.S.

⁵⁷ Section 212.055(2)(d)1.b., F.S.

⁵⁸ Section 212.055(2)(d)1.c., F.S.

⁵⁹ Section 212.055(2)(d)1.d., F.S.

⁶⁰ Section 212.055(2)(d)1.e., F.S.

- Section 163.3164(38), F.S., which defines the term “public facilities” as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities;
- Section 163.3221(13), F.S., which defines the term “public facilities” as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities; or
- Section 189.012(5), F.S., which defines the term “public facilities” as major capital improvements, including transportation facilities, sanitary sewer facilities, solid waste facilities, water management and control facilities, potable water facilities, alternative water systems, educational facilities, parks and recreational facilities, health systems and facilities, and, except for spoil disposal by those ports listed in s. 311.09(1), F.S., spoil disposal sites for maintenance dredging in waters of the state.

Everglades Restoration Bonds

Present Situation

Everglades restoration bonds are issued to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan,⁶¹ the Lake Okeechobee Watershed Protection Plan,⁶² the Caloosahatchee River Watershed Protection Plan,⁶³ the St. Lucie River Watershed Protection Plan,⁶⁴ and the Florida Keys Area of Critical State Concern⁶⁵ protection program to restore and conserve natural systems through the implementation of water management projects, including wastewater management projects identified in the Keys Wastewater Plan^{66, 67}.

Everglades restoration bonds, except refunding bonds, may only be issued in Fiscal Years 2002-2003 through 2019-2020, and may not be issued in an amount exceeding \$100 million per fiscal year, unless:

- DEP requests additional amounts to achieve cost savings or accelerate the purchase of land;⁶⁸ or
- The Legislature authorizes an additional amount of bonds not to exceed \$200 million, limited to \$50 million per fiscal year, to fund the Florida Keys Area of Critical State Concern protection program. Proceeds from the bonds must be managed by DEP for the purpose of entering into financial assistance agreements with local governments located in the Florida Keys Area of Critical State Concern to finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities.⁶⁹

The Legislature authorized the issuance of \$50 million in Everglades restoration bonds in Fiscal Year 2012-2013 and Fiscal Year 2014-2015 to fund wastewater treatment efforts in the Florida Keys.⁷⁰

The duration of Everglades restoration bonds may not exceed 20 annual maturities and must mature by December 31, 2040.⁷¹

Effect of Proposed Changes

⁶¹ Section 373.470, F.S.

⁶² Section 373.4595, F.S.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Sections 380.05 and 380.0552, F.S.

⁶⁶ *Keys Wastewater Plan*, available at <http://www.monroecounty-fl.gov/DocumentView.aspx?DID=478>.

⁶⁷ Section 215.619(1), F.S.

⁶⁸ Section 215.619(1)(a)1., F.S.

⁶⁹ Section 215.619(1)(a)2., F.S.

⁷⁰ DEP’s analysis of HB 447, on file with the Agriculture & Natural Resources Subcommittee; *2013 Florida Keys Area of Critical State Concern Annual Report* available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2>.

⁷¹ Section 215.619(1)(b), F.S.

The bill amends s. 215.619(1), F.S., to provide that the City of Key West Area of Critical State Concern may receive Everglades restoration bonds and adds certain other projects for which Everglades restoration bonds may be issued to include projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects, and projects to protect water resources available to the Florida Keys.

The bill amends s. 215.619(1)(a), F.S., regarding the timeframe in which Everglades restoration bonds may be issued, extending the timeframe from Fiscal Year 2019-2020 to Fiscal Year 2026-2027.

The bill amends s. 215.619(1)(a)2., F.S., regarding the conditions under which Everglades restoration bonds may be issued in an amount exceeding \$100 million per fiscal year. The bill provides that beginning in Fiscal Year 2016-2017 bonds may not be issued in excess of \$100 million per fiscal year unless the Legislature authorizes an additional amount not to exceed \$200 million, limited to \$20 million per fiscal year to fund the Florida Keys Area of Critical State Concern protection program and the City of Key West Area of Critical State Concern.

The bill also provides that proceeds from the bonds may be used to finance or refinance the cost of building projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects and projects to protect water resources available to the Florida Keys.

The bill amends s. 215.619(1)(b), F.S., regarding the maturation date of Everglades restoration bonds, increasing the maturation date from December 31, 2040, to December 31, 2047.

The bill also creates s. 215.619(7), F.S., to address certain surplus lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside of the Florida Keys Area of Critical State Concern.⁷² The bill provides that if the South Florida Water Management District and DEP determine that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern were purchased to preserve and protect the potable water supply to the Florida Keys and are no longer needed for the purpose for which they were purchased, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each local government within whose boundaries a portion of the land lies must agree to the disposal of lands within its boundaries and must be offered the first right to purchase.⁷³

The Florida Forever Act

Present Situation

The Florida Forever Act is a land acquisition program to conserve the state's natural resources and cultural heritage.⁷⁴ The proceeds of cash payments or bonds used under the Florida Forever Act are deposited into the Florida Forever Trust Fund and are distributed by DEP as follows:

- Thirty percent to DEP for the acquisition of lands and capital project expenditures necessary to implement water management districts' priority lists;⁷⁵
- Thirty-five percent to DEP for the acquisition of lands and capital project expenditures. Priority should be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge,⁷⁶

⁷² Section 215.619(6), F.S., provides a similar process for surplus lands within the Northern Everglades and Estuaries Protection Program.

⁷³ Generally, procedures for the surplus of lands do not require local governments to agree prior to surplus. *See* ss. 253.111, 215.619, and 253.034, F.S.

⁷⁴ Section 259.105, F.S.

⁷⁵ Section 259.105(3)(a), F.S.

⁷⁶ Section 259.105(3)(b), F.S.

- Twenty-one percent to DEP for use by the Florida Communities Trust, and grants to local governments or nonprofit environmental organizations that are tax-exempt under s. 501(c)(3) of the United States Internal Revenue Code for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans;⁷⁷
- Two percent to DEP for grants pursuant to the Florida Recreation Development Assistance Program;⁷⁸
- One and five-tenths percent to DEP for the purchase of inholdings and additions to state parks and for capital project expenditures;⁷⁹
- One and five-tenths percent to the Florida Forest Service of the Department of Agriculture and Consumer Services (DACS) to fund the acquisition of state forest inholdings and additions, the implementation of reforestation plans or sustainable forestry management practices, and for capital project expenditures;⁸⁰
- One and five-tenths percent to the Fish and Wildlife Conservation Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife and for capital project expenditures;⁸¹
- One and five-tenths percent to DEP for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trail systems, including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail and for capital project expenditures;⁸²
- Three and five-tenths percent to DACS for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less-than-fee techniques, which will achieve the objectives of Florida Forever;⁸³ and
- Two and five-tenths percent to DEP for the acquisition of land and capital project expenditures necessary to implement the Stan Mayfield Working Waterfronts Program within the Florida Communities Trust.⁸⁴

Effect of Proposed Changes

The bill amends s. 259.105(3)(b), F.S., to provide that, beginning in Fiscal Year 2016-2017 and continuing through fiscal year 2026-2027, at least \$5 million of the proceeds distributed to DEP for the acquisition of lands and capital project expenditures must be spent on land acquisition within the Florida Keys Area of Critical State Concern.

B. SECTION DIRECTORY:

Section 1. Provides the act may be cited as the “Florida Keys Stewardship Act.”

Section 2. Amends s. 212.055(2), F.S., regarding local government infrastructure surtaxes.

Section 3. Amends s. 215.619, F.S., regarding bonds for Everglades restoration.

Section 4. Amends s. 259.045, F.S., regarding purchases of lands in areas of critical state concern.

Section 5. Amends s. 259.105, F.S., regarding the Florida Forever Act.

Section 6. Amends s. 380.0552, F.S., regarding the Florida Keys Area of Critical State Concern.

⁷⁷ Section 259.105(3)(c), F.S.

⁷⁸ Section 259.105(3)(d), F.S.

⁷⁹ Section 259.105(3)(e), F.S.

⁸⁰ Section 259.105(3)(f), F.S.

⁸¹ Section 259.105(3)(g), F.S.

⁸² Section 259.105(3)(h), F.S.

⁸³ Section 259.105(3)(i), F.S.

⁸⁴ Section 259.105(3)(j), F.S.

Section 7. Amends s. 380.0666, F.S., regarding the powers of the land authority.

Section 8.. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Everglades Restoration Bonds

The bill lowers the per year authorization of bonding from \$50 million to \$20 million for the Florida Keys Area of Critical State Concern beginning Fiscal Year 2016-2017 and expands the use of such bonds to include the City of Key West Area of Critical State Concern. In addition, the types of construction projects authorized are expanded to include building projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects and projects to protect water resources available to the Florida Keys.

Current statute authorizes bonding up to \$200 million in total for the Florida Keys Area of Critical State Concern. In Fiscal Years 2012-2013 and 2014-2015, the Legislature appropriated a total of \$100 million, or half of the amount authorized. The bill authorizes additional bonding authority of \$200 million for the expanded purposes outlined in the bill, beginning in Fiscal Year 2016-2017. The bill extends the duration date for the maturity of bonds from December 31, 2040, to December 31, 2047.

The Fiscal Year 2016-2017 House proposed General Appropriations Act includes \$25 million in bonding for the Florida Keys Area of Critical State Concern protection program to finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities.

The Florida Forever Act

Pursuant to s. 259.105, F.S., DEP receives 35 percent of the funds appropriated through the Florida Forever Act for acquisition of lands and capital projects. The bill requires that from Fiscal Year 2016-2017 through 2026-2027, at least \$5 million from the 35 percent distribution to DEP be allocated for land acquisition within the Florida Keys Area of Critical State Concern.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill authorizes the Legislature to bond an additional \$200 million for the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern.

The bill requires that from Fiscal Year 2016-2017 through 2026-2027, at least \$5 million distributed to DEP through the Florida Forever Act be allocated for land acquisition within the Florida Keys Area of Critical State Concern.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 12, 2016, the Agriculture & Natural Resources Subcommittee adopted a strike-all amendment and reported the bill favorably with committee substitute. The strike-all amendment:

- Amends the purposes for which the local government infrastructure surtax can be used to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern.
- Amends the uses for Everglades restoration bonds can be used to include projects that protect, restore or enhance nearshore water quality and fisheries, and protect water resources available to the Florida Keys.
- Amends the maturation date of Everglades restoration bonds, increasing the maturation date from December 31, 2040, to December 31, 2047.
- Removes the requirement that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside of the Florida Keys Area of Critical State Concern must have been required to be purchased to preserve and protect the potable water supply to the Florida Keys before they can be surplus. Revises the surplus procedure for such lands.
- Removes legislative findings and declarations of the Florida Forever Act that included coral reefs.
- Provides that it is the Legislature's intent to protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities.
- Authorizes a land authority to acquire and dispose of real and personal property or any interest therein when the acquisition is necessary or appropriate to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern, and to contribute funds to DEP for the purchase of lands by DEP. Specifies that the acquisition or contribution must not be used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

On February 9, 2016, the Agriculture & Natural Resources Appropriations Subcommittee adopted two amendments and reported the bill favorably with a committee substitute. The amendments:

- Remove, from the bonding provisions in s. 215.619 F.S., alternative water supply projects such as reverse osmosis and reclaimed water systems.

- Remove the requirement that if \$20 million in bonds are not authorized from Fiscal Year 2016-2017 through Fiscal Year 2026-2027, then \$20 million is to be appropriated to DEP to be distributed to local governments in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern.

This analysis is drafted to the committee substitute for the committee substitute as approved by the Agriculture & Natural Resources Appropriations Subcommittee.