

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1417 Funding for Environmental Resource Management

**SPONSOR(S):** Appropriations Committee, Infrastructure Strategies Committee, Buchanan and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Infrastructure Strategies Committee	25 Y, 0 N, As CS	Gawin	Harrington
2) Appropriations Committee	28 Y, 0 N, As CS	Byrd	Pridgeon

### SUMMARY ANALYSIS

The state administers various programs such as the Florida Forever Program and Rural and Family Lands Protection program to conserve and protect Florida's natural resources. The state also invests in improving water quality throughout the state through programs such as the water quality improvement grant program, which is administered by the Department of Environmental Protection (DEP). In 2021, the State of Florida entered into a gaming compact (the 2021 Compact) with the Seminole Tribe of Florida (Seminole Tribe), which was approved by the United States Department of the Interior. The 2021 Compact establishes a guaranteed minimum payment period for the first five years of the compact, during which the Seminole Tribe is required to make specified revenue share payments to the state.

The bill requires the Department of Revenue to, upon receipt, deposit 96 percent of any revenue share payment received under the 2021 Compact into the Indian Gaming Revenue Clearing Trust Fund within the Department of Financial Services. The funds must be distributed each fiscal year in the following manner:

- The lesser of 26.042 percent or \$100 million to support the Florida Wildlife Corridor (Corridor).
- The lesser of 26.042 percent or \$100 million for the management of uplands and removal of invasive species, divided between the Florida Fish and Wildlife Conservation Commission (FWC), DEP, and the Department of Agriculture and Consumer Services (DACS).
- The lesser of 26.042 percent or \$100 million to DEP for the Statewide Flooding and Sea Level Rise Resilience Plan; and
- The remainder to DEP for the Water Quality Improvement Grant Program.

The bill also creates the Local Trail Management Grant Program within DEP; authorizes FWC to enter into voluntary agreements with private landowners for environmental services within the Corridor; revises the criteria for prioritizing projects within the Water Quality Improvement Grant Program; and requires the Land Management Uniform Accounting Council to recommend the most efficient and effective use of the funds available to state agencies for land management activities.

Additionally, the bill provides the following nonrecurring appropriations for the 2024-2025 Fiscal Year:

- \$32 million to FWC for control of invasive species and upland management;
- \$32 million to DACS for land management activities;
- \$100 million for land acquisition;
- \$150 million to the South Florida Water Management District for operations and maintenance; and
- \$220 million to DEP for various programs and a study.

The bill also provides a \$2 million recurring appropriation beginning in fiscal year 2024-2025 to the University of Florida to continually update the Wildlife Corridor plan and the Florida Ecological Greenways Network plan.

The bill will have a negative fiscal impact on the General Revenue Fund, but an offsetting positive fiscal impact on state environmental programs that receive funding.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Conservation Lands

###### *Florida Forever Program*

The Florida Forever Program is the state's conservation and recreation lands acquisition program.<sup>1</sup> Since 2001, the state has purchased more than 902,011 acres of land for approximately \$3.3 billion.<sup>2</sup> Florida Forever supports a wide range of goals, including water resource protection, coastal resiliency, preservation of cultural resources, public access to outdoor recreation, and the restoration and maintenance of public lands.<sup>3</sup>

The Acquisition and Restoration Council (ARC) is a 10-member body that makes recommendations on the acquisition, management, and disposal of state-owned lands.<sup>4</sup> The Department of Environmental Protection (DEP) provides primary staff to support ARC. ARC is responsible for developing the Florida Forever priority list, which consists of ranked land acquisition projects that are deemed suitable as conservation property and meet Florida Forever goals.<sup>5</sup> ARC members determine the priority of lands based on weighted criteria.<sup>6</sup>

Anyone can propose a project for consideration for the priority list. To develop the list, ARC accepts applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and private individuals for project proposals eligible for Florida Forever funding.<sup>7</sup> ARC then submits the list to the Board of Trustees of the Internal Improvement Trust Fund (Board) for approval.<sup>8</sup> The Board comprises the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. The Florida Forever priority list is used by DEP to prioritize projects with the available Florida Forever funds allocated annually by the Legislature. To be considered for acquisition, a project must have a willing seller and be on the list.

###### *Rural and Family Lands Protection Program*

The Rural and Family Lands Protection Program (RFLPP) is a land preservation program within the Department of Agriculture and Consumer Services (DACs) that was created to protect agricultural lands through the acquisition of permanent agricultural land conservation easements.<sup>9</sup> Through the RFLPP, DACs, on behalf of the Board, is authorized to allocate money to acquire perpetual, less-than-fee interests in land, enter into agricultural protection agreements, and enter into resource conservation agreements.<sup>10</sup> To qualify for acquisition, the agricultural land must protect the integrity and function of working landscapes, ensure opportunities for viable agricultural activities on working lands threatened by conversion to other uses, and meet certain public purposes.<sup>11</sup>

Under the RFLPP, lands must be acquired pursuant to a priority ranking process that is similar to the process for creating the Florida Forever priority list.<sup>12</sup> Through the RFLPP, the state has acquired

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<sup>1</sup> Section 259.105, F.S. Such acquisitions include less-than-fee agreements.

<sup>2</sup> Department of Environmental Protection (DEP), *Florida Forever*, <https://floridadep.gov/floridaforever> (last visited Jan. 26, 2024).

<sup>3</sup> See s. 259.105(2)(a), F.S.

<sup>4</sup> Section 259.035(3), F.S.

<sup>5</sup> Section 259.105(8)-(9), F.S.

<sup>6</sup> Section 259.105(10), F.S.

<sup>7</sup> Section 259.105(7)(a), F.S.

<sup>8</sup> Section 259.04(1)(c), F.S.

<sup>9</sup> DACs, *Rural and Family Lands Protection Program*, <https://www.fdacs.gov/Consumer-Resources/Protect-Our-Environment/Rural-and-Family-Lands-Protection-Program> (last visited Jan. 26, 2024).

<sup>10</sup> Section 570.71(1), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 259.105(3)(i)1., F.S.

conservation easements for over 69,000 acres of working agricultural land.<sup>13</sup> All perpetual easements acquired under the RFLPP must adhere to best management practices established by DACS.<sup>14</sup>

### *Florida Wildlife Corridor*

The Florida Wildlife Corridor (Corridor), depicted below,<sup>15</sup> is a geographically defined area comprising over 18 million acres of land, which include 10 million acres of conservation lands and 8 million acres of opportunity areas that do not have conservation status.<sup>16</sup>



In 2021, the Legislature created the Wildlife Corridor Act (Act) to codify the Corridor and recognize that lands and waters that provide the state's green infrastructure and vital habitat for wide-ranging wildlife need to be preserved and protected.<sup>17</sup> The purpose of the Act was to create incentives for conservation and sustainable development while preserving the green infrastructure.<sup>18</sup> The Act, in pertinent part, directed DEP to promote and encourage various methods of investing in and protecting the Corridor, including encouraging all agencies that acquire lands to include in their land-buying efforts the acquisition of sufficient legal interest in opportunity areas to ensure the continued viability of the Corridor.<sup>19</sup> Because there is no land acquisition program specifically for acquiring lands that are located within the Corridor, initiatives such as the Florida Forever Program and the Rural and Family Lands Protection Program are used to acquire such lands.

### *Conservation Land Management*

The Board is charged with the management, control, supervision, conservation, and protection of all lands owned or vested to the state or any of its agencies, departments, boards, or commissions.<sup>20</sup> State lands acquired as part of the Florida Forever Program or other land conservation programs are required

<sup>13</sup> DACS, *Rural and Family Lands Protection Program*, <https://www.fdacs.gov/Consumer-Resources/Protect-Our-Environment/Rural-and-Family-Lands-Protection-Program> (last visited Jan. 26, 2024).

<sup>14</sup> Rule 5I-7.014(3), F.A.C.

<sup>15</sup> Florida Wildlife Corridor, *FL Wildlife Corridor*, available at <https://floridawildlifecorridor.org/wp-content/uploads/2021/08/FLWildlifeCorridor.pdf> (last visited Jan. 26, 2024).

<sup>16</sup> DEP, *Florida Wildlife Corridor*, available at [https://floridadep.gov/sites/default/files/Florida\\_Wildlife\\_Corridor.pdf](https://floridadep.gov/sites/default/files/Florida_Wildlife_Corridor.pdf) (last visited Jan. 26, 2024).

<sup>17</sup> Chapter 2021-181, L.O.F.

<sup>18</sup> Section 259.1055(3), F.S.

<sup>19</sup> Section 259.1055(5), F.S.

<sup>20</sup> Section 253.03(1), F.S.

to be managed to ensure the conservation of the state's plant and animal species and to ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future.<sup>21</sup> Additionally, all such lands are required to be managed in a manner that provides the greatest combination of benefits to the public and to the natural resources, that provides opportunities for public outdoor recreation that are compatible with the conservation and protection of public lands, and that aligns with the purposes for which the lands were acquired.<sup>22</sup>

The Florida Fish and Wildlife Conservation Commission (FWC) is the lead land management entity for the state.<sup>23</sup> DACS and DEP also manage state lands. During the 2022-2023 fiscal year, FWC managed over 1,506,852 acres of land, the Florida Forest Service within DACS managed 1,177,078 acres, and the Division of State Lands and Division of Recreation and Parks within DEP managed 292,619 acres and 813,586 acres, respectively.<sup>24</sup>

#### *Land Management Uniform Accounting Council*

The Land Management Uniform Accounting Council (LMUAC) implements a uniform method for compiling and reporting accurate costs of land management activities.<sup>25</sup> LMUAC consists of one representative each from the Division of State Lands, the Division of Recreation and Parks, the Office of Coastal and Aquatic Managed Areas, the Florida Forest Service, FWC, and the Division of Historical Resources.<sup>26</sup> LMUAC releases an annual report that details the accounting of all land management activities from all the representative agencies and divisions and additional information related to the land use, resources and funds used for management, and estimated economic benefit to the public for ecosystem services provided by conservation lands.<sup>27</sup>

#### *Invasive Species and Upland Management*

Nonnative<sup>28</sup> species are animals or plants living in Florida outside captivity or human cultivation that were not historically present in the state.<sup>29</sup> More than 500 fish and wildlife nonnative species have been documented in Florida, and over 1,180 nonnative plant species have become established outside of human cultivation.<sup>30</sup> Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.<sup>31</sup>

FWC's Upland Invasive Exotic Plant Management Program conducts invasive plant removal on public conservation lands throughout the state.<sup>32</sup> Invasive plant removal projects are recommended by a network of regional invasive plant working groups, which are comprised of local land managers who are interested in or responsible for maintaining and restoring federal, state, and local government conservation land. The program identifies areas that need restoration and hires private vegetation

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<sup>21</sup> Section 253.034(1), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Florida Fish and Wildlife Conservation Commission, *Terrestrial Habitat Management Plans*, <https://myfwc.com/conservation/management-plans/terrestrial/> (last visited Feb. 12, 2024).

<sup>24</sup> DEP, *2023 LMUAC Annual Report Fact Sheet*, available at

[https://floridadep.gov/sites/default/files/2023%20LMUAC%20Annual%20Report\\_Factsheet\\_0.pdf](https://floridadep.gov/sites/default/files/2023%20LMUAC%20Annual%20Report_Factsheet_0.pdf) (last visited Feb. 14, 2024).

<sup>25</sup> State of Florida, *Land Management Uniform Accounting Council 2023 Annual Report (Fiscal Year 2022-23)*, 1, available at

[https://floridadep.gov/sites/default/files/2023%20LMUAC%20Annual%20Report\\_0.pdf](https://floridadep.gov/sites/default/files/2023%20LMUAC%20Annual%20Report_0.pdf) (last visited Feb. 14, 2024).

<sup>26</sup> Section 259.037(1), F.S.

<sup>27</sup> Section 259.036, F.S.; See State of Florida, *Land Management Uniform Accounting Council 2023 Annual Report (Fiscal Year 2022-23)*, 1, available at [https://floridadep.gov/sites/default/files/2023%20LMUAC%20Annual%20Report\\_0.pdf](https://floridadep.gov/sites/default/files/2023%20LMUAC%20Annual%20Report_0.pdf) (last visited Feb. 14, 2024).

<sup>28</sup> The terms "nonnative" and "exotic" have the same meaning and are used interchangeably.

<sup>29</sup> FWC, *Nonnative Species Information*, <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Feb. 14, 2024).

<sup>30</sup> Nicole Dodds, Mary Miller, and Alexa Lamm, University of Florida Institute of Food and Agricultural Sciences, *Floridians' Perceptions of Invasive Species*, Feb. 2014, p. 1, available at <http://edis.ifas.ufl.edu/pdf/WC/WC18600.pdf> (last visited Feb. 14, 2024).

<sup>31</sup> FWC, *Florida's Nonnative Fish and Wildlife*, <https://myfwc.com/wildlifehabitats/nonnatives/> (last visited Feb. 14, 2024).

<sup>32</sup> FWC, *Upland Plant Management*, <https://myfwc.com/wildlifehabitats/habitat/invasive-plants/upland-plant/> (last visited Feb. 14, 2024); s. 369.252, F.S.

management contractors to do the removal.<sup>33</sup> The Upland Invasive Plant Management Program has conducted 2,000 invasive plant control operations targeting 2.7 million acres and has assisted land managers on 700 federal, state, and county-managed natural areas that comprise over 10 million acres, or 90 percent of public conservation land in the state.<sup>34</sup>

### The Florida Greenways and Trails System

The Florida Greenways and Trails System (FGTS) is made up of existing planned and conceptual nonmotorized trails and ecological greenways that form an integrated statewide system. The system includes paddling, hiking, biking, multi-use, and equestrian trails. In 1995, the Legislature created the Florida Greenways Coordinating Council (FGCC), tasking the FGCC with promoting the creation of a statewide greenways and trails system and designating DEP as the lead agency of the system.<sup>35</sup> The most recent FGTS plan and maps was updated for the 2024-2028 Fiscal Years.<sup>36</sup>

DEP is authorized to acquire lands, both public and private, to establish and expand a statewide system of greenways and trails for recreational and conservation purposes,<sup>37</sup> using funds from the Florida Forever Trust Fund distributed to DEP for acquisition of lands under the Florida Greenways and Trails Program, and to designate lands as part of the FGTS.<sup>38</sup> Since January 2013, 59 projects totaling over 225,000 acres and 756 trail miles have been designated in the statewide Greenways and Trails System, including state trails and parks, national forest lands and trails, locally managed greenways and trails, blueways and many other areas.<sup>39</sup>

The Office of Greenways and Trails (OGT) within DEP also operates the trail town program.<sup>40</sup> A trail town is a community located along, or in proximity to, one or more long-distance nonmotorized recreational trails where users can venture off the main path to enjoy the services and unique heritage of the nearby community.<sup>41</sup> The Department of Commerce estimates the combined economic benefit of all Florida state trails is \$95 million to their host communities.<sup>42</sup> Current trail towns include Dunedin, Titusville, Malabar, Vilano Beach, Clermont, Palatka, Inverness, Deltona, Everglades City, Winter Garden, Gainesville, and Debary.<sup>43</sup> Signs, stickers, and publicity are provided free of charge to recognized trail towns.<sup>44</sup>

### The Florida Ecological Greenways Network

The Florida Ecological Greenways Network (FEGN) created by the University of Florida Center for Landscape Conservation Planning is a statewide database that identifies and prioritizes a functionally connected statewide ecological network of public and private conservation lands.<sup>45</sup> The FEGN provides guidance to the OGT ecological greenway conservation efforts.<sup>46</sup> Additionally, the FEGN provides primary data layers for the Florida Forever program, the RFLPP, and the Corridor.<sup>47</sup>

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Chapter 95-260, L.O.F.

<sup>36</sup> See DEP, *Florida Greenways and Trails System Plan and Maps*, <https://floridadep.gov/parks/ogt/content/florida-greenways-and-trails-system-plan-and-maps> (last visited Jan. 26, 2024).

<sup>37</sup> Section 260.012, F.S.

<sup>38</sup> Section 259.105(3)(h), F.S.

<sup>39</sup> DEP, *Florida Greenways & Trails System Plan 2019-2023*, 6, available at [https://floridadep.gov/sites/default/files/FL-Greenway%2BTrails-System-Plan-2019%2C%202023\\_0.pdf](https://floridadep.gov/sites/default/files/FL-Greenway%2BTrails-System-Plan-2019%2C%202023_0.pdf) (last visited Jan. 26, 2024).

<sup>40</sup> DEP, *Trail Town Program*, <https://floridadep.gov/parks/ogt/content/trail-town-program> (last visited Feb. 14, 2024).

<sup>41</sup> DEP, *Trail Towns Guidelines and Self-Assessment*, 3, available at <https://floridadep.gov/sites/default/files/Trail%20Town%20Assessment%20Final.pdf> (last visited Feb. 14, 2024).

<sup>42</sup> Florida Commerce, *The Economic Benefits of Ecotourism*, <https://floridajobs.org/community-planning-and-development/community-planning/community-planning-table-of-contents/ecotourism/the-economic-benefit-of-ecotourism> (last visited Feb. 14, 2024).

<sup>43</sup> DEP, *Trail Town Program*, <https://floridadep.gov/parks/ogt/content/trail-town-program> (last visited Feb. 14, 2024).

<sup>44</sup> *Id.*

<sup>45</sup> University of Florida (UF), *Florida Ecological Greenways Network*, <https://conservation.dcp.ufl.edu/fegn/> (last visited Feb. 14, 2024).

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

## Water Quality

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life.<sup>48</sup> The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.<sup>49</sup> Phosphorus and nitrogen are derived from natural and human-made sources.<sup>50</sup> Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.<sup>51</sup>

### *Water Quality Regulation*

The federal Clean Water Act (CWA)<sup>52</sup> establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.<sup>53</sup> The CWA requires states to develop lists of waterbodies that do not meet water quality standards, which are called impaired waters.<sup>54</sup> If DEP determines that any waters are impaired, the waterbody or segment must be placed on the verified list of impaired waters and a total maximum daily load (TMDL) must be calculated.<sup>55</sup> DEP is the lead agency coordinating the development and implementation of TMDLs.<sup>56</sup> Once a TMDL is adopted,<sup>57</sup> DEP may develop and implement a basin management action plan (BMAP), which is a restoration plan for the watersheds and basins connected to the impaired water body<sup>58</sup> that is included on DEP's Verified List. BMAPs address the pollutant-causing impairments to a water body and are one of the primary mechanisms DEP utilizes to achieve TMDLs.<sup>59</sup>

### *Water Quality Improvement Grant Program*

The Water Quality Improvement Grant Program,<sup>60</sup> previously known as the wastewater grant program, is managed by DEP.<sup>61</sup> The Water Quality Improvement Grant Program must be used for projects that improve the quality of water bodies that are not attaining nutrient or nutrient-related standards, have an established TMDL, or are located within a BMAP, a reasonable assurance plan, an accepted alternative restoration plan area, or a rural area of opportunity. These grants may be used for specified projects related to onsite sewage treatment and disposal systems, domestic wastewater treatment facilities, stormwater treatment facilities, projects in BMAPs, or projects listed in city or county capital improvement elements.<sup>62</sup>

DEP is required to coordinate with the WMDs to identify grant recipients in each district and to coordinate with local governments and other stakeholders to identify the most effective and beneficial projects. DEP must consider and prioritize the estimated reduction in nutrient load per project; project readiness; the cost-effectiveness of the project; the cost share identified by the applicant, except for rural areas of opportunity; the overall environmental benefit of the project; the location of the project; and previous state involvement in the project.

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<sup>48</sup> U.S. Environmental Protection Agency (EPA), *The Issue*, <https://www.epa.gov/nutrientpollution/problem> (last visited Jan. 26, 2024).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> EPA, *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Jan. 26, 2024).

<sup>52</sup> 33 U.S.C. section 1251 *et seq.*

<sup>53</sup> EPA, *Summary of the Clean Water Act*, <https://www.epa.gov/laws-regulations/summary-clean-water-act> (last visited Jan. 17, 2024).

<sup>54</sup> Rule 62-300.200(7), F.A.C. Impaired water means mean a waterbody or waterbody segment that does not meet its applicable water quality standards established in rule due in whole or in part to discharges of pollutants from point or nonpoint sources.

<sup>55</sup> Sections 403.067(1) and 403.067(4), F.S.; DEP, *Verified List Waterbody IDs (WBIDs)*, <https://geodata.dep.state.fl.us/datasets/FDEP::waterbody-ids-wbids/about> (last visited Jan. 26, 2024).

<sup>56</sup> Section 403.061, F.S.

<sup>57</sup> Section 403.067(6)(c), F.S. TMDLs are established in rule for each water body or water body segment.

<sup>58</sup> Section 403.067(7)(a)1., F.S.

<sup>59</sup> DEP, *Guidance on Developing Restoration Plans as Alternatives to TMDLs – Assessment Category 4b and 4e Plans*, June 2015, 2, <https://floridadep.gov/sites/default/files/4b4ePlansGuidance.pdf> (last visited Jan. 26, 2024).

<sup>60</sup> Section 403.0673, F.S.

<sup>61</sup> Chapter 2023-169, L.O.F.

<sup>62</sup> Section 403.0673(2), F.S.

DEP submits an annual report identifying the projects funded through the grant program to the Governor and Legislature.<sup>63</sup> The report must include a list of those projects receiving funding and include the following information for each project:

- A description of the project;
- The cost of the project;
- The estimated nutrient load reduction;
- The location of the projection;
- The waterbody or waterbodies where the project would reduce nutrients; and
- The total cost-share being provided.<sup>64</sup>

### South Florida Water Management District

The South Florida Water Management District (SFWMD) manages the water resources in the southern half of the state, covering 18,000 square-miles in all or part of 16 counties from Orlando to the Florida Keys. The SFWMD is responsible for the operation and maintenance of a multi-purpose water management system comprising approximately 2,175 miles of canals and 2,130 miles of levees/berms, 89 pumping stations, 915 water control structures, and 620 project culverts, including the Central and Southern Florida Project.<sup>65</sup>

### Lake Okeechobee

Lake Okeechobee is Florida's largest lake and the second largest body of fresh water in the contiguous United States.<sup>66</sup> The lake spans 730 square miles with an average depth of nine feet.<sup>67</sup> It supports commercial and sport fisheries, provides flood control, and acts as a reservoir for potable and irrigation water for much of South Florida.<sup>68</sup> There is controversy surrounding the management of vegetation among federal and state agencies with regulatory authority for aquatic plant management, water quality and supply, flood control, and fish and wildlife management as it relates to Lake Okeechobee.<sup>69</sup>

### Statewide Flooding and Sea Level Rise Resilience Plan

In 2021, the Legislature passed SB 1954,<sup>70</sup> which established several new programs and initiatives aimed at addressing the impacts of flooding and sea level rise on the state. SB 1954 directed DEP to annually develop a three-year Statewide Flooding and Sea Level Rise Resilience Plan and submit it to the Legislature, which must review and approve funding for the plan, subject to appropriation.<sup>71</sup> The plan must consist of ranked projects that address risks of flooding and sea level rise to coastal and inland communities.<sup>72</sup> DEP publishes the Statewide Resilience Plan on its website each December.<sup>73</sup>

### 2021 Seminole Gaming Compact

Gaming compacts are regulated by the Federal Indian Gaming Regulatory Act (IGRA)<sup>74</sup> and state law.<sup>75</sup> The State of Florida entered into a gaming compact with the Seminole Tribe of Florida (Seminole Tribe) on April 7, 2010 (the 2010 Compact). In 2021, the Governor entered into a new compact with the Seminole Tribe on April 17, 2021, which was amended on May 17, 2021 (the 2021 Compact).<sup>76</sup> The

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<sup>63</sup> Section 403.0673(7), F.S.

<sup>64</sup> *Id.*

<sup>65</sup> SFWMD, *Fiscal Year 2024-25 Preliminary Budget Submission*, <https://www.sfwmd.gov/sites/default/files/documents/FY2024-2025%20Preliminary%20Budget%20Submission%20January%2012%2C%202024.pdf> (last visited Feb. 14, 2024).

<sup>66</sup> FWC, *Lake Okeechobee*, <https://myfwc.com/fishing/freshwater/sites-forecasts/s/lake-okeechobee/> (last visited Feb. 14, 2024).

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* SFWMD, *Lake Okeechobee*, <https://www.sfwmd.gov/our-work/lake-okeechobee> (last visited Feb. 14, 2024).

<sup>70</sup> Chapter 2021-28, Laws of Fla.

<sup>71</sup> Section 380.093(5)(a), F.S.

<sup>72</sup> *Id.*

<sup>73</sup> The fiscal year 2024-2025 Statewide Resilience Plan is the most up to date plan, published in December 2023. DEP, *Statewide Resilience Plan 2024-2025*, <https://floridadep.gov/sites/default/files/2024-2025%20Statewide%20Resilience%20Plan-FINAL.pdf> (last visited Feb. 14, 2024).

<sup>74</sup> 25 U.S.C. s. 2701, *et seq.*

<sup>75</sup> Sections 285.710, F.S., and 285.712, F.S.

<sup>76</sup> Office of Economic & Demographic Research (EDR), *Revenue Estimating Conference Indian Gaming Revenues*, <http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf> (last visited Jan. 24, 2024).

Legislature subsequently ratified the 2021 Compact in a special legislative session.<sup>77</sup> The U.S. Department of the Interior approved the 2021 Compact on August 6, 2021,<sup>78</sup> which became effective upon publication of notice in the Federal Register.<sup>79</sup> The 2021 Compact supersedes the 2010 Compact.

*Revenue Sharing under the 2021 Compact*

The 2021 Compact establishes a guaranteed minimum payment period for the first five years of the compact. During the five-year period, the Seminole Tribe is required to make guaranteed minimum revenue share payments as specified, to total \$2.5 billion. The revenue share payments must be paid by the Seminole Tribe to the state as follows:

- Percentage payments for slots, raffles, drawings, and new games range from 12 percent of net win<sup>80</sup> up to \$2 billion, to 25 percent of net win greater than \$3.5 billion.<sup>81</sup>
- Percentage payments for table games range from 15 percent of net win up to \$1 billion, to 25 percent of net win greater than \$2 billion.<sup>82</sup>
- Percentage payment for tribal sports betting is 13.75 percent of net win, excluding the net win received by the Seminole Tribe on pari-mutuel sports betting.<sup>83</sup>
- Percentage payment for pari-mutuel sports betting is 10 percent of net win received by the Seminole Tribe on pari-mutuel sports betting.<sup>84</sup>
- The Seminole Tribe’s guaranteed minimum revenue share payment is \$400 million per year for the first five years.<sup>85</sup>
- At the end of the third year of the five-year guaranteed minimum payment period, if the total revenue share payments are less than \$1.5 billion, the Seminole Tribe must pay the difference to the state.<sup>86</sup>
- At the end of the fifth year of the five-year guaranteed minimum payment period, if the total revenue share payments are less than \$2.5 billion, the Seminole Tribe must pay the difference to the state.<sup>87</sup>

The specific revenue share payment amounts the Seminole Tribe is required to pay to the state are calculated as outlined in the chart below in accordance with the 2021 Compact.

<b>SUMMARY OF REVENUE SHARE PAYMENTS - 2021 Gaming Compact</b> (Revenue Share Payments by the Seminole Tribe to the State in Billions)	
<b>Slots, Raffles and Drawings, and New Games Net Win</b>	<b>Revenue Share</b>
\$0-2B	12%
\$2-2.5B	17.5%
\$2.5-3B	20%
\$3-3.5B	22.5%
> \$3.5B	25%
<b>Table Games Net Win</b>	<b>Revenue Share</b>
\$0-1B	15%

<sup>77</sup> Chapter 2021-268, L.O.F.

<sup>78</sup> The Secretary of the Interior may approve or disapprove of a compact within 45 days of submission, but if no action is taken within the 45-day timeframe, the compact is considered to have been approved but only to the extent that the compact is consistent with federal law. 25 U.S.C. s. 2701(10)(d). The Secretary of the Interior did not act on the 2021 Compact.

<sup>79</sup> U.S. Department of the Interior, *Seminole Tribe and State of Florida Tribal State Gaming Compact*, available at <https://www.bia.gov/sites/default/files/dup/assets/as-ia/oig/pdf/508%20Compliant%202021.08.11%20Seminole%20Tribe%20Gaming%20Compact.pdf> (last visited Jan. 24, 2024).

<sup>80</sup> “Net Win” means the total receipts from the play of all covered games less all prize payouts and free play or promotional credits issued by the Seminole Tribe. *2021 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, 13, available at <https://www.flgov.com/wp-content/uploads/pdfs/2021%20Gaming%20Compact.pdf> (last visited Jan. 23, 2024).

<sup>81</sup> *Id.* at 46-47.

<sup>82</sup> *Id.* at 48.

<sup>83</sup> *Id.* at 48-49.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* at 51-52.

<sup>86</sup> *Id.* at 51.

<sup>87</sup> *Id.*



\$1-1.5B	17.5%
\$1.5-2B	22.5%
> \$2B	25%

The state began receiving payments pursuant to the 2021 Compact in October of 2021.<sup>88</sup> The Seminole Tribe continued revenue sharing with the state through February 2022, after which time they discontinued all payments. Between October 2021 and February 2022, the state received five payments of \$37.5 million, totaling \$187.5 million.<sup>89</sup> So far in 2024, the Seminole Tribe has made two revenue sharing payments of \$57.8 million and \$62.2 million to the state.

### *Litigation*

The 2021 Compact has been subject to litigation in federal and state courts. In federal court, the Secretary of the Interior's approval of the 2021 Compact was challenged on the basis that the sports betting provision was illegal under various federal laws, including the IGRA.<sup>90</sup> The U.S. District Court for the District of Columbia set aside federal approval of the 2021 Compact on November 22, 2021. On June 30, 2023, the U.S. Court of Appeals for the District of Columbia vacated the lower court's opinion, finding the 2021 Compact did not violate federal law.<sup>91</sup> The plaintiffs then requested the U.S. Supreme Court to issue a stay to prevent the 2021 Compact from being executed while they filed an appeal with the Supreme Court. The stay was ultimately denied.<sup>92</sup>

Additionally, litigation relating to the legality of the 2021 Compact is currently pending in the Florida Supreme Court.<sup>93</sup> The 2021 Compact is being challenged on the basis that the Governor's and Legislature's actions expanded casino gambling in violation of the Florida Constitution.

## **Effect of the Bill**

### Gaming Compact Revenues

The bill requires the Department of Revenue to, upon receipt, deposit 96 percent of any revenue share payment received under the 2021 Compact into the Indian Gaming Revenue Clearing Trust Fund within the Department of Financial Services. The funds must be distributed in the following manner:

- The lesser of 26.042 percent or \$100 million to support the Corridor. To be eligible for funding, the acquisition project must be on the Florida Forever or RFLPP priority lists. The funds must be appropriated each year. Each eligible agency may, on a first-come, first-served basis, submit a budget amendment to request the release of funds.
- The lesser of 26.042 or \$100 million for the management of uplands and removal of invasive species:
  - The lesser of 36 percent or \$36 million is appropriated to DEP, of which the lesser of 88.889 percent or \$32 million is distributed to the State Park Trust Fund for land management activities within the state park system and the lesser of 11.111 percent or \$4 million is distributed to the Internal Improvement Trust Fund for the purpose of implementing the Local Trail Management Grant Program;
  - The lesser of 32 percent or \$32 million is appropriated to DACS for land management activities;
  - The lesser of 32 percent or \$32 million is appropriated to FWC for land management activities, including management activities for gopher tortoises and Florida panthers.

<sup>88</sup> EDR, *Revenue Estimating Conference Indian Gaming Revenues*, <http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf> (last visited Jan. 24, 2024).

<sup>89</sup> *Id.*

<sup>90</sup> *West Flagler Associates, Ltd. v. Haaland*, 573 F. Supp. 3d 260, 265 (D.D.C. 2021).

<sup>91</sup> *West Flagler Associates, Ltd. v. Haaland*, 71 F. 4th 1059, 1068-1070 (D.C. 2023).

<sup>92</sup> *West Flagler Associates, Ltd. v. Haaland*, 144 S. Ct. 10 (2023). The Chief Justice initially granted the temporary stay, but later vacated it.

<sup>93</sup> See *West Flagler Associates, Ltd. v. DeSantis*, SC2023-1333, (Fla. Sept. 26, 2023). The plaintiffs allege that the execution and ratification of the 2021 Compact and the enactment of implementing legislation are unconstitutional under Art. X, s. 30, Fla. Const.; See also Florida Courts, *West Flagler Associates, Ltd. v. DeSantis*, <https://acis.flcourts.gov/portal/court/68f021c4-6a44-4735-9a76-5360b2e8af13/case/0e5d7fd2-697d-4da7-a447-b1e4bccb450b> (last visited Feb. 1, 2024).

- For the above funds intended for land management, a land manager may not use more than 25 percent of the distribution for operation capital outlay or capital assets;
- The lesser of 26.042 percent or \$100 million to DEP for the Statewide Flooding and Sea Level Rise Resilience Plan; and
- The remainder to DEP for the Water Quality Improvement Grant Program.

The bill also requires allocations to trust funds shall be transferred monthly by nonoperating authority to the named trust fund.

#### Local Trail Management Grant Program

The bill creates the Local Trail Management Grant Program within DEP to assist local governments with costs associated with the operation and maintenance of trails within the FGTS. The bill specifies that the funding for the program is subject to appropriation. A local government may receive multiple grant awards per application cycle.

The bill requires DEP to give priority to trails within the Corridor as well as to a local government that provides cost share for the costs associated with the maintenance of the trails, except for trails within fiscally constrained counties or rural areas of opportunity.

The bill specifies that a local government may only use grant funds for the operation and maintenance of trails, including, but not limited to, the purchase of equipment and capital assets; the funding of necessary repairs to ensure the safety of trail users; and other necessary maintenance, such as pressure washing, bush pruning, and clearing debris. The bill prohibits a local government from using grant funds for the planning, design, or construction of trails.

Beginning January 15, 2024, and each January 15 thereafter, the bill requires DEP to submit a report to the Governor and the Legislature listing the grants awarded pursuant to the Local Trail Management Grant Program. The report must include the following information for each grant award:

- The grant recipient's name;
- A description of the individual components of the trail;
- A description of the maintenance activities funded;
- The total management cost for the trail components; and
- The cost share, if any, provided by the recipient.

#### Florida Wildlife Corridor Management

The bill authorizes FWC to enter into voluntary agreements with private landowners for environmental services within the Corridor. The agreements must require that the landowner protect and restore water resources; improve management of wildlife habitat, including the long-term conservation of forest and grassland soils and native plants; manage the land in a manner that keeps the desired ecosystem healthy for protected species such as the gopher tortoise and Florida panther; or provide other incentives to landowners to continue and improve land uses that are both economically sustainable and beneficial to the environment.

The bill requires FWC to ensure that any agreement for environmental services entered into requires the landowner to manage the land in a manner that improves or enhances the land beyond what is required under any other agreement or contract the landowner may have with the state.

The bill authorizes FWC to use funds appropriated from the Indian Gaming Revenue Clearing Trust Fund for this purpose.

#### LMUAC

The bill requires the LMUAC to recommend the most efficient and effective use of the funds available to state agencies for land management activities from the Indian Gaming Revenue Clearing Trust Fund. The recommendations must be based on a review of the resources of each land management agency to determine current expenditures, including personnel costs, spent specifically on upland management activities and invasive species removal. The recommendations must include a calculation methodology to distribute the funds to the state agencies.

The bill requires the LMUAC to adopt its initial recommendation and submit it to the Governor and Legislature by January 3, 2027. Thereafter, the LMUAC is required to update its recommendation in its biennial report.

#### Water Quality Improvement Grant Program

The bill revises the criteria for prioritizing projects for the Water Quality Improvement Grant Program to require DEP to prioritize projects that have multi-year project implementation schedules or that were determined eligible in a previous application cycle and demonstrated project readiness but were not awarded a grant.

The bill requires DEP to include in its annual report on the Water Quality Improvement Grant Program a list of projects that were eligible and demonstrated project readiness but were not awarded a grant as well as the progress made in implementing multi-year projects.

#### Nonrecurring Appropriations for Fiscal Year 2024-2025

From the funds distributed to the Indian Gaming Revenue Clearing Trust Fund, the bill provides the following nonrecurring appropriations to DEP:

- \$5 million from the Water Protection and Sustainability Trust Fund for DEP to coordinate with the Water School at Florida Gulf Coast University (Water School) to identify and analyze potential regional projects that meet the criteria for the Water Quality Improvement Grant Program.
  - At a minimum, the study must include the collection and consolidation of data regarding water quality to identify potential regional projects, including stormwater, hydrologic improvements, and innovative technologies, which reduce nutrient loading to water bodies.
  - DEP must submit the report to the Governor and Legislature by January 3, 2025.
- \$4 million from the Internal Improvement Trust Fund to implement the Local Trail Management Grant Program.
- \$32 million from the State Park Trust Fund for land management activities.
- \$100 million from the Resilient Florida Trust Fund for the Statewide Flooding and Sea Level Rise Resilience Plan.
- \$79 million from the Water Protection and Sustainability Trust Fund for the Water Quality Improvement Grant Program.

From the funds distributed to the Indian Gaming Revenue Clearing Trust Fund, the bill also provides the following nonrecurring appropriations:

- \$100 million from the Indian Gaming Revenue Clearing Trust Fund within the Department of Financial Services to Administered Funds for land acquisition.
- \$32 million from the Incidental Trust Fund to DACS for land management activities.
- \$32 million from the State Game Trust Fund to FWC for control of invasive species and upland land management activities.

The bill also appropriates \$150 million nonrecurring from the General Revenue Fund to SFWMD for operations and maintenance responsibilities under the purview of the district. The funds must be placed in reserve. From the funds, SFWMD must enter into a contract with the Water School to conduct a study of the health and ecosystem of Lake Okeechobee. The study must take into account the health of plant, fish, and wildlife to be used for future planning of invasive plant control, planting of native vegetation, and fish and game management. The study must be submitted by January 1, 2025, to the Governor and Legislature. DEP is authorized to submit budget amendments to request release of funds where release is contingent upon the submission of a spend plan and negotiated draft contract between SFWMD and the Water School.

#### Recurring Appropriation for Fiscal Year 2024-2025

The bill appropriates \$2 million in recurring funds from the General Revenue Fund to the University of Florida to continually update the Florida Wildlife Corridor plan and the Florida Ecological Greenways Network plan.

**B. SECTION DIRECTORY:**

- Section 1. Creates s. 380.095, F.S., related to dedicated funding for conservation lands, resiliency, and clean water infrastructure.
- Section 2. Creates s. 260.0145, F.S., related to the Local Trail Management Grant Program.
- Section 3. Amends s. 259.1055, F.S., related to the Florida Wildlife Corridor.
- Section 4. Creates an unnumbered section of law related to LMUAC.
- Section 5. Amends s. 403.0673, F.S., related to the water quality improvement grant program.
- Section 6. Creates an unnumbered section of law to appropriate funds to the University of Florida.
- Section 7. Creates an unnumbered section of law to appropriate funds to DEP for a study.
- Section 8. Creates an unnumbered section of law to appropriate funds for land acquisition.
- Section 9. Creates an unnumbered section of law to appropriate funds to DEP for the Local Trail Management Grant Program.
- Section 10. Creates an unnumbered section of law to appropriate funds to DEP for land management activities.
- Section 11. Creates an unnumbered section of law to appropriate funds to DACS for land management activities.
- Section 12. Creates an unnumbered section of law to appropriate funds to FWC for control of invasive species and upland land management activities.
- Section 13. Creates an unnumbered section of law to appropriate funds to DEP for the Statewide Flooding and Sea Level Rise Resilience Plan.
- Section 14. Creates an unnumbered section of law to appropriate funds to DEP for the Water Quality Improvement Grant Program.
- Section 15. Creates an unnumbered section of law to appropriate funds to SFWMD.
- Section 16. Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

- 1. Revenues:  
See Fiscal Comments.
- 2. Expenditures:  
See Fiscal Comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

- 1. Revenues:  
None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill dedicates funding for various environmental programs and purposes. Specifically, the bill requires 96 percent of the revenue share payments received under the 2021 Compact to be appropriated for land conservation, the management of conservation lands, resilience projects, and water quality improvement projects. Currently, revenue share payments are credited to General Revenue, therefore the bill would have a negative impact to General Revenue balances, but an offsetting positive impact to environmental programs receiving appropriations from this legislation. The overall revenue impact is indeterminate. The Revenue Estimating Conference is scheduled to meet on February 20, 2024, to forecast expected revenues.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues 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 February 15, 2024, the Infrastructure Strategies Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Created a statutory framework directing the Department of Revenue to distribute the 2021 Compact funds for supporting the Corridor; land management agencies for the management of uplands and removal of invasive species; the Statewide Flooding and Sea Level Rise Resilience Plan; and the Water Quality Improvement Grant Program.
- Created the Local Trail Management Grant Program within DEP.
- Authorized FWC to enter into voluntary agreements with private landowners for environmental services within the Corridor.
- Revised the criteria for prioritizing projects within the Water Quality Improvement Grant Program.
- Required the LMJAC to recommend the most efficient and effective use of the funds available to state agencies for land management activities.
- Provided nonrecurring appropriations for the 2024-2025 fiscal year for land acquisition and to FWC, DEP, DACS, and SFWMD.
- Provided a recurring appropriation to the University of Florida.

This analysis is drafted to the committee substitute as approved by the Infrastructure Strategies Committee.

On February 20, 2024, the Appropriations Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Revises the name of the Indian Gaming Revenue Trust Fund to the Indian Gaming “Clearing” Trust Fund.
- Revises the distribution of funds from the Indian Gaming Revenue Clearing Trust Fund shall be the lesser of a percentage or a specific dollar amount.
- Requires allocations to trust funds shall be transferred monthly by nonoperating authority to the named trust fund.
- Revises the effective date to make contingent upon PCB APC 24-05 or similar legislation becoming a law.
- Provides other technical and conforming changes.

This analysis is drafted to the committee substitute as approved by the Appropriations Committee.