

WATER RESOURCE PROTECTION

CS/CS/SB 392 — Watershed Restoration

by General Government Appropriations Committee; Environmental Preservation and Conservation Committee; and Senators Saunders, Gaetz, Aronberg, Bullard, Lynn, Rich, and Constantine

The bill amends provisions related to the uses of the Save Our Everglades Trust Fund and the Lake Okeechobee Protection Program. In addition, new watershed restoration programs are established for the St. Lucie and Caloosahatchee Rivers.

Lake Okeechobee Protection Program

The bill renames this section the “Northern Everglades and Estuaries Protection Program.” In addition, the Lake Okeechobee Protection Program and Lake Okeechobee Research and Water Quality Monitoring Program are renamed to include the term “watershed.” Additional changes to the Lake Okeechobee Research and Water Quality Monitoring Program include requirements that reevaluations occur every three years and that a water volumes and timing assessment be done.

The bill provides that the Phase II technical plan, substantially expanded and modified by this legislation, be submitted to Legislature prior to the 2008 Regular Session. Should the Legislature take no action the plan will be deemed approved.

Caloosahatchee and St. Lucie River Watershed Protection Program

The bill creates these two new protection programs that are comprised of a series of program components and requirements. Though individual protection programs are created for each river watershed, the requirements are duplicative.

River Watershed Protection Plans

The South Florida Water Management District, in cooperation with other agencies, Lee County (Caloosahatchee River), Martin County (St. Lucie River), and other affected counties and municipalities, is directed to complete, by January 1, 2009, the River Watershed Protection Plans. The DEP and the South Florida Water Management District are designated as the parties responsible for implementing the plans. These entities shall jointly develop the annual funding priorities and the highest priorities shall be assigned to those projects with the greatest potential for achieving the goals and objectives of the plans. In addition, these entities shall establish priorities and an implementation schedule for the achievement of total maximum daily loads (TMDLs).

The bill provides that the protection plans be submitted to Legislature prior to the 2008 Regular Session. Should the Legislature take no action, the plan will be deemed approved. By March 1, 2012, and every three years thereafter, the protection plans shall be evaluated. Each plan shall include a "River Watershed Construction Project," which shall be designed to improve the hydrology, water quality, and habitats of the watersheds. The South Florida Water Management District shall, by January 1, 2012, plan, design, and construct the initial phases of the construction project.

Watershed Pollutant Control Program

These programs are created and designed to provide for a multifaceted approach to managing the pollutant sources within the watersheds. They are to be implemented through regulations, the use of best management practices, and utilization of alternative technologies. The coordinating agencies are directed to facilitate the use of federal programs that offer opportunities for water quality treatment, including those designed to preserve, restore, or create wetlands on agricultural lands.

Watershed Research and Water Quality Monitoring Program

The South Florida Water Management District, in cooperation with affected local governments and other parties, must establish a program that builds upon existing research and will ensure that adequate data is generated to determine the effectiveness of the projects created by the programs.

An additional provision created in the bill directs the DEP to expedite the development and implementation of TMDLs for the Caloosahatchee River and estuary. These TMDLs are to be proposed for final agency action no later than December 31, 2008. Upon adoption of the TMDLs, the DEP shall initiate development of the basin management action plans.

The South Florida Water Management District is directed to include the following additional information in their annual report:

- A summary of the water quality and habitat conditions in the newly defined watersheds.
- The status of the watershed construction programs.
- A detailed accounting of the expenditure of funds from the Save Our Everglades Trust Fund. At a minimum, this accounting shall detail the amount and use of funds from all sources and an indication of what funds were designated to meet matching fund requirements.

Save Our Everglades Trust Fund

The bill amends existing statutory provisions to extend the trust fund through FY 2019-2020 and allow for the deposit into and the expenditure of funds from this trust fund, for the purposes of implementing the Caloosahatchee River and St. Lucie River Watershed Protection Plans.

The bill also creates a provision that ties the release of funds to the submission by the South Florida Water Management District to the DEP of an annual work plan for the protection projects.

Finally, the bill extends the South Florida Water Management District's match requirements for the life of the trust fund; allows funds to be distributed for implementation of the River Watershed Protection Plans including a local match requirement for Lee and Martin counties; and allows funds to be distributed to the Department of Agriculture and Consumer Services for implementation of agricultural nonpoint source controls.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 35-0; House 116-0

CS/CS/SB 2346 — Myakka River

by Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senator Bennett

The bill requires that the Myakka River Management Coordinating Council develop a report on the potential expansion of the Florida Wild and Scenic River designation to the entire Myakka River. At a minimum, the report must include a description of the Myakka River area that may be covered by the expanded designation, and must include the recommendations or concerns of affected parties or other interests. During the development of the report, the council shall hold at least one public hearing in Manatee, Sarasota, and Charlotte counties.

The report must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representative no later than January 1, 2008.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House 115-0

SM 2770 — Comprehensive Everglades Restoration Plan

by Senators Aronberg, Pruitt, Constantine, Bullard, Alexander, Argenziano, Atwater, Baker, Bennett, Carlton, Crist, Dawson, Deutch, Diaz de la Portilla, Dockery, Fasano, Gaetz, Garcia, Geller, Haridopolos, Hill, Jones, Joyner, Justice, King, Lawson, Lynn, Margolis, Oelrich, Peaden, Posey, Rich, Ring, Saunders, Siplin, Storms, Villalobos, Webster, Wilson, and Wise

This memorial urges the United States Congress to fully authorize funding for the Comprehensive Everglades Restoration Plan (CERP) as approved in the Water Resources Development Act of 2000. Specifically it states:

- The Everglades is one of the most unique and fragile ecosystems in the world.
- The Legislature and Congress have recognized the Everglades is imperiled and must be restored.

- The Legislature and the governing board of the South Florida Water Management District have appropriated more than \$2 billion to implement CERP since 2000, accounting for more than 90% of the total funding.
- The Water Resources Development Act of 2000 approved CERP as a full and equal partnership between the State of Florida and the federal government.
- The Indian River Lagoon, Picayune Strand, and ten conditionally approved projects require funding authorization from Congress.

Copies are to be presented to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation in the United States Congress.

Vote: Senate 40-0; House adopted

CS/CS/HB 197 — Surface Water Protection Programs

by Policy and Budget Council; Environment and Natural Resources Council; and Rep. Machek and others (CS/SB 594 by Environmental Preservation and Conservation Committee and Senator Saunders)

The bill makes changes to address discrepancies between the Northwest Florida's Environmental Resource Permitting (ERP) program and the rest of the state's ERP program. To provide consistency throughout the state's ERP program, the bill:

- Ensures that variance provisions are applicable to the Northwest Florida ERP program.
- Ensures that state surface water quality standards do not apply within a stormwater management system which is designed, constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption within the Northwest Florida Water Management District.

The bill removes the requirement for the Northwest Florida Water Management District, the Suwannee River Water Management District, or a financially disadvantaged small local government to provide a 50-percent match of cash or in-kind services towards the implementation of the surface water improvement and management (SWIM) projects.

The bill provides that the authority of the Department of Environmental Protection (DEP) or the South Florida Water Management District (SFWMD) is not affected when adopting basin-specific criteria to prevent harm to the water resources of the SFWMD.

The bill eliminates the requirements that the SFWMD, prior to authorizing a discharge into works of the district, require responsible parties to demonstrate that proposed changes in land use will not result in increased phosphorus loading over that of existing land uses. This will allow SFWMD to seek greater phosphorus load reductions not authorized under current law.

The bill provides legislative recognition that peat harvesting represents a unique industry which occurs in specific wetlands in the state. It provides DEP rule making authority to oversee peat mining used exclusively in the horticultural industry.

The bill repeals s. 403.265, F.S., relating to the permitting of peat mining which was transferred to a new section of statute as part of the bill.

Finally, the bill revises the exemption provided to certain mine operators from the requirement to notify the DEP when beginning to mine certain substances.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House 117-0

GENERAL ENVIRONMENTAL PROTECTION AND RESTORATION

CS/SB 1472 — Beach and Shore Preservation

by Environmental Preservation and Conservation Committee and Senator Saunders

This bill amends the definition of public access for sandy beaches to provide that where the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, development or construction shall not interfere with such right of public access unless a comparable alternative accessway is provided.

The bill allows the Department of Environmental Preservation (DEP) to issue permits for dune restoration projects that incorporate geotextile containers or similar structures and specifies the requirements governing the installation of these types of structures.

The bill provides that in any action alleging a taking of all or part of a property or property right as a result of a beach restoration project, in determining whether such taking has occurred or the value of any damage alleged with respect to the owner's remaining upland property adjoining the beach restoration project, the enhancement, if any, in value of the owner's remaining adjoining property of the upland property owner by reason of the beach restoration project shall be considered. If a taking is judicially determined to have occurred as a result of a beach restoration project, the enhancement in value to the owner's remaining adjoining property by reason of the beach restoration project shall be offset against the value of the damage, if any, resulting to such remaining adjoining property of the upland property owner by reason of the beach restoration project, but such enhancement in the value shall not be offset against the value of the property or property right alleged to have been taken. If the enhancement in value exceeds the value of the damage, if any, there shall be no recovery over against the property owner for such excess.

The DEP is directed to develop a sand source inventory which identifies offshore sand sources. Additionally, county commissions of coastal counties will be required to be notified when there is a proposal to use adjacent sand sources outside of the region.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 38-0; House 117-0

SM 1680 — Herbert Hoover Dike Improvements

by Senators Aronberg, Pruitt, Bullard, Alexander, Argenziano, Atwater, Baker, Bennett, Carlton, Constantine, Crist, Dawson, Deutch, Diaz de la Portilla, Dockery, Fasano, Gaetz, Garcia, Geller, Haridopolos, Hill, Jones, Joyner, Justice, King, Lawson, Lynn, Margolis, Oelrich, Peaden, Posey, Rich, Ring, Saunders, Siplin, Storms, Villalobos, Webster, Wilson, and Wise

This memorial urges the United States Congress to authorize improvements to bring the Herbert Hoover Dike into compliance with current levee protection standards and to authorize funding to expedite the improvements. Specifically it states:

- Lake Okeechobee has been impacted by four major hurricanes during 2004 and 2005.
- At the request of local community leaders, the South Florida Water Management District Governing Board implemented an independent report on the Herbert Hoover Dike which found that the dike did not meet current levee protection safety standards.
- Failure of the dike poses a clear and imminent threat of catastrophic proportion to the communities surrounding the lake.
- The dike was not constructed to current levee engineering standards and is therefore not authorized by Congress to be brought into compliance to such standards.

Copies are to be presented to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation in the United States Congress.

Vote: Senate 40-0; House 111-0

ENVIRONMENTAL PROGRAM ADMINISTRATION

CS/CS/SB 2052 — Environmental Protection

by General Government Appropriations Committee; Environmental Preservation and Conservation Committee; and Senator Dockery

This bill amends various provisions relating to solid and hazardous waste management. Specifically the bill:

- Deletes the provisions relating to Keep Florida Beautiful, Inc.
- Abolishes the Wildflower Advisory Council that was created within Keep Florida Beautiful, Inc. This council administered the wildflower grant and education programs that are funded by the use fees from the Wildflower License Plate. These use fees will now be distributed to the Florida Wildflower Foundation, an IRS 501(c)(3) corporation to administer the wildflower grant and education programs.
- Transfers the Adopt-a-Shore Program that was created within Keep Florida Beautiful to the Department of Environmental Protection (DEP).
- Alphabetizes the definitions used in the Solid Waste Management Act. Definitions that are not used were deleted and definitions found elsewhere in the act were moved to the definitions section.
- Deletes obsolete language relating to Class II landfills and biomedical incinerators from the Solid Waste Management Act. There are no Class II landfills being permitted and biomedical incinerators are regulated by the DEP under its air program.
- Allows the DEP to exempt, by rule, certain solid waste management facilities from the permit requirements if that facility is not expected to pose any significant threat to the environment or to public health. An example would be yard trash processing facilities.
- Clarifies that a permit to operate a solid waste management facility may not be transferred by the permittee without the consent of the DEP. To transfer a permit, the permittee must show proof of any financial assurance required by the department. The new permittee must agree to accept responsibility for any corrective actions required as a result of a department enforcement order or a consent order.
- Provides for the management of hurricane vegetative debris. To the greatest extent practicable, recycling and reuse of storm-generated vegetative debris is encouraged.
- Broadens the innovative grant program to allow more projects to qualify.
- Deletes the provisions relating to the training of operators for waste-to-energy facilities, biomedical waste incinerators, and mobile soil thermal treatment units or facilities. These operators are subject to the DEP's rules relating to air permits. The DEP has never had a separate solid waste training program for these operators.
- Amends the definition of "waste tire" to exclude solid rubber tires and those that cannot be separated from the rim.
- Reduces the local match requirements for local governments to receive hazardous waste collection grants. The match requirement may be waived under certain circumstances.
- Repeals the Statewide Multipurpose Hazardous Waste Facility Siting Act. This act has never been used.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 37-0; House 117-0

CS/SB 2766 — Venomous Reptiles and Reptiles of Concern

by General Government Appropriations Committee and Senator Posey

The bill amends the requirement for licensing of venomous reptiles to include those persons that capture, keep, or transport such reptiles.

The bill requires the Fish and Wildlife Conservation Commission (FWC or commission) to establish a list of reptiles of concern by December 31, 2007, that may include venomous, non-venomous, native, nonnative, or other reptiles that have the potential to negatively impact the environment, the ecology, or human health. It also adds such reptiles to the licensing, permit and inspection requirements, which includes a \$100 licensing fee.

The bill raises the bond to exhibit venomous reptiles from \$1,000 to \$10,000 which shall be submitted to the commission in writing.

The bill creates a financial responsibility guarantee requirement for persons who exhibit Class I wildlife and authorizes the commission to establish, by rule, provisions for satisfying the financial responsibility. In lieu of such a financial guarantee, the exhibitor has the option to maintain comprehensive liability insurance in the amount of \$2 million dollars for each occurrence.

The bill substantially rewrites the captive wildlife penalty provisions creating Level One, Two, Three, and Four violations.

Finally, the bill appropriates \$75,000 from the State Game Trust Fund, for FY 2007-2008, to the commission for the initial costs associated with the additional regulatory responsibilities.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 38-0; House 111-4

CS/HB 981 — State Parks/Rule Violations

by Environment and Natural Resources Council and Rep. Culp (CS/SB 94 by Environmental Preservation and Conservation Committee and Senators Baker and Fasano)

This bill provides that certain violations of state park rules will be noncriminal infractions punishable by ejection from all property managed by the Division of Recreation and Parks and a fine of up to \$500. The fines shall be paid to the Department of Environmental Protection (DEP) and deposited into the State Park Trust Fund.

In addition, any person who fails to sign a citation for a noncriminal infraction or who fails to appear in court in response to such a citation, commits a second degree misdemeanor.

The bill specifies that certain activities conducted within the boundaries of a state park without first obtaining the express permission of the Division of Recreation and Parks are deemed to be second degree misdemeanors.

The bill also provides that person who is a member of the Florida National Guard, or the spouse or minor child of such a person, will be charged one-half of the admission fee to a state park upon presentation of a valid card identifying that person as being an active member of the Florida National Guard or a spouse or child of such a member.

If authorized by the Division of Recreation and Parks, a golf cart may be operated on a road that is part of the State Park Road System if the posted speed limit is 35 miles per hour or less.

The bill further provides that state agencies and municipalities may operate golf carts and utility vehicles on state roads that have a posted speed limit of 30 miles per hour or less if operated by an employee of a municipality and only on a state, county, or municipal road located within the corporate limits of the municipality.

The Babcock Ranch Preserve and Babcock Ranch, Inc., provisions are amended to allow, notwithstanding the prohibition or restrictions contained in the management agreement, the continuation of tenant farming leases on areas historically used for such purposes. The leases, extensions, or renewal periods shall be for a term of not less than 1 year or more than 4 years, and shall not exceed the total amount of acreage covered by the tenant leases in existence on July 31, 2006.

Until the Babcock management agreement is adopted, hunting for purposes of reasonable wildlife population and habitat management shall be allowed on the preserve. Those purposes include prevention of overgrazing, disease, and overpopulation. All hunting shall be conducted pursuant to the rules and regulations of the Fish and Wildlife Conservation Commission (FWC); however, Babcock Ranch Management, LLC., shall have the authority to charge reasonable access fees to the general public. Special opportunity hunts for persons with disabilities and those under 18 years of age shall be a priority. Until the management plan required by the management agreement is adopted, hunting for the purposes of reasonable wildlife population and habitat management shall be equivalent in purpose to any other recreational use on the preserve.

Prior to the leasing and hunting provisions in the bill becoming effective, Babcock Ranch Management, LLC., must submit to the FWC and the DEP the management plan and business plan in place for the operation of the ranch as of November 22, 2005, the date on which the Board of Trustees of the Internal Improvement Trust Fund approved the purchase of the ranch. The board shall order an audit pursuant to section 27, part V of the management agreement.

If approved by the Governor, these provisions take effect on July 1, 2007.

Vote: Senate 38-0; House 118-0

CS/HB 1039 — Southwest Florida Water Management District

by Environment and Natural Resources Council and Rep. Bowen (CS/SB 1776 by Environmental Preservation and Conservation Committee and Senators Alexander, Baker, Carlton, Storms, Bennett, Dockery, and Aronberg)

The bill increases the number of governing board members of the Southwest Florida Water Management District from 11 to 13 and revises the residency requirements.

It increases, from 1 to 2, the number of board members that reside in Polk County.

It requires one board member to be appointed at large from Sarasota and Charlotte Counties.

Finally, it specifies that Sarasota, Charlotte, Levy, Marion, Citrus, Sumter, Hernando, Lake, Hardee, DeSoto, or Highlands Counties may not have more than one member on the governing board.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 109-0

CS/HB 7173 — Fish and Wildlife Conservation Commission

by Policy and Budget Council; Environment and Natural Resources Council; and Rep. Mayfield and others (CS/CS/CS/SB 1980 by General Government Appropriations Committee; Governmental Operations Committee; Environmental Preservation and Conservation Committee; CS/CS/SB 1982 by General Government Appropriations Committee; and Environmental Preservation and Conservation Committee)

The bill clarifies the Fish and Wildlife Conservation Commission's (FWC) constitutional authority over marine life specifying that it does not include any authority retained by the Legislature or vested in any other agency, other than the Marine Fisheries Commission, on March 1, 1998. It also does not include authority over marine aquaculture retained by the Legislature or vested in any other agency as of July 1, 1999. The bill further requires that the FWC adopt, by rule, adequate due process procedures and shall publish such rules in the Florida Administrative Code.

The bill authorizes use of up to ten percent of the annual use fee deposited into the Save the Manatee Trust Fund, the Florida Panther Research and Management Trust Fund, and State Game Trust Fund to promote or market manatee, Florida panther, and largemouth bass specialty license plates. It increases the annual use fee collected from the sale of the sea turtle specialty license plate from \$17.50 to \$23. It also authorizes the FWC to use the annual use fees deposited into the Save the Manatee Trust Fund from the sale of the manatee license plates, for FY 2007-2008, to buy back any manatee license plates not issued by the Department of Highway Safety and Motor Vehicles.

The bill provides for deposit and use of certain fees, fines, and penalties collected under the Marine Resources Conservation Trust Fund, for the funding of: the stone crab trap reduction

program, the blue crab effort management program, the spiny lobster trap certificate program, and the derelict trap retrieval program.

The bill requires legislative approval for certain commission rules that establish equitable rent.

The bill establishes the Blue Crab Effort Management Program which includes a fee schedule for endorsements required by the FWC for the taking of blue crabs. It establishes a fee for each blue crab trap tag issued and for the replacement of lost or damaged tags. It establishes administrative penalty limits, license suspension and revocation requirements, and third-degree felony penalties. The FWC is authorized to automatically suspend or permanently revoke blue crab endorsements and deactivate blue crab trap tag accounts under certain circumstances. It requires the commission to adopt, by rule, a schedule for administrative penalties for the blue crab effort management program.

The bill appropriates \$132,000 from the Marine Resources Conservation Trust Fund to the FWC, for the purpose of implementing the blue crab effort management program and for administrative costs of the Blue Crab Advisory Board, created by rule of the commission.

The bill authorizes the FWC to temporarily waive the trap tag fees for stone crab, blue crab, and spiny lobster fisheries in areas where massive trap losses occur due to natural disaster and if the area is declared, by the governor, to be a disaster emergency area.

The bill provides that all endorsement and trap tag fees, as well as fines for administrative and criminal penalties, shall be deposited in the Marine Resources Conservation Trust Fund, and specifies the purposes for which the fees may be used.

The bill provides for the assessment of administrative penalties and deletes the suspension of endorsement provision, for first-time rule violations, in the stone crab and spiny lobster programs. It authorizes the application of trap retrieval fees for the recovery of blue crab traps and black sea bass traps. It also corrects a reference to saltwater crawfish conforming to the commission's current spiny lobster program.

The bill increases certain license and permit fees for residential and non-residential freshwater and saltwater fishing, and hunting and creates a 3-day non-residential freshwater fishing license.

The bill authorizes the commission, tax collectors and certain subagents to request and collect donations when selling recreational licenses or permits. The proceeds from the collection of the donations are to be solely for the purpose of enhancing youth hunting and fishing programs within the FWC. It also provides for an annual reporting of such programs by the FWC to the Governor and Legislature by January 1.

If approved by the Governor, these provisions take effect July 1, 2007 unless otherwise specified in the bill.

Vote: Senate 36-1; House 119-0

