



The Florida Senate

Interim Project Report 2002-144

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Committee on Natural Resources

Senator Ginny Brown-Waite, Chairman

ALTERNATIVES FOR FUNDING THE COMPREHENSIVE EVERGLADES RESTORATION PLAN

SUMMARY

The Comprehensive Everglades Restoration Plan (CERP) is an \$8.2 billion plan designed to ensure that sufficient, timely, water is available for Everglades restoration and other water-related needs of the South Florida ecosystem. The CERP will be implemented over approximately a 40-year period and is to be funded equally by the State of Florida and the federal government. For the first ten years of the project Florida and the federal government have each agreed to provide \$200 million annually. The state's share of these costs is divided equally between the South Florida Water Management District (SFWMD), the required local sponsor for the CERP, and state government. The U.S. Congress has authorized, but not yet funded, four pilot projects, ten initial projects, and an assessment and monitoring program. At the time of this report, the SFWMD reports that the federal House and Senate budgets contain approximately \$39 million for CERP activities. Florida's share of these costs will total more than \$630 million.

Section 373.470, F.S., provides for the \$100 million annual state share of costs for the first ten years of the CERP. Of the \$100 million, \$75 million is to be from unspecified "state funds." The 2001 Legislature elected to use \$75 million in unexpended and unencumbered Preservation 2000 funds as the "state funds." Although Everglades restoration is a statutorily authorized use of Preservation 2000 funds, this use was opposed by the environmental community. Concern has been expressed that, as there is no dedicated funding source for the state's \$75 million share, the precedent has been established for the use of bond proceeds, such as Florida Forever funding, which are statutorily authorized for water restoration projects as well as land acquisition projects.

This interim project is intended to provide a menu of possible alternatives for funding the state's \$75 million

commitment over the next eight years. The following alternatives have been identified:

1. The SFWMD is scheduled to receive approximately \$36 million annually from the Florida Forever program, \$25 million of which is counted as part of the state's share of costs. If the entire \$36 million were credited to the state, recurring revenues of \$11 million could be saved annually for the next eight years.
2. Section 259.105, F.S., could be amended to redirect \$75 million annually in Florida Forever funding to CERP activities. The \$75 million could be taken off the top of the bond proceeds prior to the existing statutory allocations or taken either from the DEP's allocation for CARL-type purchases or from the water management districts' allocation.
3. Section 373.470, F.S., currently provides that the dollar value of in-kind work by local sponsors and existing interest in public lands needed for a project component are credits towards the local sponsor's contributions. Since some previously purchased lands involved some state dollars, the law could be changed to allow these amounts to count toward the State of Florida's share. Estimates of these amounts are not clear at this time.
4. The state's share could be funded by the annual sale of \$75 million in bonds backed by documentary stamp tax proceeds for the next eight years.
5. The statutory distribution of the documentary stamp tax proceeds could be revised to dedicate \$75 million annually for Everglades restoration for the next eight years, either by reducing amounts currently dedicated for various programs or by a

new dedication from the unallocated revenues currently going to general revenue.

6. Increase the rate of the documentary stamp tax with the increased revenues used for the state's share of costs for Everglades restoration.
7. Provide for a dedicated sales tax distribution of \$75 million annually for the next eight years to be deposited into the Save Our Everglades Trust Fund and credited as the state's \$75 million share.

There are additional ways to reduce the need for the state's share of CERP funding. Currently, s. 373.503, F.S., establishes a millage cap on each water management district's ad valorem levy. The SFWMD's cap is .80 mills and could be increased to the constitutional limit of one mill, thus producing new revenues of approximately \$113 million annually. Other revenue generating possibilities for the SFWMD include annual water consumptive user fees, water supply fees, and irrigation withdrawal fees. Such fees would require legislative action.

A final alternative to reduce or eliminate the state's cost-share would entail statutorily increasing the SFWMD's millage to the constitutional limit with the district using the increased millage to fund the issuance of general obligation bonds. The issuance of such bonds is authorized pursuant to s. 373.563, F.S., but must be approved by the electorate pursuant to s.373.569. F.S.

Staff recognizes that there are many alternative ways for the Florida Legislature to provide multi-year funding for the CERP. This report has identified several alternative funding mechanisms that could be mixed and combined in many ways. Some type of dedicated funding mechanism is preferred over the current statutory arrangement of unspecified state funds because it would provide greater certainty of multi-year funding and allow the district to proceed with better project planning and implementation.

BACKGROUND

The Comprehensive Everglades Restoration Plan (CERP) is an \$8.2 billion plan designed to ensure that sufficient, timely, water is available for Everglades restoration and other water-related needs of the South Florida ecosystem. The CERP will be implemented over approximately a 40-year period and is to be

funded equally by the State of Florida and the federal government. For the first ten years of the project Florida and the federal government have each agreed to provide \$200 million annually. The state's share of these costs is divided equally between the South Florida Water Management District (SFWMD), the required local sponsor for the CERP, and state government. The U.S. Congress has authorized, but not yet funded, four pilot projects, ten initial projects, and an assessment and monitoring program. At the time of this report, the SFWMD reports that the federal House and Senate budgets contain approximately \$39 million for CERP activities. Florida's share of these costs will total more than \$630 million.

Section 373.470, F.S., provides for the \$100 million annual state share of costs for the first ten years of the CERP. For fiscal year 2000-2001, \$50 million in general revenue was deposited into the Save Our Everglades Trust Fund, together with approximately \$29 million in accumulated interest from the Preservation 2000 Trust Fund for which no spending authority existed. In addition, \$25 million of the SFWMD's approximately \$36 million annual Florida Forever allotment was counted as part of the state's share of the costs since the state provides funding for the Florida Forever program. For fiscal year 2001-2002 and the eight consecutive years thereafter, the state's share of costs will be comprised of \$25 million in the SFWMD's Florida Forever funding and \$75 million in unspecified "state funds." The 2001 Legislature elected to use \$75 million in unexpended and unencumbered Preservation 2000 funds as the "state funds." Although Everglades restoration is a statutorily authorized use of Preservation 2000 funds, this use was opposed by the environmental community. Concern has been expressed that, as there is no dedicated funding source for the state's \$75 million share, the precedent has been established for the use of bond proceeds, such as Florida Forever funding, which are statutorily authorized for water restoration projects as well as land acquisition projects.

The 2001 Legislature enacted SB 1922, which includes provisions creating the "Rural and Family Lands Protection Act." This act authorizes the acquisition of rural conservation easements and funding agreements to preserve the rural quality of the state. Although the program enacted is not funded, the bill as filed would have authorized the sale of up to \$100 million in bonds annually for a ten-year period, backed by documentary stamp tax revenues. The program was jointly designed by agricultural and environmental interests and received a very positive reaction statewide. There may

be legislation introduced during the 2002 Legislative Session to provide for bond funding for the program as originally proposed, using documentary stamp tax revenues. Such action might make it increasingly difficult to also fund the CERP from general revenue.

A further concern is that the 2001 Legislature enacted provisions in CS/SB 1468 that expressed the intent of the Legislature to restore the \$75 million in Preservation 2000 funds used for the CERP to the Preservation 2000 Trust Fund in the General Appropriations Act for fiscal years 2002-2003. In a time of uncertain revenues it may be difficult to continue to fund the CERP in fiscal year 2002-2003 from unspecified "state funds" as well as restore the \$75 million to the Preservation 2000 Trust Fund, as no source of funds for the repayment was specified.

The 2001 Legislature also enacted provisions in the Appropriations Implementing Bill requiring that any remaining unencumbered Preservation 2000 funds, after the transfer of the \$75 million to the Save Our Everglades Trust Fund, be unavailable for use until all funds from the first series of Florida Forever bonds have been expended. At the time the legislation was enacted, the expectation was that these unencumbered funds would be substantial, probably exceeding \$100 million, and that the first Florida bond issue would produce approximately \$275 million. These expectations, based on past practices, would have ensured sufficient funds for continued land acquisitions and provided a sufficient amount of Preservation 2000 funds to allow the Legislature flexibility in funding the CERP in fiscal year 2002-2003. In fact, however, the agencies receiving Preservation 2000 funds radically increased their rates of acquisition, depleting the unencumbered funds to approximately \$2.8 million as of June 30, 2001 and the first round of Florida Forever bonds produced \$50 million rather than the expected \$275 million. The decision by the DEP to sell only \$50 million in the first issuance of Florida Forever bonds was apparently based on the actual need for funds at this time, but it also will result in the ability to use the reserved Preservation 2000 funds much sooner than expected. These actions will further limit the options for the 2002 Legislature in funding the CERP.

This interim project is intended to provide a menu of possible alternatives for funding the state's \$75 million commitment over the next eight years.

METHODOLOGY

In addition to its own research, staff reviewed various work papers and previously produced documents relating to alternatives for funding Everglades restoration. Staff also reviewed a consultant's report prepared in 1999 for the SFWMD identifying possible new revenue sources, entitled "Funding the Central and Southern Florida Comprehensive Review Study (C&SF Restudy).

FINDINGS

Following are alternative strategies for meeting the State of Florida's share of CERP costs:

1. Under current law the SFWMD is scheduled to receive approximately \$36 million from each of the 10 bond issues under the Florida Forever Program. Currently, \$25 million of this \$36 million allocation is earmarked for Everglades restoration projects relating to the CERP and the \$25 million is counted as part of the state's share of costs, since the state provides funding for the debt service on the Florida Forever bonds. This \$25 million allocation could be increased up to the full \$36 million and counted as a portion of the state's share and save recurring revenues of \$11 million for each of eight years.
2. Section 259.105, F.S., provides for the allocation of Florida Forever bond proceeds as follows:

Agency or Program	Percent	Percent of \$300 Million in Proceeds
Water Management Districts (\$25 million of the SFWMD share is transferred to the Save Our Everglades Trust Fund)	35%	\$105 million
Department of Environmental Protection (DEP) for Conservation and Recreation Lands-type purchases	35%	\$105 million
Department of Community Affairs (Florida Communities Trust)	22%	\$66 million
Department of Environmental Protection (Florida Recreation Development Assistance Program)	2%	\$6 million
Department of Environmental Protection (Division of Recreation and Parks)	1.5%	\$4.5 million
Department of Agriculture and Consumer Services (Division of Forestry)	1.5%	\$4.5 million
Fish and Wildlife Conservation Commission	1.5%	\$4.5 million
Department of Environmental Protection (Office of Greenways and Trails)	1.5%	\$4.5 million

This section could be amended to direct amounts to the Save Our Everglades Trust Fund for CERP activities and to count as the State of Florida’s share of costs. This could provide recurring revenues for up to 8 years based on bonds being issued annually for the Florida Forever Program.

Within this concept choices would need to be made as to whether amounts such as \$75 million should come off the top of the bond proceeds before other statutory allocations are made or whether all \$75 million should come from the allocation going to the DEP for CARL-type purchases or from the water management districts’ allocation.

- Section 373.470, F.S., currently provides that the dollar value of in-kind work by local sponsors and existing interest in public lands needed for a project component are credits towards the local sponsor’s contributions. Since some previously purchased lands involved some state dollars, the law could be changed to allow these amounts to count toward the State of Florida’s share. This would create added complications for the SFWMD in meeting its share of costs.

Estimates of these amounts are not clear at this time.

- Pursuant to Article VII, s. 11(e) of the State Constitution, bonds may be sold backed by a

dedicated state tax revenue to finance the “acquisition and improvement of land, water areas and related property interests and resources” for “water resource development” and “restoration of natural systems.” Both the Preservation 2000 and Florida Forever programs are based on the sale of bonds backed by documentary stamp tax proceeds. Although the Division of Bond Finance recommended against creating any new bonded indebtedness during the 2001 Legislative Session, the sale of \$75 million in bonds annually for the next eight years could fund the state’s share.

- The statutory distribution of the documentary stamp tax proceeds could be revised to dedicate \$75 million annually for Everglades restoration for the next eight years, either by reducing amounts currently dedicated for various programs or by a new dedication from the unallocated revenues currently going to general revenue. For fiscal year 2002-2003, the amount expected to go to general revenue is \$452 million.
- Increase the rate of the documentary stamp tax with the increased revenues used for the state’s share of costs for Everglades restoration. For example, a modest increase of seven cents for each \$100 of the value of deeds would provide approximately \$77 million annually.
- Provide for a dedicated sales tax distribution of \$75 million annually for the next eight years to be deposited into the Save Our Everglades Trust Fund and credited as the state’s \$75 million share. To a degree there is precedent for such a dedicated distribution, as the Legislature has recently been using sales tax receipts deposited into the Solid Waste Management Trust Fund for water projects; for fiscal year 2001-2002, \$33.6 million in sales tax revenue was directed to this trust fund.
- Although the primary CERP needs at this time are for land acquisition, the project has not progressed exactly as envisioned and many project components are behind the original schedule. In a number of instances, the exact location of the lands to be acquired is unknown. Appropriate funding for the Everglades restoration should be based on realistic annual projections of land acquisitions that can be completed and actual funds needed rather than annual costs averaged over the life of the project. Estimates for these amounts are not clear at this time and would require detailed information from the SFWMD.

Although not directly within the scope of this project, there are additional ways to reduce the need for the state’s share of the CERP’s funding. The Legislature could take action to increase the revenues available to the SFWMD and direct the new funding to CERP activities. This could then reduce the need for the state’s cost share. Currently, s. 373.503, F.S., establishes a millage cap on each water management district’s ad valorem levy. The SFWMD’s cap is .80 mills and could be increased to the constitutional limit of one mill, thus producing new revenues of approximately \$113 million annually. Other revenue generating possibilities for the SFWMD include annual water consumptive use fees, water supply fees, and irrigation withdrawal fees. Such fees would require legislative action.

A final alternative to reduce or eliminate the state’s cost-share would entail statutorily increasing the SFWMD’s millage to the constitutional limit with the district using the increased millage to fund the issuance of general obligation bonds. The issuance of such bonds is authorized pursuant to s. 373.563, F.S., but must be approved by the electorate pursuant to s. 373.569, F.S.

Although the primary CERP needs at this time are for land acquisition, the project has not progressed exactly as envisioned and many project components are behind the original schedule. In a number of instances, the exact location of the lands to be acquired is unknown. Appropriate funding for the Everglades restoration could be based on realistic annual projections of land acquisitions that can be completed and actual funds needed rather than annual costs averaged over the life of the project. A “pay as you go” program would require less funding at this time but would result in increased land acquisition costs over time due to escalating land values. Because the local sponsor is primarily responsible for land acquisition, which must take place prior to construction activities that will be carried out by the U.S. Army Corps of Engineers, the state will initially provide the bulk of the funding for the CERP. The schedule for the CERP will result in federal funding beginning to equal state expenditures in 2008.

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However, it should be recognized that at the federal level matching funds for CERP are subject to annual appropriations by Congress and are appropriated for specific project activities, whereas state funds have not heretofore been earmarked for specific projects.

RECOMMENDATIONS

Staff recognizes that there are many alternative ways for the Florida Legislature to provide multi-year funding for the CERP. This report has identified several alternative funding mechanisms that could be