

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/CS/HB 447 — Local Government Environmental Financing

by Agriculture and Natural Resources Appropriations Subcommittee; Agriculture and Natural Resources Subcommittee; and Rep. Raschein and others (CS/SB 770 by Appropriations Committee and Senators Simpson, Flores, Benacquisto, and Altman)

The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972." The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.

The designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, the Florida Keys Area, and the City of Key West Area.

The Legislature designated the Florida Keys (Monroe County and its municipalities) and the City of Key West as Areas of Critical State Concern in 1975 due to the area's environmental sensitivity and mounting development pressures. The legislative intent was to establish a land use management system for the Florida Keys that would achieve the following goals:

- Protect the natural environment and improve the nearshore water quality;
- Support a diverse economic base that promotes balanced growth in accordance with the capacity of public facilities;
- Promote public land acquisition and ensure that the population of the Florida Keys can be safely evacuated;
- Provide affordable housing in close proximity to places of employment; and
- Protect property rights and promote coordination among governmental agencies that have permitting jurisdiction.

The bill makes the following changes to law:

- Expands the use of the local government infrastructure surtax to include acquiring any interest in lands for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern.
- Expands the definition of infrastructure under the local government infrastructure surtax to include "any fixed capital expenditure or fixed capital outlay associated with...all other professional and related costs to bring the public facilities." Public facilities is defined to include a wide variety of major capital improvements including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities; healthcare systems and facilities; and water management and control facilities, alternative water systems, and certain spoil disposal sites for maintenance dredging in waters of the state.
- Adds the City of Key West Area of Critical State Concern to the list of eligible areas for which Everglades restoration bonds may be issued and expands the range of uses to include projects that protect, restore, or enhance nearshore water quality and fisheries,

such as storm water or canal restoration projects, and projects to protect and enhance the water supply to the Florida Keys.

- Allows for lands that are purchased in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern from Everglades restoration bond proceeds to be surplus under certain circumstances. The applicable general purpose local government must agree to the disposal of lands and must be offered the first right to purchase those lands.
- Revises the DEP's criteria for the recommendation to the board of the purchase of lands in an area of critical state concern to include:
 - o Lands that conserve sensitive habitat;
 - o Lands that protect, restore, or enhance nearshore water quality and fisheries;
 - o Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; and
 - o Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern if the acquisition of such lands fulfills a public purpose listed in s. 259.032(2), F.S.
- Requires that of the funds appropriated to the DEP as distributed in the Florida Forever Act for land acquisition and capital projects, a minimum of \$5 million annually is allocated within the Florida Keys Area of Critical State Concern beginning in Fiscal Year 2017-2018 through Fiscal Year 2026-2027.
- Appropriates to the Department of Environmental Protection \$5 million in nonrecurring funds from the General Revenue Fund for the 2016-2017 fiscal year. These funds shall be distributed in accordance with the existing interlocal agreement among specified local governmental entities in Monroe County for various water purposes and to enhance water supply in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern; or, alternatively, for the purposes of land acquisition within the Florida Keys Area of Critical State Concern.
- Expands the powers of the Area of Critical State Concern land authority to include the prevention or satisfaction of private property rights' claims resulting from limitations imposed by the designation of an areas of critical state concern and to contribute funds to the DEP for the purchase of lands by the DEP.
- Provides that the Area of Critical State Concern land authority may only make an acquisition or contribution if the acquisition or contribution is not used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 113-1