

STORAGE NAME: h4071.tr
DATE: March 31, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: House Bill 4071
RELATING TO: Environmental Mitigation
SPONSOR(S): Rep. Betancourt
COMPANION BILL(S): CS/SB 986 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION
 - (2) ENVIRONMENTAL PROTECTION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill modifies the program that allows the Department of Transportation (DOT) and the Department of Environmental Protection (DEP) to mitigate the impacts to wetlands and other sensitive habitats from DOT projects. The bill contains provisions which:

- ▶ Authorize DOT to include additional work program projects in the inventory of habitats beyond the first three years of the work program.
- ▶ Authorize water management districts (WMDs) to use a portion of the mitigation funding received from the DOT to fund development of mitigation plans, including design, engineering, production and staff support.
- ▶ Provide that preliminary approval of the mitigation plan by WMDs is not a decision affecting substantial interests that allows a Chapter 120 hearing challenging the approval.
- ▶ Provide that the \$12 million transferred in 1996 from the DOT to DEP for surface water and wetland management purposes will remain available for mitigation credit through fiscal year 2004-05, rather than fiscal year 1999-00.
- ▶ Allows DEP and WMDs staff to modify mitigation plans throughout the year to accommodate changes in project schedules or minor projects.

The bill has no fiscal impact to the state, local governments, or the private sector. The bill will allow DEP to pay for the development of mitigation plans, including design, engineering, production and staff support, from mitigation funds received from the DOT.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Currently, DOT submits annually to DEP and WMDs a copy of the adopted work program and an inventory of wetlands and habitats which may be impacted by transportation projects in the first three years of the adopted work program. DOT transfers into the Ecosystem Management and Restoration Trust Fund within DEP \$75,000 for each acre within the WMDs where an impact upon wetlands has been projected. The funds are used by the WMDs for use in mitigation development and implementation activities. WMDs are not currently authorized to use these funds for support and development of mitigation plans, including staff support, design, engineering, production.

In 1996, DOT transferred \$12 million from the State Transportation Trust Fund to DEP for the surface water improvement management program to address statewide aquatic and exotic plant problems within wetlands and other surface waters. This was considered an advance upon funds which DOT would have to pay for statewide wetland mitigation until the year 2000. DEP expended a portion of the funds on exotic plant eradication and surface water improvement projects which were not credited toward mitigation of DOT's work program projects. As a result, DEP is indebted to DOT for a portion of those funds, or mitigation credits, and is not able to replace those funds by the year 2000 as required by current law.

Currently, mitigation plans prepared by the WMDs are updated annually to reflect changes in the DOT's work program, and preliminarily approved by the WMD governing board. The plans are then submitted to the Secretary of DEP for final approval.

B. EFFECT OF PROPOSED CHANGES:

The bill amends s. 373.4137, F.S., to authorize DOT to include additional projects identified in the adopted work program in the inventory of affected wetland habitats submitted to DEP and the WMDs beyond the first 3 years of the 5-year work program. The bill authorizes WMDs to use a portion of the \$75,000 per acre mitigation funds paid by DOT for support and development of mitigation plans, including staff support, design, engineering, production.

The bill also provides that preliminary approval of a mitigation plan by the WMD governing board does not constitute a decision that affects substantial interests as provided by Chapter 120, F.S., the Administrative Procedures Act. This clarifies that affected parties objecting to a mitigation plan may only file for an administrative hearing after the plan receives final approval from the Secretary of DEP.

The bill extends the time period that DEP has to use DOT's \$12 million in wetlands mitigation funds to the year 2005 to allow DEP enough time to supplant the funds that were not credited toward the mitigation of Department of Transportation projects.

The bill authorizes DEP and the WMDs staff to amend mitigation plans throughout the year, instead of once a year, to anticipate schedule changes or minor projects.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

STORAGE NAME: h4071.tr

DATE: March 31, 1998

PAGE 5

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 373.4137, F.S.

E. SECTION-BY-SECTION RESEARCH:

N/A

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

STORAGE NAME: h4071.tr

DATE: March 31, 1998

PAGE 7

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

The bill has no fiscal impact to the state, local governments, or the private sector. The bill will allow DEP to pay for the development of mitigation plans, including design, engineering, production and staff support, from mitigation funds received from the DOT.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Legislative Research Director:

Phillip B. Miller

John R. Johnston