

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

1. Places requirement on certain local governments to amend their local comprehensive plan to provide certain protection for the Wekiva River Springs System.

B. EFFECT OF PROPOSED CHANGES:

This bill w/ CS is intended to implement the report of the Governor’s Wekiva Basin Area Task Force (Task Force) for the purpose of completing the Metro-Orlando Beltway and a U.S. 441 Bypass, while simultaneously assuring protection of the water resources and wildlife in the Wekiva River ecosystem in portions of Lake, Orange, and Seminole counties.

The bill w/ CS renames the “Wekiva River Protection Act” the “Wekiva River and Springs Protection Act (WRSP Act)” in Part II, ch. 369, F.S.

The Act’s statement of Legislative intent is expanded to incorporate the 17 recommendations of the Task Force’s Final Report¹ dated January 15, 2003. The 17 recommendations are found in Appendix I to this analysis.

Definitions are provided for the terms “rural character,” “springshed,” “U.S. 441 Bypass,” and “Wekiva Parkway.”

The state land planning agency is directed to give notice, before 9/30/03, of negotiated rulemaking to define the proposed boundaries for the Wekiva River Springhead Protection Area (Area) and the integrated planning area. And, the bill provides that the Governor and Cabinet, sitting as the Administration Commission/Land and Water Adjudicatory Commission, shall establish the Area.

The state land planning agency is also directed to adopt minimum requirements for land use strategies, development controls, and best-management practices by negotiated rulemaking.

Local governments within the area, must amend their respective comprehensive plans considering strategies designed to offer protection in the Area.

The state land planning agency must give notice, by 9/30/03, of proposed rulemaking to establish minimum criteria for the integration of future transportation, land use, and water resource planning in the integrated planning area.

The Department of Transportation is required, in collaboration with the Turnpike Enterprise, the Orlando-Orange County Expressway Authority, and the Seminole County Expressway Authority to

¹ The Final Report of the Wekiva Basin Area Task Force, 1/15/03, may be found at: <http://www.dca.state.fl.us/fdcp/DCP/wekiva/WekivaReport.pdf>

provide a report of joint recommendations for the implementation of the Wekiva Basin Area Task Force Recommendations to the Governor and the Legislature by 9/15/04.

The state land planning agency and other appropriate state and regional agencies are directed to provide planning assistance to the affected local governments in the development of comprehensive plan amendments to meet the requirements of the Act.

The Department of Agriculture and Consumer Services is required to assist local governments in determining and implementing best management practices in their local comprehensive plans.

The bill w/ CS creates statutory provisions to limit comprehensive plan amendments to twice per year except those related to the implementation of the Wekiva River Basin Planning Act.

The St. Johns River Water Management District is directed to publish notice of proposed rule amendments for the implementation of this Act within 90 days of the adoption of a final boundary of the Area.

The Department of Environmental Protection is directed to develop, within three years of the adoption of the final boundaries of the Wekiva River Springshed Protection Area, a program to encourage and provide incentives for the inspection and maintenance of on-site wastewater treatment and disposal systems and for the installation of enhanced on-site treatment and disposal systems within the Area.

The bill w/ CS encourages the St. Johns River Water Management District to acquire lands and development rights in the Wekiva Basin Area that contribute surface water and groundwater to spring flow as a means of protecting the Wekiva River Springs through a reduction of developable unit density.

Existing law is amended to direct the Department of Environmental Protection to proceed to negotiate for the acquisition of certain conservation and recreation project lands.

The Act is repealed effective 7/1/08, unless purchase of the right-of-way for the Wekiva Parkway is completed.

Background

The Wekiva Basin, consisting of the Wekiva River, the St. Johns River and their tributaries along with associated lands in central Florida, is part of a vast wildlife corridor that connects northwest Orange County with the Ocala National Forest. In recent years, the state has acquired more than 60,000 acres of conservation lands at a cost of \$139 million. These conservation lands provide habitat for the Florida black bear, burrowing owl, sandhill crane, Florida scrub-jay, gopher tortoise, and the limpkin.

The Wekiva River and its tributaries have been designated an Outstanding Florida Water, a National and Scenic River, a Florida Wild and Scenic River, and a Florida Aquatic Preserve. The river is a spring-fed system associated with 19 springs that are connected to the Florida Aquifer. Eleven of these springs are second and third magnitude springs, meaning those springs discharge 10 to 100 cubic feet per second or 1 to 10 cubic feet per second, respectively.

The central Florida region has experienced tremendous growth in the last twenty years resulting in increasing transportation demands and development pressure on lands within the Wekiva Basin. During the period between 1980 and 1990, the growth rate in Lake, Seminole, and Orange Counties exceeded 30 percent. The growth rate for this three-county area is expected to exceed 20 percent through the year 2010. While projected growth for the state between 2010 and 2020 is 13 percent, the growth rate for central Florida is expected to be 17 percent.

The desire to balance the transportation needs associated with this projected growth and protection of the Wekiva Basin prompted Governor Bush to create the "Wekiva Basin Area Task Force" on September 26, 2002. The task force was charged with evaluating and making recommendations on the most appropriate location for a highway route connecting State Road 429 to Interstate 4 while providing the greatest protection to the Wekiva Basin. Also, the task force was asked to evaluate and recommend a transportation plan that considers the potential expansion of roads and corridors within the Wekiva Basin to address, among other issues, land acquisition, springshed protection, innovative road design, protection of rural character, protection of habitat, utilization of financial resources, and the adequacy of local governments relating to transportation corridors.

The task force's recommendations, as contained in its final report, may be summarized as follows:

- All recommendations should be taken as a whole and integrated into a unified plan of integration;
- Appropriate transportation agencies should use the "Recommended Corridor for the Wekiva Parkway" to undertake the environmental and engineering studies for determining the precise alignment;
- Appropriate transportation agencies should use the "Guiding Principles for the Wekiva Parkway Design Features and Construction" and also apply those principles to the expansion and construction of new expressways;
- Certain design and construction elements for the Wekiva Parkway should be employed so that when completed, the parkway creates a scenic roadway through the basin;
- The Department of Transportation, the Orlando-Orange County Expressway Authority, and the Seminole County Expressway Authority should consider the task force's recommendations and report to the Governor and Legislature on their joint recommendations for the appropriate entity to operate the Wekiva Parkway;
- The plan for mitigating impacts of the Wekiva Parkway should ensure, to the maximum extent possible, that land acquisition and mitigation occur within the Wekiva River Protection Area, Wekiva River Basin, or Wekiva River Springshed;
- Not more than five interchanges should be located along the Wekiva Parkway and recommends locations;
- Local governments should review their long-range transportation improvement plans in light of the task force's recommendations;
- Appropriate "Guiding Principles for Designing and Construction" should be applied if there are any improvements to State Road 44 through the Wekiva River Protection Area;
- Establishment of the Wekiva River Springshed Protection Area with certain limitations on comprehensive plan amendments within the area as detailed by the task force;
- Legislation creating the Wekiva River Springshed Protection Act should include specific content requirements for the springshed sector plan as enumerated by the task force;
- Legislation creating the Wekiva River Springshed Protection Area and the related sector planning process should include planning requirements for each potential interchange recommended for the Wekiva Parkway;

- Legislation creating the Wekiva River Springshed Protection Area should result in new permitting criteria to be applied by the St. Johns River Water Management District through its existing permit programs governing the Management and Storage of Surface Waters and Environmental Resource Permits and Consumptive Uses of Water; and
- The State should use all means at its disposal to complete the Wekiva-Ocala Greenway Florida Forever Project and recommends giving the highest priority to specific parcels prior to the construction associated with the Wekiva Parkway.

C. SECTION DIRECTORY:

Section 1. Amends s. 369.301, to create a new short title.

Section 2. Creates s. 369.3011, to create the Wekiva River Basin Planning Act; providing legislative intent, including the adoption of the 1/15/03 Final Report Recommendations of the Wekiva Basin Area Task Force; providing definitions; providing for the designation of the Wekiva River Springshed Protection Area and Integrated Planning Area; providing certain comprehensive plan requirements; providing for the integration of future transportation, land use, and water resource planning; providing transportation requirements; providing for planning assistance to local governments; and providing for duties of the Department of Agriculture and Consumer Services.

Section 3. Creates s. 163.3187(1)(m), to provide for limitation on comprehensive plan amendments, and exceptions to those limitations.

Section 4. Creates s. 373.4155, providing for certain duties of the St. Johns River Water Management District.

Section 5. Creates s. 381.0069, providing for the Department of Environmental Protection to develop a program related to wastewater treatment and disposal systems.

Section 6. Creates s. 373.139(8), to encourage the St. Johns River Water Management District to pursue certain land and development rights acquisition.

Section 7. Amends s. 369.307, F.S., to direct the Department of Environmental Protection to proceed to negotiate certain conservation and recreational land acquisition projects.

Section 8. Provides for the repeal of the Act effective 7/1/08, unless purchase of the right-of-way for the Wekiva Parkway has been completed.

Section 9. Provides for an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

This bill w/ CS requires affected local governments to revise their comprehensive plans to include the Wekiva Sector Plan. These local governments will expend funds on preparation of the sector plan and the comprehensive plan amendments incorporating the sector plan and associated public hearings.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill w/ CS requires affected local governments to revise their comprehensive plans to include the Wekiva Sector Plan. These local governments will expend funds on preparation of the sector plan and the comprehensive plan amendments incorporating the sector plan and associated public hearings.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill w/ CS does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill w/ CS does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill w/ CS does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill w/ CS includes numerous rule-making directives.

Section 2(2)(c)(15) directs the St. Johns River Water Management District to review its existing rules to determine the appropriateness of adding specific criteria to achieve certain goals of the Act.

Section 2(4)(a) directs the state land planning agency to give notice of negotiated rulemaking to define the proposed boundaries for the Wekiva River Springshed Protection Area and the integrated planning area.

Section 2(4)(d) directs the Governor and Cabinet, sitting as the Administration Commission, to establish by rule the definitive boundaries of the Wekiva River Springshed Protection Area.

Section 2(5)(b) directs the state land planning agency to adopt minimum requirements for land use strategies, development controls, and best-management practices through negotiated rulemaking.

Section 2(6)(a) directs the state land planning agency to give notice of proposed rulemaking, by 9/30/03, to establish minimum criteria for the integration of future transportation, land use, and water resource planning in the integrated planning area.

Section 4 directs the St. Johns River Water Management District to publish notice, within 90 days of the adoption of the final boundary of the Wekiva River Springshed Protection Area, of proposed rule amendments for implementation of the Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

There do not appear to be any technical drafting issues.

Other Comments

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Committee on Local Government & Veterans' Affairs, at its meeting on April 21, 2003, adopted a Strike All amendment by the Sponsor. Subsequent to the adoption of the amendment, the bill failed. On a Motion for Reconsideration, the bill was reconsidered and approved. The bill, with amendment, differs from the bill as introduced in the following ways:

- Implements the recommendations of the Governor's Wekiva Basin Area Task Force for completing the Metro-Orlando Beltway and a U.S. 441 Bypass while simultaneously assuring protection of the water resources and wildlife in the Wekiva River ecosystem (portions of Lake, Orange, and Seminole Counties).
- Amends the Wekiva River Protection Act (Chapter 369, Part II, Florida Statutes), among other related laws, and will have the following effects:
 - Amends title of Wekiva River Protection Act to read, "Wekiva River and Springs Protection Act."
 - Establishes Legislative Intent:
 - incorporates the 17 recommendations of the Task Force; and
 - expresses intent that judicially acknowledged property rights shall be protected consistent with the laws and constitutions of Florida and the United States.
 - Defines Terms:
 - "rural character"- consistent with Task Force report and including clustered rural residential development;
 - "springshed" - land area that contributes ground- and surface water to spring flows; and
 - "US 441 Bypass" and "Wekiva Parkway"- consistent with Task Force report.
 - Creates Wekiva River Springshed Protection Area:
 - Intended to complement the Wekiva River Protection Area created by the Florida Legislature in 1988;
 - Charges the Governor and Cabinet with designating (1) the boundary of Wekiva River Springshed Protection Area and (2) a focused area within the Wekiva River Springshed Protection Area where affected local governments (Lake and Orange counties and the cities of Apopka, Eustis, and Mount Dora) are required to coordinate and integrate planning for future transportation, land use, and water resource needs through negotiated rulemaking pursuant to section 120.54(2)(d), Florida Statutes;
 - Requires the State Land Planning Agency to conduct at least two rule development workshops in the Wekiva Basin Area for purpose of recommending boundaries for the springs protection and planning areas for adoption by the Governor and Cabinet;
 - Provides that while designation of the springs protection and planning areas is pending, an affected local government cannot amend its comprehensive plan to increase densities or intensities of land uses, except that a city may amend its plan within its municipal boundaries as they existed on January 15, 2003;

- Encourages the St. Johns River Water Management District to pursue purchase of lands and development rights in the Wekiva River Protection Area and the Wekiva River Springshed Protection Area; and
- Encourages agencies to use all means at their disposal for completing the acquisition of the Wekiva-Ocala Greenway Florida Forever Project and to give priority to specific properties identified in the Task Force Report.
- Provides for repeal bill of Act effective July 1, 2008, in the event that acquisition of right-of-way for the Wekiva Parkway has not commenced.
- Provides for an effective date of July 1, 2003.