

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1179 w/CS Greenways and Trails
SPONSOR(S): Pickens
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2804

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Natural Resources</u>	<u>18 Y, 0 N w/CS</u>	<u>Perkins</u>	<u>Lotspeich</u>
2) <u>State Administration</u>	<u>6 Y, 0 N w/CS</u>	<u>Williamson</u>	<u>Everhart</u>
3) <u>Appropriations</u>	<u></u>	<u>Dixon</u>	<u>Baker</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill, in part:

- Encourages nongovernmental organizations to promote the development of greenways and trails.
- Recognizes the Florida National Scenic Trail (FNST) as Florida's official statewide nonmotorized trail.
- Provides liability protection for a person who owns or operates and charges a fee for an off-highway vehicle facility under certain circumstances.
- Provides certain notice requirements.
- Creates the Conserve by Bicycle Program within the Department of Transportation.
- Requires a Conserve by Bicycle study.
- Authorizes the formation of the Florida Mining-Recreation, Inc.
- Provides that the Florida Mining-Recreation, Inc., is not required to comply with state competitive bidding requirements for contracts less than \$100,000.

The Department of Environmental Protection and the Department of Transportation have stated this bill will have no additional fiscal impact to their departments. See "FISCAL COMMENTS" section.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1179d.ap.doc
DATE: April 21, 2004

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:

This bill requires the Department of Environmental Protection (DEP) to notice a determination that public access is permitted to a landowner’s property. DEP must also provide notice to the private landowner, by certified mail, before any public meeting regarding the intent to designate. This bill also creates the Conserve by Bicycle Program and requires the Department of Transportation to conduct a Conserve by Bicycle study.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Department of Environmental Protection’s (DEP) Office of Greenways and Trails implements the statewide greenways and trails plan under chapter 260, F.S. The 21 member Florida Greenways and Trails Council, in existence since 1999, advises DEP on greenways and trails related issues. The length of Council members’ terms is staggered and the number of consecutive terms to be served is limited to two.

The Office of Greenways and Trails’ Designation program is a voluntary program by which public and private lands and waterways are designated as part of the statewide system of greenways and trails. The program furthers the development of the Florida Greenways and Trails System without the expense of land acquisition.

Effect of Bill

The bill renames chapter 260, F.S., the “Florida Greenways and Trails Act”, and amends s. 260.011, F.S., to be known as the “Florida Greenways and Trails Act”.

The bill broadens the legislative intent of greenways and trails activities to include equestrian activities previously limited to horseback riding. It encourages nongovernmental organizations to promote the development of greenways and trails.

The bill recognizes the Florida National Scenic Trail (FNST) as Florida’s official statewide nonmotorized trail from the Florida Panhandle to the Everglades and the Florida Keys.¹ It also provides that it is the intent of the Legislature to:

- Recognize major contributions made in the furtherance of the establishment of the FNST.
- Recognize the significant economic benefit of natural-resource-based recreation and the contributions to the state’s economy that arise from the creation and completion of the trail.
- Establish the trail in a permanent location.
- Officially recognize the route of the trail for establishment and acquisition purposes.

¹ Its approximate length is more than 1,400 miles.

- Encourage state public land-buying agencies to consider the trail a single project with multiple phases.
- Give positive consideration to the inclusion of private funds to supplement the state's contribution.
- Encourage private landowners to continue to allow the use of their properties for trail purposes through existing and future incentives and liability protection.
- Encourage state and local agencies to recognize the importance of the trail in bringing nature-based tourism to many local communities and to support acquisition and development activities for completion of the trail.

The bill provides liability protection for a person who owns or operates and charges a fee for an off-highway vehicle facility that has been recommended by the Off-Highway Vehicle Recreation Advisory Committee for designation as part of the state trail system, and is open to the public.

The bill provides that once DEP determines public access to private lands, which are the subject of a designation agreement, is appropriate for greenways and trails, then DEP must receive written authorization from the landowner of such lands granting public access before proceeding with the land designation process. If written authorization is received, the DEP must notice in the Florida Administrative Weekly a public meeting regarding the intent to designate. Such notice must be published at least seven days prior to the date of the meeting. DEP must also provide notice to the private landowner at least seven days prior to the meeting.

The bill specifies that the term of all appointees of the Florida Greenways and Trail Council is two years. Appointees of the Governor, the President of the Senate, and the Speaker of the House of Representatives may be reappointed for no more than four consecutive terms. Representatives of the water management districts, regional planning councils, and local governments may be reappointed for no more than two consecutive terms. All other appointees will serve until replaced. Specifically as it relates to regional planning councils, membership on the council will rotate among the seven councils and the councils will determine the order of rotation. The bill provides eligibility for off-highway-vehicle users to represent the trail user community on the council. It removes language authorizing the council to accept gifts, grants, or other aid from the U.S. Government or any person or corporation.

The bill removes the requirement that maps of greenways and trails include access routes and related public-use facilities along greenways and trails, as well as items that would enhance recreational opportunities for the public. It authorizes the Legislature to designate additions to the Big Bend Historic Saltwater Paddling Trail.

The bill creates the Conserve by Bicycle Program within the Department of Transportation (DOT). The purpose of program is to:

- Save energy by increasing the number of miles ridden on bicycles, thereby reducing the usage of petroleum-based fuels.
- Increase efficiency of cycling as a transportation mode by improving interconnectivity.
- Reduce traffic congestion on existing roads.
- Provide recreational opportunities for the public.
- Provide healthy alternatives to help reduce obesity and long-term health costs.
- Support the Safe Paths to Schools Program.

It requires DOT to conduct a Conserve by Bicycling study to be completed and submitted² by July 1, 2005. The purpose of the study is to “produce measurable criteria” to be used by DOT to determine “where and under what circumstance the construction of bicycling facilities will reduce energy

² The study must be submitted to the Governor, President of the Senate, Speaker of the House of Representatives, Secretary of Transportation, Secretary of Environmental Protection, and Secretary of Health.

consumption and the need for and cost of roadway capacity". DOT has stated it already has a program pertaining to bicycles and already performs many of the tasks required by this bill. Therefore, the Conserve by Bicycle Program and its tasks appear duplicative of those tasks already performed by the department.

The bill requires water management district work plans to identify public access for projects with land acquisition components to the FNST. The Florida Communities Trust is to incorporate the inclusion of the FNST in its efforts to provide public access or recreational facilities.

The bill authorizes the formation of the Florida Mining-Recreation, Inc., for the purpose of creating plans and assisting in the development of public recreational opportunities on lands mined for phosphate in Florida. The Florida Mining-Recreation, Inc., is a non-profit corporation that is exempt from the "tax imposed under chapter 212", regardless of its status pursuant to s. 501(c) of the United State Internal Revenue Code. Chapter 212, F.S., imposes a number of taxes. It is unclear if such corporation is exempt from all taxes imposed under that chapter, or a specific tax.

The bill provides that *all* of the funds provided in Specific Appropriation 1637A of the General Appropriations Act of 2003, in addition to any future appropriation to the corporation under \$500,000 must be paid directly to the Florida Mining-Recreation, Inc., without the need to secure grants or advanced payment approval from DEP or the Chief Financial Officer regardless of previous agreements between the corporation and the department. Funds appropriated by the state may be expended for, but not limited to, the following:

- The formation and management of the corporation.
- Securing the services of experts and consultants.
- Conducting audits.
- Developing engineering plans.
- Assisting in obtaining permits and approvals from governmental agencies.
- Other actions that further the goals of the corporation in creating plans and assisting in the development of recreational opportunities on lands mined for phosphate in Florida.

The corporation is not required to comply with state competitive bidding requirements for contracts less than \$100,000. It is required to adopt a written policy describing how services for the corporation will be secured. The corporation is required to conduct its operations in a nondiscriminatory manner.

The bill removes duplicative language and creates a definition of "Office".

C. SECTION DIRECTORY:

Section 1. Provides that chapter 260, F.S., is renamed "Florida Greenways and Trails Act."

Section 2. Amends s. 260.011, F.S., to make technical changes.

Section 3. Amends s. 260.012, F.S., to make technical changes and to encourage governmental entities to give enhanced consideration for acquisitions within its land buying process to assist in greenways and trail system development.

Section 4. Creates s. 260.0125, F.S., to provide notice requirements and to provide liability protection for off-highway-vehicle facilities associated with state trails.

Section 5. Amends s. 260.013, F.S., relating to definitions.

Section 6. Amends s. 260.0141, F.S., to make clarifying changes.

Section 7. Amends s. 260.0142, F.S., to amend the term limits and duties of members of the Florida Greenways and Trails Council.

Section 8. Amends s. 260.015(1)(c), F.S., to make clarifying changes for appraisal requirements.

Section 9. Amends s.260.016, F.S., to make clarifying changes for map requirements associated with greenways and trails and to allow legislative participation in designating statewide saltwater circumnavigation trails.

Section 10. Creates s. 335.067, F.S., to create the Conserve by Bicycle Program.

Section 11. Amends s. 373.199(4)(k), F.S., to include the identification of public access within the FNST.

Section 12. Amends s. 378.036(6), F.S., to create the Florida Mining-Recreation, Inc.

Section 13. Amends 380.507(4), F.S., to make technical changes.

Section 14. Provides the act will take effect upon becoming a law.

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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Environmental Protection has stated this bill will have no fiscal impact to the department.³ The Department of Transportation has also stated this bill will have no additional fiscal impact to the department because it already has a bicycle program and already performs most of the functions required by the bill. Any additional requirements or costs will be absorbed.⁴

The bill authorizes the formation of the Florida Mining-Recreation, Inc., for the purpose of creating plans and assisting in the development of public recreational opportunities on lands mined for

³ Telephone call, Staff, Department of Environmental Protection, March 25, 2004.

⁴ Telephone call, Staff, Department of Transportation, March 25, 2004.

phosphate in Florida. It provides that *all* of the funds provided in Specific Appropriation 1637A of the General Appropriations Act of 2003, in addition to any future appropriation to the corporation under \$500,000 must be paid directly to the Florida Mining-Recreation, Inc., without the need to secure grants or advanced payment approval from DEP or the Chief Financial Officer regardless of previous agreements between the corporation and the department.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect municipal or county government.

2. Other:

This bill could be in violation of Art. III, s. 6 of the State Constitution, which provides that every law must embrace but one subject and matter properly connected therewith. This bill relates to greenways and trails and amends several provisions, in current law, regarding such. It also creates a Conserve by Bicycle Program and requires a Conserve by Bicycle study. It is unclear how such program and study relate to greenways and trails, when the purpose of both relate to addressing traffic problems, and environmental concerns as a result of traffic.

This bill also authorizes the creation of the non-profit corporation, Florida Mining-Recreation, Inc., for the purpose of creating plans and assisting in the development of public recreational opportunities on lands mined for phosphate in Florida. Once again, it is unclear how creating recreational opportunities on lands mined for phosphate relates to greenways and trails.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill authorizes the formation of the Florida Mining-Recreation, Inc., however, such corporation already exists. It is unclear if the intent is to duplicate the corporation, take the name away from the corporation, or codify the corporation in statute.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Committee on Natural Resources

On March 17, 2004, the Committee on Natural Resources favorably adopted a "Strike All" amendment to HB 1179. This analysis has been revised to reflect this amendment.

Committee on State Administration

On March 29, 2004, the Committee on State Administration adopted four amendments to HB 1179 and reported the bill favorably with CS. The amendments made the following changes:

- Provided examples of safer bicycle facilities to be created by the Conserve by Bicycle Program.
- Removed the requirement for the Department of Transportation to conduct a Conserve by Bicycle Study on how the shift in road capacity can lead to the realization of true energy and cost savings.
- Removed language requiring the Department of Transportation to contract with certain organizations to conduct the Conserve by Bicycle Study.
- Changed the study completion date from July 1, 2005, to July 1, 2006.