HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	HB 989	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Harrell and Caldwell and others	113 **Y's**	1 **N's**
COMPANION BILLS:	CS/CS/SB 1168	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

HB 989 passed the House on March 2, 2016. The bill was amended by the Senate on March 11, 2016, and subsequently passed the House on March 11, 2016.

The bill amends s. 375.041, F.S. to provide for the distribution of funds deposited into the Land Acquisition Trust Fund. Of the funds remaining after the payment of certain debt service obligations, the Legislature will be required to appropriate a minimum of the lesser of 25 percent or $200 million for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), including the Central Everglades Planning Project subject to congressional authorization, the Long-Term Plan, and the Northern Everglades and Estuaries Protection Program.

The bill requires that from these funds, $32 million will be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District (SFWMD) for the Long-Term Plan. After deducting the $32 million, from the funds remaining, a minimum of the lesser of 76.5 percent or $100 million will be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering and construction of the CERP. The bill requires the Department of Environmental Protection (DEP) and the SFWMD to give preference to projects that reduce harmful discharges from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

In addition, the bill requires an appropriation of a minimum of the lesser of 7.6 percent or $50 million each fiscal year through the 2025-2026 fiscal year for springs restoration, protection and management projects, and requires a $5 million appropriation each fiscal year to the St. Johns River Water Management District (SJRWMD) for projects dedicated to the restoration of Lake Apopka.

The bill also provides an adjustment to the calculation of each distribution for Everglades restoration, springs restoration, protection and management projects, and Lake Apopka restoration projects if debt service is paid on bonds issued after July 1, 2016.

Finally, the bill repeals the provision, which expires July 1, 2016, paying for the SFWMD's and the SJRWD's debt service on bonds issued before February 1, 2009.

The Fiscal Year 2016-207 General Appropriations Act provides $32 million for the Long Term Plan, $100 million for the CERP, $70.1 million for northern Everglades and estuaries protection, $50 million for springs restoration, protection and management, and $5.1 million for Lake Apopka restoration.

The bill was approved by the Governor on April 7, 2016, ch. 2016-201, L.O.F., and will become effective on July 1, 2016.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

On November 4, 2014, Florida voters approved an initiative petition relating to water and land conservation. The provision added a section 28 to Article X of the Florida Constitution:

SECTION 28. Land Acquisition Trust Fund.—

a) Effective on July 1 of the year following passage of this amendment by the voters, and for a period of 20 years after that effective date, the Land Acquisition Trust Fund shall receive no less than 33 percent of net revenues derived from the existing excise tax on documents[1], as defined in the statutes in effect on January 1, 2012, as amended from time to time, or any successor or replacement tax, after the Department of Revenue first deducts a service charge to pay the costs of the collection and enforcement of the excise tax on documents.

b) Funds in the Land Acquisition Trust Fund shall be expended only for the following purposes:

1) As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.

2) To pay the debt service on bonds issued pursuant to Article VII, Section 11(e). c) The moneys deposited into the Land Acquisition Trust Fund, as defined by the statutes in effect on January 1, 2012, shall not be or become commingled with the General Revenue Fund of the state.

As a result of Special Session A in 2015, chapter 2015-229, Laws of Florida, became law and amended the relevant statutes to comply with this constitutional requirement. As part of chapter 2015-229, L.O.F., s. 375.041, F.S. was amended to require moneys from the Land Acquisition Trust Fund to be allocated as follows:

1. First, to pay debt service or to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued under s. 215.618; and pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to Everglades restoration bonds issued under s. 215.619;

2. Then, to pay the debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District, which are secured by revenues provided pursuant to former s. 373.59, Florida Statutes 2014, or which are necessary to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to such bonds. This paragraph expires July 1, 2016; and

3. Then, to distribute $32 million each fiscal year to the South Florida Water Management District for the Long-Term Plan as defined in s. 373.4592(2). This paragraph expires July 1, 2024.

[1] The documentary stamp tax is imposed on documents that transfer interest in Florida real property and certain types of debt. Documents subject to the tax include deeds, bonds, corporate shares, notes and written obligations to pay money, and mortgages, lines and other evidences of indebtedness. ss. ss. 201.02, 201.07 and 201.208, F.S.

The section further provides that any remaining moneys in the Land Acquisition Trust Fund that are not distributed as provided above may be appropriated from time to time for the purposes set forth in s. 28, Art. X of the State Constitution.

Comprehensive Everglades Restoration Plan

The Comprehensive Everglades Restoration Program (CERP) is a large, comprehensive, long-term 50-50 partnership with the federal government to restore the Everglades. The plan originally approved in the 2000 federal Water Resources Development Act includes more than 60 projects that will take more than 30 years to complete and will cost an estimated $13.5 billion.[2] The program works in conjunction with other state and federal efforts to revitalize wetlands, lakes, bays and estuaries across south Florida's ecosystem, for the purpose of improving the Everglades and ensuring the area's water supply can meet future needs. DEP and the South Florida Water Management District work in collaboration to review each program proposal, with DEP having final approval authority. Projects must receive DEP approval before being submitted to Congress or the Legislature for funding.

The Central Everglades Planning Project

The Central Everglades Planning Project (CEPP) is a suite of projects in the central Everglades intended to allow more water to be directed south to the central Everglades, Everglades National Park, and Florida Bay. On December 23, 2014, the U.S. Army Corps of Engineers Chief of Engineers submitted his Project Implementation Report for CEPP to the Secretary of the Army for transmission to Congress for congressional authorization. The proposed CEPP is comprised of increments of six components of CERP, including the Everglades Agricultural Area (EAA) Storage Reservoir - Phase I, which was conditionally authorized by Section 601 (b)(2)(C)(ii) of WRDA 2000. However, the reporting officers recommended new authorization consistent with Section 601 (d) of WRDA 2000 due to changes in scope and the inclusion of additional CERP components. The reporting officers recommended increments of the following six components of CERP to be integrated with the existing facilities of the C&SF system: Everglades Agricultural Area Storage Reservoirs (Component G); Water Conservation Area (WCA)-3 Decompartmentalization and Sheetflow Enhancement (Components AA and QQ); S-356 Pump Station Modifications (Component FF); L-31 N Improvements for Seepage Management (Component V); System-wide Operational Changes - Everglades Rain-Driven Operations (Component H); and Flow to Northwest and Central.WCA-3A (Component II).[3]

Long-Term Plan

Section 373.4592(2), F.S. references the "Long-Term Plan" relating to Everglades protection. The Long-Term Plan resulted from the 1994 Everglades Forever Act, which requires the SFWMD to submit a water quality plan to DEP. The Plan's overarching purpose is to ensure all water entering the Everglades Protection Area complies with state and federal water quality standards. The plan calls for enhancements to existing storm water treatment areas, expanded best management practices and integration with CERP projects.[4] In 2012, the DEP and the SFWMD, in consultation with U.S. Environmental Protection Agency, developed a technical plan to meet water quality standards, which includes additional stormwater treatment areas and storage reservoirs at a cost of $880 million over a 13-year period. A total of $500.7 million in funds will be provided by the South Florida Water Management District with the balance to be provided by the state. The 2013 Legislature appropriated $32 million on a recurring basis to support the implementation of the technical water quality plan.[5]

Northern Everglades and Estuaries Protection Program (NEEPP)

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[2] http://www.dep.state.fl.us/secretary/everglades/ (last visited 1/19/2015).
[3] U.S, Army Corps of Engineers CEPP Project Implementation Report, available at: http://www.saj.usace.army.mil/Portals/44/docs/Environmental/CEPP/CentralEverglades-Dec2014%20Chief's%20Report.pdf (last accessed 1/27/2016).
[4] South Florida Water Management District, available at: http://my.sfwmd.gov/portal/page/portal/xweb%20protecting%20and%20restoring/water%20quality%20stormwater%20treatment%20areas (last accessed 1/13/2016).
[5] http://edr.state.fl.us/Content/long-range-financial-outlook/3-Year-Plan_Fall-2015_1617-1819.pdf

The term "Northern Everglades" refers to the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.[6] The Northern Everglades and Estuaries Protection Program (NEEPP) promotes a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie River watersheds. It includes the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie Watershed Protection Program. The 2016 Legislature enacted legislation, chapter 2016-1, L.O.F., updating and restructuring NEEPP to reflect and build upon the DEP's completion of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary, and the Department of Agriculture and Consumer Services' (DACS) implementation of best management practices (BMPs).[7]

Springs Restoration, Protection and Management

Springs form when groundwater is forced out through natural openings in the ground. Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily in the Floridan aquifer, are used to determine groundwater quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer contribute to groundwater chemistry.

Excessive nutrient levels, particularly nitrate, are the primary water quality threat to springs.[8] High nitrate levels are a result of urban and agricultural stormwater runoff and leaching and inadequately treated wastewater.[9] Spring system water quality is regularly assessed to determine whether it is meeting Florida's standards. When a spring system is not meeting the standard, the system is formally identified as impaired. Under s. 403.067, Florida Statutes, DEP is required to adopt a total maximum daily load (TMDL). A TMDL is a scientific determination of the maximum amount of a given pollutant that surface water can absorb and still meet the water quality standards that protect human health and aquatic life.[10] To achieve a TMDL, DEP works with local stakeholders to adopt and implement comprehensive BMAPs.[11] BMAPs represent a comprehensive set of strategies, including permit limits on wastewater facilities, urban and agricultural best management practices, conservation programs, financial assistance and revenue generating activities, designed to implement the pollutant reductions established by the TMDL.[12]

Water quantity or spring flows are affected by drought and other long-term climate conditions and may be affected by excessive water withdrawals.[13]The water management districts (WMDs) or DEP are required to establish minimum flows and levels (MFLs) for surface and ground waters. The "minimum flow" is the limit at which further withdrawals form a watercourse would significantly harm water resources or ecology; the "minimum level" is the level of a groundwater or surface water body at which further withdrawals would significantly harm water resources.[14] If the flow or level is currently below, or within 20 years will fall below, an applicable MFL, the WMD is required to implement a recovery or prevention strategy.[15]

Best management practices (BMPs) are established to conserve water and minimize nutrient loss to the environment, particularly through fertilizer application and land and animal management.[16] In

[6] s. 373.4595(2)(l)
[7] Florida Senate Bill Analysis, CS/CS/SB 552
[8] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, p.2 (Nov. 2015).
[9] Id.
[10] DEP, *Total Maximum Daily Loads*, http://www.dep.state.fl.us/water/tmdl/index.htm (last visited March 14, 2016).
[11] Section 403.057, F.S.
[12] DEP, *Total Maximum Daily Loads*, http://www.dep.state.fl.us/water/tmdl/index.htm (last visited March 14, 2016).
[13] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, p.3 (Nov. 2015).
[14] Section 373.042, F.S.
[15] Section 373.0421, F.S.
[16] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, p.3 (Nov. 2015).

coordination with DEP, the WMDs, the Department of Agriculture and Consumer Services' Office of Agricultural Water Policy, and other stakeholders work to identify and prioritize restoration efforts in springs, including ways to manage more effectively water and nutrient applications in springs protection areas.[17]

Springs restoration, protection and management projects may be used to achieve TMDLs through a BMAP, address MFLs through a recovery or prevention strategy, or implement BMPs. Examples of such projects include investments to wastewater treatment facilities, water quality improvement projects, aquifer recharge projects, reclaimed water projects, purchase of conservation lands for water quality protection, stormwater improvement projects, water quality sampling or monitoring, meter implementation, or irrigation system efficiency upgrades.

Lake Apopka

Lake Apopka is the Florida's fourth largest lake. The St. Johns River Water Management District (SJRWMD) has worked to restore the lake. Ongoing projects to restore the lake include harvesting gizzard shad from the lake to remove phosphorous and nitrogen contained in fish bodies and the construction of the Lake Apopka Marsh Flow-Way, which is a 760-acre constructed wetland along the northwest shore of the lake. The wetland system removes phosphorous and suspended material already in the lake's water.[18]

Provisions of Bill

The bill amends s. 375.041, F.S. to provide for distribution of funds from the Land Acquisition Trust Fund. The bill retains the requirement that funds first be distributed to pay debt service or to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued under s. 215.618, F.S., and Everglades restoration bonds issued under s. 215.619, F.S.

Of the funds remaining after this debt service distribution, the Legislature will be required to appropriate a minimum of the lesser of 25 percent or $200 million for Everglades projects that implement:

1. the Comprehensive Everglades Restoration Plan (CERP) as set forth in s. 373.470, including the Central Everglades Planning Project subject to congressional authorization;
2. the Long-Term Plan as defined in s. 373.4592(2); and
3. the Northern Everglades and Estuaries Protection Program as set forth in s. 373.4595.

From these funds, $32 million will be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District for the Long-Term Plan. After deducting the $32 million, from the funds remaining, a minimum of the lesser of 76.5 percent or $100 million will be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering and construction of the CERP. The bill requires DEP and the SFWMD to give preference to projects that reduce harmful discharges from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

The bill requires an annual appropriation of a minimum of the lesser of 7.6 percent of the funds remaining in the LATF after the payment of debt service or $50 million through the 2025-2026 fiscal year for springs restoration, protection and management projects.

The bill also requires an annual appropriation of $5 million through the 2025-2026 fiscal year to the SJRWMD for projects dedicated to the restoration of Lake Apopka.

In addition, the bill provides an adjustment to the calculation of the distribution for the Everglades, springs restoration projects, and Lake Apopka restoration if debt service is paid on bonds issued after July 1, 2016, for the purposes provided in the bill.

[17] DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, Attachment 3 (Nov. 2015).
[18] St. Johns River Water Management District, *Lake Apopka Basin*, http://floridaswater.com/lakeapopka/ (last visited March 14, 2016).

Finally, the bill repeals the provision, which expires July 1, 2016, paying for the SFWMD's and the St. Johns River Water Management District's debt service on bonds issued before February 1, 2009.

The bill takes effect July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill specifies how the Land Acquisition Trust Fund would be distributed for Everglades restoration, springs restoration, protection and management projects, and Lake Apopka restoration projects. Based on the Revenue Estimating Conference for Documentary Stamp Tax Collection and Distributions adopted January 19, 2016, see the table below.

(in millions)

State Fiscal Year	33% LATF	Less Debt Service	Lesser of 25% or $200M Everglades	Long-Term Plan*	Lesser of 76.5% or $100M CERP*	Remaining Everglades Funds*	Lesser of 7.6% or $50M Springs	Lake Apopka
2016-17	$823.8	$171.3	$163.1	$32.0	$100.0	$31.1	$50.0	$5.0
2017-18	$879.6	$171.4	$177.1	$32.0	$100.0	$45.1	$50.0	$5.0
2018-19	$922.9	$171.5	$187.9	$32.0	$100.0	$55.9	$50.0	$5.0
2019-20	$957.4	$171.6	$196.4	$32.0	$100.0	$64.4	$50.0	$5.0
2020-21	$992.4	$171.6	$200.0	$32.0	$100.0	$68.0	$50.0	$5.0
2021-22	$1,026.1	$150.2	$200.0	$32.0	$100.0	$68.0	$50.0	$5.0
2022-23	$1,064.7	$139.3	$200.0	$32.0	$100.0	$68.0	$50.0	$5.0
2023-24	$1,105.6	$119.2	$200.0	$32.0	$100.0	$68.0	$50.0	$5.0
2024-25	$1.149.6	$119.2	$200.0		$100.0	$100.0	$50.0	$5.0
2025-26	$1,194.9	$93.8	$200.0		$100.0	$100.0	$50.0	$5.0

*The Long-Term Plan, CERP, and remaing Everglades funds are components of the 25 percent or $200 million Everglades distribution.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Conference Report on HB 5001 (General Appropriations Act) provides $32 million for the Long Term Plan, $100 million for the CERP, $70.1 million for northern Everglades and estuaries protection, $50 million for springs restoration, protection and management, and $5.1 million for Lake Apopka restoration.