STORAGE NAME: h1775.ep
DATE: April 1, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 1775

RELATING TO: Oversight and Accountability of the South Florida Water Management District

SPONSOR(S): Representative(s) Constantine; K. Pruitt; Laurent; Sembler; Bronson; and Rayson

STATUTE(S) AFFECTED: Section 338.26, F.S. and creates Section 11.80, F.S.

COMPANION BILL(S): SB 2416 (s) by Senator Hargrett

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) ENVIRONMENTAL PROTECTION
(2)
(3)
(4)
(5)

I. SUMMARY:

HB 1775 provides increased oversight and accountability of the South Florida Water Management District (district) in regard to implementation of the Everglades Forever Act. A joint legislative committee is created with specific oversight responsibility, requirements are imposed on the district to disclose information regarding plans to borrow or incur debt, and statutory guidance for administration of the Everglades Trust Fund is provided.

The fiscal impact of the bill is indeterminate, though it is not considered to be substantial. (See Fiscal Comments.)

The bill provides an effective date of July 1, 1997, except for Sections 2 and 5, which take effect July 1, 1998.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Background

The Everglades ecological system contributes to South Florida's water supply, flood control, and recreation. Although it is only 50 percent as large as it originally was, it is still considered by some to be one of the rarest places on earth in that it offers an incredible abundance and variety of marine, plant, and bird life. However, much of it is disappearing, along with most of its wildlife. In fact, estimates show that almost ninety percent of the wading-bird population within the Everglades has already vanished or been dislocated.

When South Florida was being settled, the first water management activities were directed to draining and diking the region to make it more suitable for development. In the 1940's, the Central and Southern Florida Flood Control and Other Purposes Project was initiated to build canals, levees, pump stations, and structures to provide water to coastal areas and to provide flood control and water storage in the agricultural and urban areas. This project designated 700,000 acres immediately south of Lake Okeechobee in the Everglades to become the Everglades Agricultural Area (EAA) and it retained 900,000 acres in five water conservation areas.

Over the years, management priorities of this system have shifted from a desire to drain and channelize the land to protecting and restoring the Everglades' natural resources. The challenge today is to strike a balance between the agricultural interests who have a desire to continue farming the lands and the environmental interests who seek to restore the remaining Everglades to its former beauty.

Stormwater runoff and natural drainage from the EAA flows south through three water conservation areas owned by the SFWMD before it enters Everglades National Park. Water discharged from the EAA is enriched with nutrients from two sources: 1) the oxidation of natural concentrations of phosphorus, nitrogen and other elements existing naturally in the soil, and 2) applied fertilizers. These additional nutrients are changing the Everglades environment. Because the plants and animals native to the Everglades depend on extremely low nutrient levels, the introduction of additional nutrients allows faster growing, non-native plants to displace the slow-growing native community. Increased nutrient levels also cause an increase in plant density, a lowering of dissolved oxygen, and changes in the value of the environment as shelter and feeding habitat for native animals. Concentrations of algae are evident in many areas, and cattails and exotic species are multiplying and dominating sections of the Everglades system. Recent data indicate cattails have taken over more than 20,000 acres of sawgrass prairies and marshes in the Everglades ecosystem, while melaleuca has displaced native plants in 500,000 acres.

Responding to the problems occurring in the Everglades, the "Save Our Everglades" program was launched in 1983. This program recognized that an entire ecosystem needed to be restored, not just small parts of it. The program set a goal that by the year 2000, the Everglades would look and function more like it did in 1900 than in 1983. Since then many programs have been established to restore the Kissimmee River and to protect Lake Okeechobee, the Water Conservation Areas, Everglades National Park,

and the Big Cypress Swamp. Some 326,000 acres of land have been acquired for protection under public ownership.

In 1988, the United States sued Florida for not enforcing water quality standards for agricultural runoff water entering the Arthur R. Marshall Loxahatchee National Wildlife Refuge and the Everglades National Park. By 1992, the federal court approved a proposed settlement of the lawsuit. This settlement was not self-executing and required a number of actions to be taken to reduce phosphorus pollution, to develop a regulatory program for the EAA, and to develop a water quality monitoring program. Meanwhile, other suits had been filed against the district, the state, federal agencies and other parties challenging various actions.

The 1990 Legislature enacted the Everglades Protection Act (chapter 91-80, Laws of Florida, which was originally named the Marjory Stoneman Douglas Everglades Protection Act, but her name was later removed at her request), which required the district to adopt an Everglades Surface Water Improvement Management (SWIM) plan and contained other provisions designed to give the SFWMD tools to further protect the Everglades. The SWIM plan included the construction of four stormwater treatment areas to reduce nutrient load discharges to the Everglades Protection Area from the EAA, together with the implementation of Best Management Practices in the EAA to reduce phosphorus loads carried in agricultural drainage waters. A SWIM plan was adopted after considerable debate regarding the best way to reduce polluted runoff into the Everglades.

A technical group was convened to negotiate and mediate issues surrounding the SWIM plan in an attempt to settle related litigation. The discussions of the Technical Mediation Group culminated in a conceptual design document dated February 15, 1994.

In July 1993, an agreement (the “Statement of Principles”) intended to end pollution of the Everglades and to begin restoration efforts was reached between the U.S. Department of the Interior, the U.S. Justice Department, the state, and sugar industry leaders. The Statement of Principles allocated costs among the state, the sugar industry, and the federal government.

The 1994 Legislature passed the “Everglades Forever Act” (Chapter 94-115, Laws of Florida). The Act, incorporating both the Statement of Principles and the conceptual design document of February 15, 1994, provided for restoration of the Everglades through implementation of the Everglades Construction Project. The project, combined with research and regulation, is intended to improve water quality, water quantity, and hydroperiod, and prevent the spread of exotic species in the ecosystem. The state’s overall restoration and cleanup effort described in the Act is known as the “Everglades Program.”

Issues

The Everglades Construction Project has reached a critical stage. Project expenditures for FY 97 and FY 98 are estimated to be $265 million. The South Florida Water Management District is facing both increases in project costs as well as revenue shortfalls that make short-term borrowing necessary to maintain the construction schedule. Substantial concerns regarding the financial status of the project have arisen, in large part due to various

estimates of costs and revenues that the District has made since January 1996.

In response to a January 1996 legislative inquiry, the District reported "Total Construction Project Costs" of $690 million for the entire 20 years of the project (1994-2014), only a $5 million increase over the District's 1993 estimate. For the construction period (1994-2005), the District estimated $625 million in revenues and $614 million in costs, producing an $11 million surplus at the end of the construction period.

In September 1996, when estimates of projected expenses and revenues were updated, indications emerged that the project was facing both cost increases and a decline in revenues. Estimated total costs for the 20-year project had risen to $718 million, or an increase of $28 million over the January 1996 estimate. Estimated project costs for the construction period had risen to approximately $652 million and the revenue estimate had declined to $596 million, producing a $56 million deficit at the end of the construction period. Included in the $56 million projected deficit was $11 million in interest expense that would result for short-term financing necessary to keep construction on schedule.

On February 20, 1997, the District distributed to Governing Board members a draft *Everglades Cost Allocation Report* that projected 20-year total project costs of $844 million, or an increase of $126 million over the September 1996 estimate. This increase was driven largely by inclusion of $81 million in interest expense that would result from short-term financing to keep the project on schedule. Estimated project costs for the construction period increased to $699 million and estimated revenues declined slightly to $594 million, producing a $105 million deficit at the end of the construction period. Included in the $105 million projected deficit was $30 million in interest expense that would result for short-term financing necessary to keep construction on schedule.

On March 5, 1997, in testimony before the House Water and Resource Management Committee, the District spoke only to the non-federal components of the construction project and indicated that the projected cost of the components of the Everglades Construction Project for which the District is responsible had increased by $73 million as compared to the original 1994 estimate. The District also testified to a $40 million revenue shortfall in the period 1996 to 1998, but did not indicate if that revenue shortfall would continue through the end of the construction period.

In testimony to the Senate Natural Resources Committee on March 25, 1997, the District indicated that the projected cost of the non-federal components of the construction project is $47 million more than the original 1994 estimate, and revenues $18 million less. The District is now projecting a $80 million shortfall in cash flow at the end of FY 1998, which will make short-term financing necessary to maintain the construction schedule. By the end of construction in 2005 that shortfall is currently projected to be $29 million.

B. EFFECT OF PROPOSED CHANGES:

HB 1775 provides increased oversight and accountability of the South Florida Water Management District in fulfilling its responsibility to implement the Everglades Construction Project and other Everglades Program activities. The bill increases legislative oversight by creation of a Joint Legislative Committee on Everglades Oversight. It enhances financial accountability by requiring the district to disclose certain information when it proposes to incur debt and by requiring that certain funds be deposited in the Everglades Trust Fund to be used solely for implementation of the Everglades Forever Act.

The Joint Legislative Committee on Everglades Oversight would consist of six members, three appointed by the President of the Senate and three appointed by the Speaker of the House of Representatives. It would be authorized to monitor all funding and expenditures, agreements, schedules of projects, land acquisitions, plans for acquisition, permits, and permit modifications associated with implementation of the Everglades Forever Act. At its discretion, the Committee could assign committee staff to onsite monitoring of the District's activities and operations related to the Everglades Construction Project. The district would be required to provide the committee notice of any plan or plan modification for implementation the Everglades Forever Act, or of any associated permit, permit modification, agreement, agreement modification, land acquisition, or land acquisition plan to which the district is a party. Such notice would be required 14 days prior to the district taking any such action and would include a justification for the proposed action as well as an estimate of the action's effect on program costs. Within 14 days of receiving such notice, the chair and vice chair of the Committee would respond in writing, stating whether the action exceeds authority delegated to the district for implementing the Everglades Forever Act or is inconsistent with the original intent of the Act. Any action delaying implementation of the Everglades Construction Project is presumed to be inconsistent with the Act. The chair shall report all such correspondence to the presiding officers of each house of the Legislature.

The bill would require the district to disclose any plans to borrow or otherwise finance with debt any fixed capital outlay projects or operating capital outlay requests, by developing the following documents:

- A summary of outstanding debt, including borrowing;
- A statement of proposed financing, including the purpose, source of repayment, principal amount, and interest rate of the debt or obligation; and
- A truth-in-borrowing statement, to be developed in a prescribed format and published as a notice in one or more newspapers having a combined general circulation in the counties having land in the district.

The bill provides legislative findings and intent related to administration of the Everglades Trust Fund, including a specific finding that implementation of the Everglades Forever Act is conservation and protection of natural resources and abatement of water pollution in the Everglades Protection area and the Everglades Agricultural Area. The Comptroller is directed to authorize expenditures from the trust fund upon receipt of any voucher approved by the district. Funds are specified for deposit in the trust fund, including certain Alligator Alley toll revenues, Everglades agricultural privilege tax revenues, federal funds designated for Everglades restoration, Preservation 2000 funds for land acquisition associated with Everglades restoration, additional funds specifically appropriated by the Legislature, and gifts. The district is required to provide an annual report to the Legislature and to make available on a quarterly basis the record of expenditures from the Everglades Trust Fund. These provisions related to administration of the Everglades Trust Fund would not take effect until July 1, 1998.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

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

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

No.

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

The bill requires increased reporting and financial accountability on the part of the district to aid the Legislature in its oversight of the implementation of the Everglades Forever Act.

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

No.

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?

Not applicable.

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

Not applicable.

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

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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

Not applicable.

4. Individual Freedom:

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

      No.

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

      No.

5. Family Empowerment:

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

      (1) Who evaluates the family's needs?

          Not applicable.

      (2) Who makes the decisions?

          Not applicable.

      (3) Are private alternatives permitted?

          Not applicable.

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

          Not applicable.

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

          Not applicable.

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

      no.

   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?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1: Creates s. 1180, F.S., to provide for a Joint Legislative Committee on Everglades Oversight; and require the South Florida Water Management District to provide notice to the Committee of certain actions related to implementation of the Everglades Forever Act.

Section 2: Amends s. 338.26, F.S., to provide for deposit of specified funds generated by Alligator Alley tolls in the Everglades Trust Fund. The section shall take effect July 1, 1998.

Section 3: Requires the South Florida Water Management District to provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a report that details any differences between the Everglades Program and any permit issued pursuant to s. 404 of the Clean Water Act , 33 U.S.C. s. 1344, for completion of the Everglades Construction Project, within 60 days of receiving such permit.

Section 4: Requires the South Florida Water Management District to disclose specified information whenever it proposes to borrow or otherwise finance with debt any fixed capital outlay projects or operating capital outlay requests.

Section 5: Provides for the administration of the Everglades Trust Fund. The section shall take effect July 1, 1998.

Section 6: Provides that except as otherwise provided in the act, the act shall take effect July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   Indeterminate. (See Fiscal Comments below.)

2. Recurring Effects:

   Indeterminate. (See Fiscal Comments below.)

3. Long Run Effects Other Than Normal Growth:

   Indeterminate. (See Fiscal Comments below.)

4. Total Revenues and Expenditures:

   Indeterminate. (See Fiscal Comments below.)

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.

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

   None.

D. FISCAL COMMENTS:

The primary fiscal impact of the bill is related to the staffing and associated travel for the Joint Legislative Committee on Everglades Oversight. The impact is indeterminate since the staffing and travel needs will be determined by the nature and scope of the committee's work. However, it should be noted that staffing and travel are anticipated to be provided for by reallocating

existing legislative resources. A minor impact on the South Florida Water Management District could be expected to result from the noticing and reporting requirements created by the bill.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues.

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

The bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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