

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 101 w/CS Florida Keys & Key West Areas TF
SPONSOR(S): Sorenson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1336

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Lands & Water Resources (Sub)	(W/D)	McKinnon	Lotspeich
2) Natural Resources	17 Y, 0 N w/CS	McKinnon	Lotspeich
3) Local Affairs (Sub)			
4) Local Government & Veterans' Affairs			
5) Transportation & Econ. Dev. App. (Sub)			
6) Appropriations			

SUMMARY ANALYSIS

HB 101 creates the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund (Trust Fund) to be administered by the Department of Community Affairs. The purpose of the Trust Fund is to fund wastewater and stormwater management construction projects in the Florida Keys and Key West Areas of Critical State Concern .

Because the purpose of HB 101 is to simply create the Trust Fund, there is no fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Areas of Critical State Concern

The Areas of Critical State Concern (ACSC) program protects areas of the state where unsuitable land development would endanger resources of regional or statewide significance and ensures orderly and well-planned growth of the area by regulating its development. The Governor and Cabinet, sitting as the Administration Commission, designate ACSCs upon the recommendation of the Department of Community Affairs (DCA). Designation may be made for areas with significant environmental resources, historical resources or sites, or areas affected by an existing or proposed major public facility. ACSCs have been established in the Florida Keys and the City of Key West, the Green Swamp, the Big Cypress Swamp, and the City of Apalachicola (Apalachicola Bay).

Florida Keys Area of Critical State Concern

Section 380.0552, F.S., governs the administration of the Florida Keys Area of Critical State Concern. The boundaries of this ACSC include all lands in Monroe County, except:

- the portion of Monroe County included within the designated exterior boundaries of the Everglades National Park and areas north of the park;
- all lands more than 250 feet seaward of the mean high water line owned by local, state, or federal governments;
- federal properties; and
- the area within the incorporated boundaries of the City of Key West.

State, regional, and local agencies and units of government in the Florida Keys ACSC are required to coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as set forth in s. 380.0552(7), F.S., which include, in part:

- To protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat;
- To limit the adverse impacts of development on the quality of water throughout the Florida Keys;
- To limit the adverse impacts of public investments on the environmental resources of the Florida Keys; and
- To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

Key West Area of Critical State Concern

Chapter 28-36, F.A.C., designates the City of Key West as an Area of Critical State Concern and provides guiding principles for the development within this area. These guiding principles include the conservation and protection of the natural, environmental, historical and economic resources, the scenic beauty, and the public facilities within the ACSC.

Ch. 99-395, L.O.F.

Section 6 of ch. 99-395, L.O.F., establishes uniform sewage treatment and disposal standards for systems permitted either by Department of Environmental Protection (DEP) or Department of Health in the Florida Keys. This section provided for stronger minimum treatment standards for phosphorus removal than the then current onsite sewage treatment and disposal systems (OSTDS) requirements, and the overall OSTDS treatment levels were relaxed from advanced waste treatment requirements in the then current statutes. Treatment standards for DEP-permitted systems were strengthened by eliminating all surface water discharges by the year 2006. Finally, this section required the upgrading of all systems to meet the enhanced sewage treatment requirements specified in the act by the year 2010.

Water Pollution Control Loans

Section 403.1835, F.S., establishes a self-perpetuating loan program to accelerate the implementation of water pollution control projects. Projects that may be funded are those eligible under s. 603 of the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as amended. Activities that may be funded include, but are not limited to, planning, design, construction, and implementation of wastewater management systems, storm-water management systems, non-point source pollution management systems, and estuary conservation and management.

Effect of Proposed Situation

HB 101 creates the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund (Trust Fund). The Trust Fund would be credited with state appropriations made by law, and with funds from state and federal grants. The funds in the Trust Fund will be awarded for the construction of waste water facilities and stormwater projects. At the end of any fiscal year, any balance remaining in the Trust Fund is to be available for carrying out the Trust Fund's purpose. Unless terminated sooner, the Trust Fund will terminate on July 1, 2006. Prior to its termination, the Trust Fund shall be reviewed as provided in s. 215.3206, F.S.

The bill also provides criteria relating to the administration of the funds by the Department of Community Affairs, and it gives the Department rule-making authority for administering the provisions of the Trust Fund.

C. SECTION DIRECTORY:

Section 1: Creates section 403.185, F.S., providing for the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund.

Section 2: 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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. The bill simply creates the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Pursuant to Article III, Section 19(f), Florida Constitution, no trust fund of the State of Florida or any public body may be created by law without a three-fifths vote of the membership of each house of the Legislature. Additionally, the bill creating the trust fund must be separate from any related substantive bill.

B. RULE-MAKING AUTHORITY:

Gives the Department of Community Affairs rule-making authority for administering the provisions of the Trust Fund.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 26, 2003, the House Natural Resources Committee adopted a committee substitute that provides for technical conforming amendments.