

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1141 CS Greenways and Trails
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 774

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee	7 Y, 0 N, w/CS	Perkins	Kliner
2) Transportation Committee		St.Fleur	Miller
3) Agriculture & Environment Appropriations Committee			
4) State Resources Council			
5) _____			

SUMMARY ANALYSIS

In 1979, the Legislature enacted the Florida Greenways and Trails Act setting forth the State's goal of developing a statewide system of greenways and trails for recreational and conservation purposes.

This bill, in part:

- Amends statutory language related to the Recreational Trail system and encourages state, regional, and local agencies to give enhanced consideration for acquisitions to any parcel to assist in establishing the Florida National Scenic Trail.
- Amends term limits for members of the Florida Greenways and Trails Council and the duties of the council are changed to more accurately reflect their activities.
- Establishes The Conserve by Bicycle Program within the Department of Transportation and provides for a Conserve by Bicycling study to be performed to show the value of bicycle use facilities in saving transportation costs.
- Creates the Florida Circumnavigation Saltwater Paddling Trail as part of the Florida Greenways and Trails System and identifies segments associated with the trail.
- Creates statutory language to encourage the operation of the nonprofit corporation, Florida Mining-Recreation, Inc., for the purpose of working with industry, government, and private land owners to create plans and assist in the development of recreational opportunities on mined lands in the state.
- Amends section 378.036(6), F.S., removing provisions relating to recreational opportunities on mined lands.
- Directs water management districts and the Florida Communities Trust to include the Florida National Scenic Trail in its program components.

The bill does not appear to have a significant fiscal impact on state or local governments.

The bill has an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill establishes legislative intent to encourage all state agencies and local agencies to assist various public and private entities in securing public access to linear corridors that are suitable for trails.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 260, F.S., is entitled as the Recreational Trails System. In 1979, the Legislature enacted the Florida Greenways and Trails Act setting forth the State's goal of developing a statewide system of greenways and trails for recreational and conservation purposes.¹ The establishment of these greenways and trails serves to implement the concepts of ecosystem management while providing recreational opportunities to include, but not be limited to, horseback riding, hiking, bicycling, canoeing, jogging, and historical and archaeological interpretation. Counties, cities, and special districts are encouraged to participate in the development of greenways and trails.²

In 1983, the Florida National Scenic Trail ("FNST") was added to the national trails system created by the National Trails System Act, and the U.S. Secretary of Agriculture and the Secretary of the Interior were authorized to administer those segments of the trail located in national forests and national parks. Although portions of the FNST are administered by the federal government, land over which the trail passes may be publicly or privately held.³ To date, the Florida Trails Association, a private, volunteer-based organization, has been primarily responsible for the development and maintenance of the FNST, in cooperation with the U.S. Forestry Service and many public land managers whose land the FNST crosses.

Upon completion, the FNST will extend 1,300 miles from Big Cypress National Preserve in South Florida through Florida's three national forests to Gulf Islands National Seashore in the western panhandle, crossing or touching 42 of Florida's 67 counties.⁴

It is the intent that designated greenways and trails be located on public lands and waterways and be subject to the written agreement of the private land owner, when located on private lands. Designated greenways and trails located on public lands or waterways or on private lands may or may not provide public access, as agreed by the Department of Environmental Protection (DEP) or the landowner.⁵ Section 260.013(3), F.S. defines "Designation" to mean the identification and inclusion of specific lands and waterways as part of the statewide system of greenways and trails pursuant to a formal public process, including the specific written consent of the landowner. When the department determines that public access is appropriate for greenways and trails, written authorization must be granted by the landowner to the department permitting public access to all or a specified part of the landowner's property. The department's determination shall be noticed pursuant to section 120.525, F.S., and the department shall also notify the landowner by certified mail at least 7 days before any public meeting regarding the intent to designate.

¹ Ch. 260, F.S.

² s. 260.012(1) and (2), F.S.

³ <http://www.fs.fed.us/recreation/programs/trails/index.shtml>

⁴ <http://www.fs.fed.us/recreation/programs/trails/index.shtml>

⁵ s. 260.012(3), F.S.

Section 260.0141, F.S., establishes the Florida Greenways and Trails Program within the DEP to facilitate the establishment of the statewide system of greenways and trails, and provides that such greenways and trails be acquired pursuant to the Act.

Section 260.0142, F.S., creates the Florida Greenways and Trails Council within the DEP. The purpose of the Council is to advise the DEP in the execution of its duties with respect to the establishment of greenways and trails pursuant to the Act. The Council is composed of 21 members as follows:

FLORIDA GREENWAYS & TRAILS COUNCIL (21 MEMBERS)	TERM LIMITS
Five members appointed by the Governor. <ul style="list-style-type: none"> • Two members representing the trail user community.* • Two members representing the greenway user community.* • One member representing private landowners. 	Initial appointments: <ul style="list-style-type: none"> • Two members for 2 year terms • Three members for 1 year terms <i>Note: Subsequent appointments for 2-year terms.</i>
Three members appointed by the President of the Senate. <ul style="list-style-type: none"> • One member representing the trail user community.* • Two members representing the greenway user community.* 	Initial appointments: <ul style="list-style-type: none"> • Two members for 2-year terms • One member for 1-year term. <i>Note: Subsequent appointments for 2-year terms.</i>
Three members appointed by the Speaker of the House of Representatives. <ul style="list-style-type: none"> • Two members representing the trail user community.* • One member representing the greenway user community.* 	Initial appointments: <ul style="list-style-type: none"> • Two members for 2-year terms • One member for 1-year term. <i>Note: Subsequent appointments for 2-year terms.</i>
Secretary of DEP or a designee.	Until Replaced
Executive Director of the Fish & Wildlife Conservation Commission or a designee.	Until Replaced
Secretary of Department of Community Affairs or a designee.	Until Replaced
Secretary of Department of Transportation or a designee.	Until Replaced
Director of the Division of Forestry of the Department of Agriculture and Consumer Services or a designee.	Until Replaced
Director of Historical Resources of the Department of State or a designee.	Until Replaced
Representative of the water management districts.	1- year term.
Representative of a federal land management agency.	Until Replaced
Representative of the regional planning councils.	Single 2-year term
Representative of local governments	Single 2-year term.

Those eligible to represent the trail user community on the Council will be chosen from paved trail users, hikers, off-road bicyclists, paddlers, equestrians, disabled outdoor recreational users, and commercial recreational interests. Those eligible to represent the greenway user community on the Council will be chosen from conservation organizations, nature study organizations, and scientists and university experts.

The Council is authorized to contract for and to accept gifts, grants, or other aid from the U.S. Government or any person or corporation. The Council's primary duties include recommending

priorities for critical links in the Florida Greenways and Trails System, reviewing and recommending applications for acquisition under the Florida Greenways and Trails Program, providing funding recommendations and promotion of private landowner incentives, and recommending projects to be acquired. Currently no member may serve on the Council for more than two consecutive terms.⁶

All projects are acquired in accordance with the acquisition procedures established under chapter 259, F.S., except that the DEP may use the appraisal procedure used by the Department of Transportation to acquire transportation rights-of-way. When a parcel of land is valued at \$100,000 or less and the DEP finds that the costs of obtaining an outside appraisal are not justified, an appraisal prepared by the DEP may be utilized.

Section 260.016, F.S., establishes the general powers of the DEP as it relates to greenways and trails access routes and evaluation criteria for acquisition of lands. One power allows the DEP to publish and distribute maps of designated greenways and trails. The generalized map focuses on the area designated, location of public access sites and other points of interest to enhance the recreational opportunities of the public. Another power allows DEP from time to time to provide additions to the statewide saltwater circumnavigation trail. The DEP is also responsible for establishing access routes and related public use of the facilities along greenways and trails which will not interfere with the nature and purpose of the greenway or trail.

The Big Bend Historic Saltwater Paddling Trail from the St. Marks River to Yankeetown is designated as part of the Florida Greenways and Trails System. Additions to the trail may be added by DEP from time to time as part of a statewide saltwater circumnavigation trail.

To further enhance the development of greenways and trails, section 378.036(6), F.S. as amended by chapter 2003-423, Laws of Florida, authorizes the Florida Wildlife Federation, Audubon, Florida, and Rails-to-Trails Conservancy in partnership with the Florida Phosphate Council to form a nonprofit corporation for the purpose of assisting in the development of recreational opportunities on lands mined for phosphate in the state. Section 380.507, F.S., authorizes the Florida Communities Trust to provide public access or public facilities in local communities to protect the natural environment.

Effect of Proposed Changes

- The bill renames chapter 260, F.S., to be entitled the “Florida Greenways and Trails Act” to more accurately reflect the function of the program, and amends section 260.011, F.S., to be known by the “popular name” (Florida Greenways and Trails Act).
- Section 260.012, F.S., is amended to broaden the legislative intent of greenways and trails activities to include equestrian activities previously limited to horseback riding. The bill adds nongovernmental organizations to counties, cities, and special districts who are encouraged to promote the development of greenways and trails. The bill expands legislative intent to recognize the FNST as Florida’s official statewide nonmotorized trail from the Florida Panhandle to the Everglades and the Florida Keys, an approximate length of more than 1,400 miles to include the following:
 - The Legislature recognizes the major contributions made in furtherance of the establishment of the FNST by the U.S. Government, including funding and the efforts of private landowners, state government, and not-for-profit organizations such as the Florida Trail Association.
 - The Legislature recognizes 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.

⁶ s. 260.0142(6), F.S.

- To encourage all state, regional, and local agencies who acquire lands to include in their land-buying efforts the acquisition of sufficient legal interest in lands over which the trail passes to ensure its continued existence in a permanent location.
 - Officially recognize the route of the trail for establishment and acquisition purposes as determined by the U.S.D.A. Forest Service assisted by the Florida Trail Association in their publication entitled “Preferred Routing for the FNST.”
 - Encourage state public land-buying agencies to consider the trail a single project with multiple phases for the purpose of listing and acquisition with the assistance of the Florida Trail Association and the Office of Greenways and Trails.
 - Give positive consideration to the inclusion of private funds to supplement the state’s contribution in its efforts to acquire fee or less-than-fee interests in lands that contain portions of the trail.
 - 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 that are responsible for economic and ecotourism development to recognize the importance of the trail in bringing nature-based tourism to many local communities along the trail route and to support acquisition and development activities for completion of the trail in a permanent location in their communities.
- The bill provides for technical definition changes in section 260.013, F.S., and defines “Office “to mean specifically the Office of Greenways and Trails of the DEP.
 - Section 260.0141, F.S., is amended to delete provisions requiring that greenways and trails must be acquired pursuant to chapter 260, F.S., and allows the acquisitions of greenways and trails under the state’s land acquisition programs created in chapters 259 and 380, F.S.
 - Section 260.0142, F.S., is amended to limit member term limits for all appointees of the Florida Greenways and Trail Council to 2 years unless otherwise specified. The bill inserts a provision that allows off-highway-vehicles users a seat on the Greenways and Trail Council. The appointees of the Governor, the President of the Senate, and the Speaker of the House of Representatives may be appointed for no more than four consecutive terms. The 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 that members of the council may not receive any compensation for their services but are entitled to receive reimbursement for per diem and travel incurred in the performance of their duties. The duties of the council are amended to more accurately reflect their activities.
 - Section 260.015, F.S., is amended to delete obsolete language regarding appraisals that are covered in other sections of the statute.
 - The bill amends section 260.016, F.S., regarding the general powers of DEP. DEP is directed to take into consideration when providing public access and public recreation on greenway and trails to avoid unnecessary impact upon sensitive environments such as wetlands or animal habitats, wherever encountered. DEP is required to consider opportunity maps and landowner’s willingness to negotiate as part of the evaluation component for the acquisition of greenways and trails. The bill authorizes the Legislature authority to provide additions to the Florida Circumnavigation Saltwater Paddling Trail created in section 260.19, F.S.
 - Section 260.019, F.S., creates the Florida Circumnavigation Saltwater Paddling Trail as part of the Florida Greenways and Trails Program. The bill provides:
 - DEP to establish the initial starting points, by latitude and longitude, of the paddling trail segments within 180 days after the effective date of the act.

- The Florida Circumnavigation Saltwater Paddling Trail to be composed of 26 segments that start at the Florida-Alabama border on the west and end at the Florida-Georgia border on the east.
 - DEP to have the exclusive authority to officially name and locate 25 of the trail segments with the exception of the Big Bend Saltwater Paddling Trail.
 - DEP to name and locate the segments based on logical geographical boundaries, safety to trail users, ease of management, desires of local communities and user groups, and other factors that assist in the overall success of the trail system.
 - DEP to adjust the location of any trail segment; give official recognition to specific sites along the trail route; publish official trail guides and literature in cooperation with other governmental and private entities; and resolve conflicts that may arise between competing and conflicting parties over trail issues.
 - The Florida Greenways and Trails Council may advise DEP on all matters relating to the paddling trail.
 - By January 1, 2008, DEP is to prepare and provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a report setting forth the names and locations adopted for each trail segment.
- The bill creates section 260.021, F.S., to provide provisions related to recreational opportunities on mined lands. The Florida Wildlife Federation, Audubon Florida, and Rails-to-Trails Conservancy, in partnership with the phosphate industry and other mining companies, are encouraged to continue the operation of the nonprofit corporation, Florida Mining-Recreation, Inc., for the purpose of working with industry, government, and private land owners to create plans and assist in the development of recreational opportunities on mined lands in the state. The bill provides guidelines for the establishment of the board of directors for the Florida Mining-Recreation, Inc., and provides the Florida Mining-Recreation, Inc., may be eligible for funding from public and private sources that support its purpose.
- The bill creates section 335.067, F.S., which establishes within the DOT the Conserve by Bicycle Program. The purpose of the Conserve by Bicycle Program includes the following:
- To save energy by increasing the number of miles ridden on bicycles reducing the usage of petroleum-based fuels.
 - To increase efficiency of cycling as a transportation mode by improving interconnectivity.
 - To reduce traffic congestion on existing roads.
 - To provide recreational opportunities for the public.
 - To provide healthy alternatives which should help reduce obesity and reduce long-term health costs.
 - To provide a safe way for children to travel to schools by supporting the Safe Paths to Schools Program.

The bill provides for the DOT to conduct a Conserve by Bicycling study with the assistance of the State Pedestrian/Bicycle Coordinator, metropolitan planning organizations, the Office of Greenways and Trails of DEP, and the Department of Health. The study is to be completed by July 1, 2007, pending sufficient funds in the DOT budget and submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of DOT, the Secretary of DEP, and Secretary of Health . The study is to develop measurable results and to help create standards that will show the value of bicycle use in saving transportation costs.

- The bill amends section 373.199, F.S., to include the requirement that information about the Florida National Scenic Trail be included in water management district work plans.
- The bill amends section 378.036(6), F.S., removing provisions relating to recreational opportunities on mined lands.

- Section 380.507, F.S., is amended to authorize the Florida Communities Trust to provide public access to or public recreational facilities on the Florida National Scenic Trail.
- The bill provides for a technical amendment to section 110.501, F.S., relating to a statute cite.

C. SECTION DIRECTORY:

- Section 1. Provides that ch. 260, F.S., is renamed “Florida Greenways and Trails Act.”
- Section 2. Amends s. 260.011, F.S., to provide technical change for clarification.
- Section 3. Amends s. 260.012, F.S., to provide technical changes to legislative intent 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. Amends s. 260.013, F.S., relating to definitions.
- Section 5. Amends s. 260.0141, F.S., to provide technical change for clarification.
- Section 6. Amends s. 260.0142, F.S., relating to the term limits and duties associated with members of the Florida Greenways and Trails Council. Revises the trail user community representative definition to include users of off-highway vehicles.
- Section 7. Amends s. 260.015, F.S., to provide technical change for clarification and appraisal requirements.
- Section 8. Amends s.260.016, F.S., to provide technical change for clarification; provides greenway and trails public access/recreation components to avoid unnecessary impact upon sensitive environments; DEP is required to consider opportunity maps and landowner’s willingness to negotiate as part of the evaluation component for the acquisition of greenways and trails; and provides the Legislature authority to provide additions to the Florida Circumnavigation Saltwater Paddling Trail.
- Section 9. Creates s. 260.019, F.S., to create the Florida Circumnavigation Saltwater Paddling Trail as part of the Florida Greenways and Trails System and identifies segments associated with the trail.
- Section 10. Creates section 260.021, F.S., relating to recreational opportunities on mined lands
- Section 11. Creates s. 335.067, F.S., relating to the creation of the Conserve by Bicycle Program and the provisions associated with the program.
- Section 12. Amends s. 373.199(4)(k), F.S., relating to the Florida Forever Water Management District Work Plan to include the identification of public access within the Florida National Scenic Trail.
- Section 13. Amends s. 378.036(6), F.S., removing provisions relating to recreational opportunities on mined lands.
- Section 14. Amends 380.507(4), F.S., to provide a technical change to include the Florida National Scenic Trail.
- Section 15. Amends section 110.501(1), F.S., to provide technical change for clarification.
- Section 16. Provides the act will take effect upon becoming 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: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

After the 2004 Legislative Session, legislation (CS/CS/SB 2804) similar to this bill was vetoed by the Governor primarily as a result of the manner in which funds were proposed to be appropriated to the Florida Mining-Recreation, Inc. This bill does not contain specific appropriation language related to the Florida Mining-Recreation, Inc.; however, the bill provides that the Florida Mining-Recreation, Inc. may be eligible for funding from public and private sources that support its purposes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 30, 2005, the Environmental Regulation Committee favorable adopted a "Strike All" amendment to HB 1141. This analysis has been revised to reflect this amendment.