

House Bill No. 813

An act relating to environmental protection; amending s. 201.15, F.S.; providing for distribution of proceeds from excise taxes on documents to pay debt service on Everglades restoration bonds; creating s. 215.619, F.S.; authorizing the issuance of Everglades restoration bonds to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan; providing procedures and limitations; providing for deposit of funds in the Save Our Everglades Trust Fund; amending s. 259.105, F.S.; specifying time period for transfer of certain Florida Forever Act funds into the Save Our Everglades Trust Fund; specifying use of funds; amending ss. 373.470 and 373.472, F.S.; authorizing the payment of debt service on Everglades restoration bonds from the Save Our Everglades Trust Fund; revising requirements for deposit of state and water management district funds into the Save Our Everglades Trust Fund; providing legislative intent that the issuance of Everglades restoration bonds is in the best interest of the state; amending s. 373.1502, F.S.; providing that certain project components shall be exempt from permit requirements; specifying land procurement procedures; amending s. 373.114, F.S.; providing that certain water management district orders and rules are not subject to specified review; amending s. 403.412, F.S., the "Environmental Protection Act of 1971"; revising requirements for initiating specified proceedings under that act; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1), paragraph (a) of subsection (2), and subsections (11) and (12) of section 201.15, Florida Statutes, are amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Amounts as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Preservation 2000 bonds issued pursuant to s. 375.051 and Florida Forever bonds issued pursuant to s. 215.618, shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund for such purposes shall not exceed \$300 million in fiscal year 1999-2000 and

thereafter for Preservation 2000 bonds and bonds issued to refund Preservation 2000 bonds, and \$300 million in fiscal year 2000-2001 and thereafter for Florida Forever bonds. The annual amount transferred to the Land Acquisition Trust Fund for Florida Forever bonds shall not exceed \$30 million in the first fiscal year in which bonds are issued. The limitation on the amount transferred shall be increased by an additional \$30 million in each subsequent fiscal year, but shall not exceed a total of \$300 million in any fiscal year for all bonds issued. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2030. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act. For purposes of refunding Preservation 2000 bonds, amounts designated within this section for Preservation 2000 and Florida Forever bonds may be transferred between the two programs to the extent provided for in the documents authorizing the issuance of the bonds. The Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed under this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the Save Our Everglades Trust Fund in amounts necessary to pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to bonds issued under s. 215.619.

~~(c)~~(b) The remainder of the moneys distributed under this subsection, after the required ~~payments~~ payment under ~~paragraphs~~ paragraph (a) and (b), shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund and may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used. Payments made under this paragraph shall continue until the cumulative amount credited to the Land Acquisition Trust Fund for the fiscal year under this paragraph and paragraph (2)(b) equals 70 percent of the current official forecast for distributions of taxes collected under this chapter pursuant to subsection (2). As used in this paragraph, the term "current official forecast" means the most recent forecast as determined by the Revenue Estimating Conference. If the current official forecast for a fiscal year changes after payments under this paragraph have ended during that fiscal year, no further payments are required under this paragraph during the fiscal year.

~~(d)~~(e) The remainder of the moneys distributed under this subsection, after the required payments under ~~paragraphs~~ paragraph (a), (b), and (c), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem

Management and Restoration Trust Fund or to the Marine Resources Conservation Trust Fund as provided in subsection (11).

(2) Seven and fifty-six hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Beginning in the month following the final payment for a fiscal year under paragraph (1)(c)(b), available moneys shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund or to the Marine Resources Conservation Trust Fund as provided in subsection (11). Payments made under this paragraph shall continue until the cumulative amount credited to the General Revenue Fund for the fiscal year under this paragraph equals the cumulative payments made under paragraph (1)(c)(b) for the same fiscal year.

(11) From the moneys specified in paragraphs (1)(d)(e) and (2)(a) and prior to deposit of any moneys into the General Revenue Fund, \$30 million shall be paid into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund in fiscal year 2000-2001 and each fiscal year thereafter, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212, and \$2 million shall be paid into the State Treasury to the credit of the Marine Resources Conservation Trust Fund to be used for marine mammal care as provided in s. 370.0603(3).

(12) The Department of Revenue may use the payments credited to trust funds pursuant to paragraphs (1)(c)(b) and (2)(b) and subsections (3), (4), (5), (6), (7), (8), (9), and (10) to pay the costs of the collection and enforcement of the tax levied by this chapter. The percentage of such costs which may be assessed against a trust fund is a ratio, the numerator of which is payments credited to that trust fund under this section and the denominator of which is the sum of payments made under paragraphs (1)(c)(b) and (2)(b) and subsections (3), (4), (5), (6), (7), (8), (9), and (10).

Section 2. Section 215.619, Florida Statutes, is created to read:

215.619 Bonds for Everglades restoration.—

(1) The issuance of Everglades restoration bonds to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan under s. 373.470 is authorized in accordance with s. 11(e), Art. VII of the State Constitution. Everglades restoration bonds, except refunding bonds, may be issued only in fiscal years 2002-2003 through 2009-2010 and may not be issued in an amount exceeding \$100 million per fiscal year unless the Department of Environmental Protection has requested additional amounts in order to achieve cost savings or accelerate the purchase of land. The duration of Everglades restoration bonds may not exceed 20 annual maturities, and those bonds must mature by December 31, 2030. Except for refunding bonds, a series of bonds may not be issued unless an amount equal to the debt service coming due in the year of issuance has been appropriated by the Legislature.

(2) The state covenants with the holders of Everglades restoration bonds that it will not take any action that will materially and adversely affect the rights of the holders so long as the bonds are outstanding, including, but not limited to, a reduction in the portion of documentary stamp taxes distributable under s. 201.15(1) for payment of debt service on Preservation 2000 bonds, Florida Forever bonds, or Everglades restoration bonds.

(3) Everglades restoration bonds are payable from, and secured by a first lien on, taxes distributable under s. 201.15(1)(b) and do not constitute a general obligation of, or a pledge of the full faith and credit of, the state. Everglades restoration bonds are junior and subordinate to bonds secured by moneys distributable under s. 201.15(1)(a).

(4) The Department of Environmental Protection shall request the Division of Bond Finance of the State Board of Administration to issue Everglades restoration bonds under the State Bond Act in an amount supported by projected expenditures of the recipients of the proceeds of the bonds. The Department of Environmental Protection shall coordinate with the Division of Bond Finance to issue the bonds in a cost-effective manner consistent with cash needs.

(5) The proceeds of Everglades restoration bonds, less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, shall be deposited into the Save Our Everglades Trust Fund. The bond proceeds deposited into the Save Our Everglades Trust Fund shall be distributed by the Department of Environmental Protection as provided in s. 373.470.

(6) Lands purchased using bond proceeds under this paragraph which are later determined by the South Florida Water Management District and the Department of Environmental Protection as not needed to implement the Comprehensive Plan, shall either be surplusd at no less than appraised value, and the proceeds from the sale of such lands shall be deposited into the Save Our Everglades Trust Fund to be used to implement the Comprehensive Plan, or the South Florida Water Management District shall use a different source of funds to pay for or reimburse the Save Our Everglades Trust Fund for that portion of land not needed to implement the Comprehensive Plan.

(7) There may not be any sale, disposition, lease, easement, license, or other use of any land, water areas, or related property interests acquired or improved with proceeds of Everglades restoration bonds which would cause all or any portion of the interest on the bonds to be included in gross income for federal income tax purposes.

(8) Any complaint for validation of bonds issued under this section may be filed only in the circuit court of the county where the seat of state government is situated. The notice required to be published by s. 75.06 may be published only in the county where the complaint is filed, and the complaint and order of the circuit court need be served only on the state attorney of the circuit in which the action is pending.

Section 3. Paragraph (a) of subsection (11) of section 259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(11) For the purposes of funding projects pursuant to paragraph (3)(a), the Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:

(a) Thirty-five percent to the South Florida Water Management District, of which amount \$25 million for 2 years beginning in fiscal year 2000-2001 shall be transferred by the Department of Environmental Protection into the Save Our Everglades Trust Fund and shall be used exclusively to implement the Comprehensive Plan under s. 373.470.

Section 4. Subsections (4), (5), and (6) of section 373.470, Florida Statutes, are amended to read:

373.470 Everglades restoration.—

(4) SAVE OUR EVERGLADES TRUST FUND; FUNDS AUTHORIZED FOR DEPOSIT.—The following funds may be deposited into the Save Our Everglades Trust Fund created by s. 373.472 to finance implementation of the comprehensive plan:

(a) In fiscal year 2000-2001, funds described in s. 259.101(3).

(b) Funds described in subsection (5).

(c) Federal funds appropriated by Congress for implementation of the comprehensive plan.

(d) Any additional funds appropriated by the Legislature for the purpose of implementing the comprehensive plan.

(e) Gifts designated for implementation of the comprehensive plan from individuals, corporations, or other entities.

(f) Funds made available pursuant to s. 201.15 for debt service for Everglades restoration bonds.

(5) SAVE OUR EVERGLADES TRUST FUND SUPPLEMENTED.—

(a)1. For fiscal year 2000-2001, \$50 million of state funds shall be deposited into the Save Our Everglades Trust Fund created by s. 373.472.

2. For each year of the 9 consecutive years beginning with fiscal year 2001-2002, \$75 million of state funds shall be deposited into the Save Our Everglades Trust Fund created by s. 373.472.

3. As an alternative to subparagraph 2., proceeds of bonds issued under s. 215.619 may be deposited into the Save Our Everglades Trust Fund created under s. 373.472. To enhance flexibility, funds to be deposited into the Save Our Everglades Trust Fund may consist of any combination of state funds and Everglades restoration bonds.

(b) For each year of the ~~2~~ 10 consecutive years beginning with fiscal year 2000-2001, the department shall deposit \$25 million of the funds allocated to the district by the department under s. 259.105(11)(a) into the Save Our Everglades Trust Fund created by s. 373.472.

(6) DISTRIBUTIONS FROM SAVE OUR EVERGLADES TRUST FUND.—

(a) Except for funds appropriated for debt service, the department shall distribute funds in the Save Our Everglades Trust Fund to the district in accordance with a legislative appropriation and s. 373.026(8)(b) and (c). Distribution of funds from the Save Our Everglades Trust Fund shall be equally matched by the cumulative contributions from all local sponsors by fiscal year 2009-2010 by providing funding or credits toward project components. The dollar value of in-kind work by local sponsors in furtherance of the comprehensive plan and existing interest in public lands needed for a project component are credits towards the local sponsors' contributions.

(b) The department shall distribute funds in the Save Our Everglades Trust Fund to the district in accordance with a legislative appropriation for debt service for Everglades restoration bonds.

Section 5. Subsection (1) of section 373.472, Florida Statutes, is amended to read:

373.472 Save Our Everglades Trust Fund.—

(1) There is created within the Department of Environmental Protection the Save Our Everglades Trust Fund. Funds in the trust fund shall be expended to implement the comprehensive plan defined in s. 373.470(2)(a) and pay debt service for Everglades restoration bonds issued pursuant to s. 215.619. The trust fund shall serve as the repository for state, local, and federal project contributions in accordance with s. 373.470(4).

Section 6. In accordance with s. 215.98(1), the Legislature determines that the issuance of Everglades restoration bonds under section 2 of this act is in the best interest of the state and should be implemented.

Section 7. Paragraph (h) is added to subsection (3) of section 373.1502, Florida Statutes, to read:

373.1502 Regulation of comprehensive plan project components.—

(3) REGULATION OF COMPREHENSIVE PLAN STRUCTURES AND FACILITIES.—

(h) Project components that would otherwise qualify as exempt pursuant to s. 373.406 shall not need permits under this section.

Section 8. Subsection (1) of section 373.114, Florida Statutes, is amended to read:

373.114 Land and Water Adjudicatory Commission; review of district rules and orders; department review of district rules.—

(1) Except as provided in subsection (2), the Governor and Cabinet, sitting as the Land and Water Adjudicatory Commission, have the exclusive authority to review any order or rule of a water management district, other than a rule relating to an internal procedure of the district or a final order resulting from an evidentiary hearing held under s. 120.569 or s. 120.57 or a rule that has been adopted after issuance of a final order resulting from an evidentiary hearing held under s. 120.56, to ensure consistency with the provisions and purposes of this chapter. Subsequent to the legislative ratification of the delineation methodology pursuant to s. 373.421(1), this subsection also shall apply to an order of the department, or a local government exercising delegated authority, pursuant to ss. 373.403-373.443, except an order pertaining to activities or operations subject to conceptual plan approval pursuant to chapter 378 or a final order resulting from an evidentiary hearing held under s. 120.569 or s. 120.57.

(a) Such review may be initiated by the department or by a party to the proceeding below by filing a request for review with the Land and Water Adjudicatory Commission and serving a copy on the department and on any person named in the rule or order within 20 days after adoption of the rule or the rendering of the order. For the purposes of this section, the term “party” means any affected person who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity objections to or support for the rule or order that are cognizable within the scope of the provisions and purposes of this chapter, ~~or any person who participated as a party in a proceeding instituted pursuant to chapter 120.~~ In order for the commission to accept a request for review initiated by a party below, with regard to a specific order, ~~three~~ four members of the commission must determine on the basis of the record below that the activity authorized by the order would substantially affect natural resources of statewide or regional significance. Review of an order may also be accepted if ~~three~~ four members of the commission determine that the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from the standpoint of agency precedent. The party requesting the commission to review an order must allege with particularity, and the commission must find, that:

1. The order is in conflict with statutory requirements; or
2. The order is in conflict with the requirements of a duly adopted rule.

(b) Review by the Land and Water Adjudicatory Commission is appellate in nature and shall be based solely on the record below ~~unless the commission determines that a remand for a formal evidentiary proceeding is necessary to develop additional findings of fact.~~ If there is was no evidentiary administrative proceeding resulting from a remand or referral for findings of fact by the commission, then below, the facts contained in the proposed agency action or proposed water management district action, including any technical staff report, shall be deemed undisputed. The matter shall be heard by the commission not more than 60 days after receipt of the request for review, unless waived by the parties; provided, however, such time limit shall be tolled by a referral or remand pursuant to this paragraph. The commission may refer a request for review to the Division of Administrative

Hearings for the production of findings of fact, limited to those needed to render the decision requested, to supplement the record, if a majority of the commission determines that supplementary findings of fact are essential to determine the consistency of a rule or order with the provisions and purposes of this chapter. Alternatively, the commission may remand the matter to the agency below for additional findings of fact, limited to those needed to render the decision requested, to supplement the record, if a majority of the commission determines that supplementary findings of fact are essential to determine the consistency of a rule or order with the provisions and purposes of this chapter. Such proceedings must be conducted and the findings transmitted to the commission within 90 days of the remand or referral.

(c) If the Land and Water Adjudicatory Commission determines that a rule of a water management district is not consistent with the provisions and purposes of this chapter, it may require the water management district to initiate rulemaking proceedings to amend or repeal the rule. If the commission determines that an order is not consistent with the provisions and purposes of this chapter, the commission may rescind or modify the order or remand the proceeding for further action consistent with the order of the Land and Water Adjudicatory Commission only if the commission determines that the activity authorized by the order would substantially affect natural resources of statewide or regional significance. In the case of an order which does not itself substantially affect natural resources of statewide or regional significance, but which raises issues of policy that have regional or statewide significance from the standpoint of agency precedent, the commission may direct the district to initiate rulemaking to amend its rules to assure that future actions are consistent with the provisions and purposes of this chapter without modifying the order.

(d) In a review under this section of a construction permit issued pursuant to a conceptual permit under part IV, which conceptual permit is issued after July 1, 1993, a party to the review may not raise an issue which was or could have been raised in a review of the conceptual permit under this section.

(e) A request for review under this section shall not be a precondition to the seeking of judicial review pursuant to s. 120.68 or the seeking of an administrative determination of rule validity pursuant to s. 120.56.

(f) The Florida Land and Water Adjudicatory Commission may adopt rules to set forth its procedures for reviewing an order or rule of a water management district consistent with the provisions of this section.

(g) For the purpose of this section, it shall be presumed that activity authorized by an order will not affect resources of statewide or regional significance if the proposed activity:

1. Occupies an area less than 10 acres in size, and
2. Does not create impervious surfaces greater than 2 acres in size, and
3. Is not located within 550 feet of the shoreline of a named body of water designated as Outstanding Florida Waters, and

4. Does not adversely affect threatened or endangered species.

This paragraph shall not operate to hold that any activity that exceeds these limits is presumed to affect resources of statewide or regional significance. The determination of whether an activity will substantially affect resources of statewide or regional significance shall be made on a case-by-case basis, based upon facts contained in the record below.

Section 9. Subsection (5) of section 403.412, Florida Statutes, is amended, present subsection (6) is renumbered as subsection (8), and new subsections (6) and (7) are added to said section to read:

403.412 Environmental Protection Act.—

(5) In any administrative, licensing, or other proceedings authorized by law for the protection of the air, water, or other natural resources of the state from pollution, impairment, or destruction, the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state shall have standing to intervene as a party on the filing of a verified pleading asserting that the activity, conduct, or product to be licensed or permitted has or will have the effect of impairing, polluting, or otherwise injuring the air, water, or other natural resources of the state. As used in this section and as it relates to citizens, the term “intervene” means to join an ongoing s. 120.569 or s. 120.57 proceeding; this section does not authorize a citizen to institute, initiate, petition for, or request a proceeding under s. 120.569 or s. 120.57. Nothing herein limits or prohibits a citizen whose substantial interests will be determined or affected by a proposed agency action from initiating a formal administrative proceeding under s. 120.569 or s. 120.57. A citizen’s substantial interests will be considered to be determined or affected if the party demonstrates it may suffer an injury in fact which is of sufficient immediacy and is of the type and nature intended to be protected by this chapter. No demonstration of special injury different in kind from the general public at large is required. A sufficient demonstration of a substantial interest may be made by a petitioner who establishes that the proposed activity, conduct, or product to be licensed or permitted affects the petitioner’s use or enjoyment of air, water, or natural resources protected by this chapter.

(6) Any Florida corporation not for profit which has at least 25 current members residing within the county where the activity is proposed, and which was formed for the purpose of the protection of the environment, fish and wildlife resources, and protection of air and water quality, may initiate a hearing pursuant to s. 120.569 or s. 120.57, provided that the Florida corporation not for profit was formed at least one year prior to the date of the filing of the application for a permit, license, or authorization that is the subject of the notice of proposed agency action.

(7) In a matter pertaining to a federally delegated or approved program, a citizen of the state may initiate an administrative proceeding under this subsection if the citizen meets the standing requirements for judicial review of a case or controversy pursuant to Article III of the United States Constitution.

Section 10. Except as otherwise provided herein, this act shall take effect July 1, 2002.

Approved by the Governor May 15, 2002.

Filed in Office Secretary of State May 15, 2002.