The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

BILL:	SB 1290
INTRODUCER:	Senator Simpson
SUBJECT:	State Lands
DATE:	February 8, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	**Favorable**
2.			AGG	
3.			AP	

I. Summary:

SB 1290 consolidates the acquisition and surplus procedures currently located in chapter 253, F.S., for nonconservation lands and chapter 259, F.S., for conservation lands. Additionally, the bill:

- Requires conservation lands to be managed for conservation or recreation purposes, rather than for the purposes for which the lands were acquired;
- Authorizes the Department of Environmental Protection (department) to submit lands for which the managing or leasing entities are not meeting their short-term goals as required under the land management or land use plan to the Board of Trustees of the Internal Improvement Trust Fund (board) for consideration of whether to require the managing or leasing entities to release their interest in such lands or consider whether such lands should be surplused;
- Requires the Division of State Lands (division) to review all titled conservation or nonconservation lands every 10 years and provide a recommendation to the board whether the lands should be retained or disposed;
- Amends the definition of the term "water resource development project" to include the construction of treatment, transmission, or distribution facilities;
- Requires the board to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses related to water-dependent uses;
- Creates a process whereby a person who owns land contiguous to land titled to the board is authorized to submit a request to division to exchange all or a portion of the state-owned land, with the state retaining a permeant conservation easement, for a permeant conservation easement over all or a portion of the contiguous privately owned land;
- Requires the department to add federally owned conservation lands; lands on which the federal government holds a conservation easement; and all lands on which the state holds a conservation easement to the FL-SOLARIS database by July 1, 2018;

- Requires each local government to submit to the department a list of all conservation lands it owns or holds a permeant conservation easement on by July 1, 2018. Financially disadvantaged small communities have an additional year to submit the information;
- Directs the department to complete a study regarding the technical and economic feasibility of including privately owned conservation lands in a public lands inventory by July 1, 2018;
- Requires increased priority to be given to proposed projects that can be acquired in less than fee ownership; projects that contribute to improving the quality and quantity of surface water or groundwater; and projects that contribute to improving the water quality and flow of springs.
- Gives priority consideration to a municipality over a county, for parcels located within a municipality, in cases where both the county and municipality have proposed to acquire a parcel the board intends to sell.

II. Present Situation:

State Lands

The Board of Trustees of the Internal Improvement Trust Fund (board) consists of the Governor, as the chair, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture.[1] All lands held in title by the board are required to be held in trust for the use and benefit of the people of the state.[2] According to the department, the board has title to approximately 13 million acres of land: 3,146,040 acres of conservation lands; 123,210 acres of nonconservation lands; and approximately nine million acres of sovereign submerged lands.[3]

Chapter 253, F.S., relating to state lands, was the original authorizing statute for land acquisition and management by the state; it applied to both nonconservation and conservation lands.[4] Over the years, the Legislature created various conservation land acquisition programs and additional statutory authorization and requirements for land acquisition and management were included in chapter 259, F.S., relating to land acquisitions for conservation or recreation.[5] Currently, both chapters 253 and 259, F.S., are required to be referenced for a complete understanding of the land acquisition, management, and surplus processes for state-owned lands.[6]

Acquisition of State Lands

When the state acquires land, the acquisition agency is required to follow the procedures in s. 253.025, F.S., and, additionally, when acquiring conservation lands the procedures in s. 259.041, F.S. Before any state agency initiates land acquisition, except purchases of property for transportation facilities and corridors or property for borrow pits for road building purposes, the agency is required to coordinate with the Division of State Lands (division) to determine the

[1] FLA. CONST. art. IV, s. 4.
[2] Section 253.001, F.S.
[3] Email from Andrew Ketchel, Director, Office of Legislative Affairs, Florida Department of Environmental Protection (Feb. 5, 2016) (on file with the Senate Environmental Preservation and Conservation Committee).
[4] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[5] *Id*.
[6] *Id*.

availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed.[7] Only if no existing suitable state-owned land exists, then the state agency may proceed with the acquisition of the land.[8]

The acquisition statutes require state agencies to follow specific acquisition requirements relating to:

- Marketability of title.
- Appraisal maps and surveys.
- Appraisal reports.
- Maximum offers.
- Negotiations.
- Purchase instruments.
- Closing.
- Joint acquisitions.[9]

When a state agency is acquiring conservation lands, the board is authorized to:

- By a majority vote of all its members, direct the department to exercise the power of eminent domain to acquire any properties on the acquisition list approved by the board if:
  - The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached; and
  - The land is of special importance to the state because of one or more of the following reasons:
    - It involves an endangered or natural resource and is in imminent danger of development.
    - It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.
    - The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.[10]
- By an affirmative vote of at least three of its members, direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of lands that:
  - Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;
  - Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or
  - Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.[11]

[7] Section 253.025(2), F.S.
[8] *Id*.
[9] Sections 253.025 and 259.041, F.S.; Fla. Admin. Code Ch. 18-1.
[10] Section 259.041(14), F.S.
[11] Section 259.041(15), F.S.

Additionally, agreements to acquire real property for the purposes described in chapter 259, F.S., relating to land acquisitions for conservation or recreation, chapter 260, F.S., relating to the Florida Greenways and Trails Act, or chapter 375, F.S., relating to outdoor recreation and conservation lands, title to which will vest in the board, may not bind the state until the agreement is reviewed and approved by the department.[12] Additional approval by the board is required if:

- The purchase price agreed to by the seller exceeds the maximum value as authorized by law;
- The contract price agreed upon exceeds $1 million;
- The acquisition is the initial purchase in a Florida Forever project; or
- The purchase involves other conditions established by the board.[13]

If such approval by the board is required then the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project.[14] Such review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with the program.[15]

If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement is required to be submitted to and approved by the Legislative Budget Commission.[16]

Alternatives to fee simple acquisitions

In recognition of the increasing pressures on the natural areas of the state and on open space suitable for recreational use, the Legislature has encouraged the state's conservation and recreational land acquisition agencies to develop creative techniques to maximize the use of acquisition and management funds to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques.[17] The Legislature has declared that the use of alternatives to fee simple acquisition techniques by public land acquisition agencies achieves the following public policy goals:

- Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.
- Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.
- Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, where appropriate.[18]

The term "alternatives to fee simple acquisition" includes, but is not limited to: purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or

[12] Section 259.041(3), F.S.
[13] *Id*.
[14] *Id*.
[15] *Id*.
[16] *Id*.
[17] Section 259.041(11)(a), F.S.
[18] Section 259.041(11)(a), F.S.

silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy goals.[19]

When developing the acquisition plan the Acquisition and Restoration Council (council) is authorized to give preference to those less than fee simple acquisitions that provide any public access.[20]

Management of State Lands

The board is charged with the management, control, supervision, conservation, and protection of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions.[21] The board is authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess such lands for the benefit of the state.[22]

Nonconservation Lands

Each manager of nonconservation lands is required to submit to the division a land use plan at least every 10 years in a form and manner prescribed by rule by the board.[23] The division shall review each plan for compliance.[24] All land use plans, whether for single-use or multiple-use properties, shall include an analysis of the property to determine if any significant natural or cultural resources are located on the property.[25] Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.[26] If such resources occur on the property, the manager is required to consult with the division and other appropriate agencies to develop management strategies to protect such resources.[27]

Land use plans shall also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination.[28] Land use plans submitted by a manager must include reference to the appropriate statutory authority for such use or uses and conform to the appropriate policies and guidelines of the state land management plan.[29]

Conservation Lands

Article X, section 18 of the Florida Constitution requires that "the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes as

[19] Section 259.041(11)(b), F.S.
[20] Section 259.041(11)(c), F.S.
[21] Section 253.03, F.S.
[22] Section 253.03(2), F.S.
[23] Section 253.034(5), F.S.
[24] *Id*.
[25] *Id*.
[26] *Id*.
[27] *Id*.
[28] *Id*.
[29] *Id*.

provided by general law shall be managed for the benefit of the citizens of this state…"[30] Section 253.034, F.S., specifies that state lands acquired pursuant to chapter 259, F.S., are required to be managed to ensure the conservation of the state's plant and animal species and to ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future.[31] Additionally, all lands acquired and managed under chapter 259, F.S., are required to be managed in a manner that provides the greatest combination of benefits to the public and to the resources, for public outdoor recreation which is compatible with the conservation and protection of public lands, and for the purposes for which the lands were acquired.[32]

Each manager of conservation lands is required to submit a land management plan to the division at least every 10 years.[33] The land management plan must contain, at a minimum, all of the following elements:

- A physical description of the land.
- A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other significant land, cultural, or historical features.
- A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives.
- A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities.
- A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.[34] The summary budget is required to be prepared in such a manner that it facilitates computing an aggregate of land management costs for all state-managed lands using the following categories:
  - Resource management.
  - Administration.
  - Support.
  - Capital improvements.
  - Recreation visitor services.
  - Law enforcement activities.[35]

[30] FLA. CONST. art. X, s. 18.
[31] Section 253.034(5)(a), F.S.
[32] Section 259.032(7), F.S.; s. 259.032(7)(b), F.S., provides that "such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities compatible with the purposes for which the lands were acquired."
[33] Section 253.034(5), F.S.
[34] Section 253.034(5)(c), F.S.
[35] Section 259.037(3), F.S.

Each land management plan is required to provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals.[36] Short-term goals are required to be achievable within a 2-year planning period, and long-term goals are required to be achievable within a 10-year planning period.[37] These short-term and long-term management goals are the basis for all subsequent land management activities.[38]

Short-term and long-term management goals must include measurable objectives for the following, as appropriate:

- Habitat restoration and improvement.
- Public access and recreational opportunities.
- Hydrological preservation and restoration.
- Sustainable forest management.
- Exotic and invasive species maintenance and control.
- Capital facilities and infrastructure.
- Cultural and historical resources.
- Imperiled species habitat maintenance, enhancement, restoration, or population restoration.[39]

Land management plans are required to be updated every 10 years on a rotating basis.[40] Each manager of conservation lands is required to update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within one year of the addition of significant new lands.[41]

Regional land management review teams are required to evaluate the extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features, and the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices, including public access, are in compliance with the adopted management plan.[42]

If the land management review team determines that reviewed lands are not being managed for the purposes for which they were acquired or in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department is required to provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.[43] The manager of the land is required to consider the findings and recommendations of the land management review team in finalizing the 10-year update of the land management plan.[44]

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[36] Section 253.034(5)(a), F.S.
[37] *Id*.
[38] *Id*.
[39] Section 253.034(5)(b), F.S.
[40] Section 253.034(5)(e), F.S.
[41] Section 253.034(5), F.S.
[42] Section 259.036(3), F.S.
[43] Section 253.036(5), F.S.
[44] Section 259.036(2), F.S.

By July 1 of each year, each governmental agency and each private entity designated to manage lands is required to report to the department on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.[45] The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board.[46]

Sovereignty Submerged Lands

Article X, section 11 of the Florida Constitution authorizes the private use of portions of sovereign lands, but only when not contrary to the public interest.[47] The board is required to encourage the use of sovereignty submerged lands for water-dependent uses and public access.[48] The term "water-dependent activity" is defined as "an activity which can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereignty submerged lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereignty submerged lands is an integral part of the activity."[49]

Activities on sovereignty submerged lands are limited to water-dependent activities, unless the board determines that it is in the public interest on a case-by-case basis to authorize an exception.[50] Public projects which are primarily intended to provide access to and use of the waterfront may be permitted to contain minor uses which are not water dependent if:

- Located in areas along seawalls or other non-natural shorelines;
- Located outside of aquatic preserves or Class II waters;[51] and
- The use is incidental to the basic purpose of the project, and constitutes only minor nearshore encroachments on sovereign lands.[52]

[45] Section 259.032(8), F.S.
[46] Section 253.034(5)(h), F.S.
[47] Fla. Admin. Code R 18-21.003(51), defines the term "public interest" as a "demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action."
[48] Section 253.03(15), F.S.; Fla. Admin. Code R. 18-21.003(61), defines the term "sovereignty submerged lands" to mean "those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3. 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated."
[49] Fla. Admin. Code R. 18-21.003(71); Fla. Admin. Code R. 18-21.003(2), defines the term "activity" as "any use of sovereignty lands which requires board approval for consent of use, lease, easement, sale, or transfer of interest in such sovereignty lands or materials. Activity includes, but is not limited to, the construction of docks, piers, boat ramps, board walks, mooring pilings, dredging of channels, filling, removal of logs, sand, silt, clay, gravel, or shell, and the removal or planting of vegetation on sovereignty lands."
[50] Fla. Admin. Code R. 18-21.004(1)(g).
[51] Generally, Class II waters are coastal waters where shellfish harvesting occurs.
[52] *Id*.

Disposition of State Lands

Surplus

The board determines which lands it holds title to may be surplused.[53] Since 2000, approximately 3,041 acres of conservation lands have been declared surplus and disposed, raising $14,438,157 in revenue.[54] Conservation lands may only be surplused if the board, by an affirmative vote of at least three members, determines that the lands are no longer needed for conservation purposes.[55] The board may dispose of all other lands if the board, by an affirmative vote of at least three members, determines whether the lands are no longer needed.[56]

Requests for surplusing may be made by any public or private entity or person.[57] All requests are required to be submitted to the lead managing agency for review and recommendation to the council.[58] Before any decision by the board to surplus lands, the Acquisition and Restoration Council (council) is required to review and make recommendations to the board concerning the request for surplusing.[59] The council is required to determine whether the request is compatible with the resource values of and management objectives for such lands.[60]

County or local government requests for surplus lands are expedited throughout the surplusing process.[61] A decision to surplus state-owned nonconservation lands to a county or local government may be made by the board without a review of, or recommendation on, the request from the council or the division.[62] The board is required to consider such requests within 60 days of the board's receipt of the request.[63] A decision to surplus state-owned conservation lands is subject to review of, and recommendation on, the request by the council.[64] The board is required to consider such requests within 120 days of the board's receipt of the request.[65] Additionally, local governments may request that state lands be specifically declared surplus lands for the purpose of providing alternative water supply and water resource development projects; public facilities such as schools, fire, and police facilities; and affordable housing.[66]

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[53] Section 253.034(6), F.S.
[54] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[55] FLA. CONST. art. X, s. 18.
[56] Section 253.034(6), F.S.
[57] Section 253.034(6)(j), F.S.
[58] *Id*.
[59] Section 253.034(6)(e), F.S.
[60] Section 253.034(6), F.S.
[61] Section 253.0341, F.S.
[62] Section 253.0341(1), F.S.
[63] *Id*.
[64] Section 253.0341(2), F.S.
[65] *Id*.
[66] Section 253.0341(3), F.S.; s. 373.019(24), F.S., defines the term "water resource development" as "the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities."

Before a building or a parcel of land is offered for sale to a local or federal unit of government or a private party, it must first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions.[67] The state university or college has 60 days after receipt of the offer to submit a plan for review and approval by the board regarding the intended use, including future use, of the parcel of land before approval of the lease. The board is required to compare the estimated value of the parcel to any submitted business plan to determine if the sale is in the best interest of the state.[68]

Additionally, the board may not sell any land to which it holds title unless and until it affords an opportunity to the county in which such land is situated.[69] The board is required to notify the applicable board of county commissioners that land is available in the county. The board of county commissioners has 45 days to submit a certified copy of a resolution providing the determination of whether or not it proposes to acquire the available land. If the board timely receives the resolution then the board is required to convey to the county the land at a price that is equal to its appraised market value, subject to terms and conditions as determined by the board. These notification requirements do not apply to any land exchanged by the board; the conveyance of lands located within the Everglades Agricultural Area; or lands managed pursuant to ss. 253.781-253.785, F.S., relating to state lands along the route of the former Cross Florida Barge Canal, the Cross Florida Greenways, or around Lake Rousseau.[70]

At least every 10 years, as a component of each land management plan or land use plan, each manager is required to evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased.[71] For conservation lands, the council is required to review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.[72] For nonconservation lands, the division is required to review the lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.[73] Lands that are owned by the board but which are not actively managed by any state agency or for which a land management plan has not been completed are required to be reviewed by the council for its recommendation as to whether such lands should be disposed of by the board.[74]

In reviewing lands owned by the board, the council is required to consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located and recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interest of the state and local government.[75] Such lands are required to be offered to the local government for a period of 45 days and the permitted uses for such lands include public schools; public libraries; fire or law

[67] Section 253.034(6), F.S.
[68] Section 253.034(13), F.S.
[69] Section 253.111, F.S.
[70] Section 253.111(6), F.S.
[71] Section 253.034(6)(c), F.S.
[72] *Id*.
[73] *Id*.
[74] Section 253.034(6)(d), F.S.
[75] Section 253.034(6)(f), F.S.

enforcement substations; governmental, judicial, or recreational centers; and affordable housing.[76]

Exchange

Section 253.42, F.S., authorizes the board to exchange state lands owned by, vested in, or titled in the name of the board for other lands in the state owned by counties, local governments, individuals, or private or public corporations. The board is authorized to make and enter into contracts or agreements for the purposes of such exchanges and to fix the terms and conditions of any such exchange.[77] In the case of a land exchange involving the disposition of conservation lands, the board is required to determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit.[78] The board is required to select and agree upon the state lands to be exchanged and the lands to be conveyed to the state.[79]

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

In 2010, the Legislature directed the department to create, administer, operate, and maintain a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district.[80] In order to meet the requirement, the department in coordination with the Department of Management Services developed FL-SOLARIS to record and maintain inventory of real estate properties that are "owned, leased, or rented, or otherwise occupied" by any state government entity. The database includes all state-owned lands in which the state has a fee interest, including conservation easements acquired through a formal acquisition process for conservation.[81]

Florida Forever Program

The Florida Forever program was created in 1999 as the successor program to the Preservation 2000 program. The stated goals of the Florida Forever program are to acquire lands and water areas to preserve natural resources and protect water supply, provide opportunities for agricultural activities on working lands, provide outdoor recreational opportunities, preserve the Everglades, prioritize land acquisition process based on science-based assessments of the natural resources, and enhance imperiled species management.[82]

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[76] Section 253.034(6)(f), F.S.
[77] Section 253.42, F.S.
[78] Section 253.034(6), F.S.; Fla. Admin. Code R. 18-2.017(38), defines the term "net positive benefit" to mean "any effective action or transaction which promotes the overall purposes for which the land was acquired. It is compensation over and above the required payment of market value for or replacement of the affected parcel to offset and request use or activity which would preclude or affect, in whole or in part, current or future uses of natural resource land that are managed primarily for the conservation and protection of natural, historical, or recreational resources. Net positive benefit shall not be solely monetary compensation, but shall include mitigation and other consideration related to environmental, historical, or recreational benefits, as applicable, to the affected management unit."
[79] Section 253.42(3), F.S.
[80] Section 216.0153, F.S.
[81] DEP, *FL-SOLARIS, Background Information*, http://www.dep.state.fl.us/lands/fl_solaris_background.htm (last visited Feb. 5, 2016).
[82] Section 259.105, F.S.

The Acquisition and Restoration Council (council) is responsible for evaluating, selecting, and ranking state land acquisition projects under the Florida Forever program.[83] The council is a 10-member group composed of:

- Four members appointed by the Governor, three from a scientific discipline related to land, water, or environmental science, and one with at least five years of experience in managing lands for both active and passive types of recreation;
- Four members as follows:
  - The secretary of the Department of Environmental Protection;
  - The director of the Florida Forest Service of the Department of Agriculture and Consumer Services;
  - The executive director of the Fish and Wildlife Conservation Commission;
  - The director of the Division of Historical Resources of the Department of State;
- One member appointed by the Fish and Wildlife Conservation Commission; and
- One member appointed by the Commissioner of Agriculture.[84]

Projects or acquisitions funded through Florida Forever are evaluated and reviewed by the council, which determines if a proposed project meets at least two of the following goals:

- Enhances the coordination and completion of land acquisition projects.
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels.
- Protects, restores, and maintains the quality and natural functions of land, water, and wetland systems of the state.
- Ensures that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
- Increases natural resource-based public recreational and educational opportunities.
- Preserves significant archaeological or historic sites.
- Increases the amount of forestland available for sustainable management of natural resources.
- Increases the amount of open space available in urban areas.[85]

The goals are evaluated in accordance with specific criteria and numeric performance measures developed by rule.[86] This criteria is used to competitively evaluate, select, and rank projects eligible for Florida Forever funds. The council is required to give weight to the following criteria:

- The project meets multiple goals.
- The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.

[83] *Id*.
[84] Section 259.035, F.S.
[85] Section 259.105(4), F.S.
[86] Section 259.035(4)(a), F.S.; ch. 2015-229, s. 21, Laws. of Fla., requires the council to develop rules, by December 1, 2016, defining specific criteria and numeric performance measures needed for lands that are acquired under the Florida Forever program or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules are required to be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature is authorized to reject, modify, or take no action relative to the proposed rules. If no action is taken, the rules shall be implemented.

- The project enhances or facilitates management of properties already under public ownership.
- The project has significant archaeological or historic value.
- The project has funding sources that are identified and assured through at least the first two years of the project.
- The project contributes to the solution of water resource problems on a regional basis.
- The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished.
- The project implements an element from a plan developed by an ecosystem management team.
- The project is one of the components of the Everglades restoration effort.
- The project may be purchased at 80 percent of appraised value.
- The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements.
- The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.[87]

To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, where compatible with the resource values of and management objectives for the lands, are appropriate under Florida Forever.[88] A water resource or water supply development project may only be allowed if:

- Minimum flows and levels have been established for those waters, if any, which may reasonably be expected to experience significant harm to water resources as a result of the project;
- The project complies with all applicable permitting requirements; and
- The project is consistent with the regional water supply plan, if any, of the water management district and with relevant recovery or prevention strategies that are required to implemented if the existing flow or level in a water body is below, or is projected to fall within 20 years below, the applicable minimal flow or level.[89]

Each year the division prepares an annual work plan prioritizing projects on the Florida Forever list by category: a critical lands category; a partnerships or regional incentives category; a substantially complete category; a climate-change category; and a less-than-fee category.[90] After at least one public hearing, the council may adopt the work plan. A copy of the work plan is required to be provided to the board by October 1 of each year.[91]

[87] Section 259.105(9), F.S.
[88] Section 259.105(2)(a)5., F.S.
[89] Section 259.105(5)(a), F.S.
[90] Section 259.105(17), F.S.
[91] *Id*.

Lands acquired for conservation and recreation purposes are to be used as state-designated parks, recreation areas, preserves, reserves, historic or archaeological sites, geologic or botanical sites, recreational trails, forests, wilderness areas, wildlife management areas, urban open space, or other state-designated recreation or conservation lands; or they shall qualify for such state designation and use if they are to be managed by other governmental agencies or non-state entities.[92] Additionally, conservation lands acquired pursuant to the Florida Forever program or other state-funded conservation land purchase programs are authorized, upon a finding by the board, for use as water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if:

- The proposed use is consistent with the management plan for such lands;
- The proposed use is compatible with the natural ecosystem and resource values of such lands;
- The proposed use is appropriately located on such lands and where due consideration is given to the use of other available lands;
- The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and
- The proposed use is consistent with the public interest.[93]

III. Effect of Proposed Changes:

Acquisition Procedures

The bill amends s. 253.025, F.S., relating to the acquisition of state lands for purposes other than preservation, conservation, and recreation, and repeals s. 259.041, F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes, to consolidate the acquisition procedures for all state lands, whether or not they were acquired for conservation, preservation, or recreation purposes.

The following provisions applied only to conservation lands under s. 259.041, F.S., but were moved to s. 253.025, F.S., and will apply to all state lands under the bill:

- The authority to waive the acquisition requirements under statute or rule, except under specified circumstances, and substitute other reasonably prudent procedures if the public's interest is reasonably protected.
- The requirement that if the purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board or if the contract price agreed to by the seller and the acquiring agency exceeds $1 million then the agreement must be submitted to and approved by the board. Additionally, if the board's approval is required then the acquiring agency must provide justification as to why it is in the public's interest to acquire the parcel.
- The authority to obtain a third appraisal if the first two appraisals exceed $1 million and differ significantly.

[92] Section 259.032(3), F.S.
[93] Section 253.034(10), F.S.

- The requirement that the agency proposing the acquisition must pay associated costs in addition to appraisal fees. Currently, acquiring agencies are not expressly required to pay associated costs when acquiring nonconservation lands.
- The authority to release an appraisal report for nonconservation lands when the acquiring agency has terminated negotiations.
- The prohibition against the maximum value of a parcel to be purchased by the board, as determined by the highest approved appraisal or pursuant to the rules of the board, increasing or decreasing as a result of a changing in zoning or permitted land uses, or changes in market forces or prices that occur within one year after the date the department or the board approves the contract to purchase the parcel.
- The authority of the secretary of the department or the director of the division to waive the appraisal requirements and to enter into an option agreement to buy a parcel of land before appraisal of the parcel of land.
- The authority to contract for additional real estate acquisition services including, surveying, mapping, environmental audits, title work, and legal and other professional assistance for reviewing acquisition agreements and other documents and to perform acquisition closings.

The following provisions were moved from s. 259.041, F.S., to s. 253.025, F.S., with no effect:

- The rulemaking authority of the board relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes.
- The eminent domain authority to acquire any conservation parcel identified on the Florida Forever acquisition list established by the council and approved by the board.
- The authority of the board, by an affirmative vote of at least three members, to direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of certain lands.
- The provision providing that title to lands that are to be jointly held by the board and a water management district when acquired by a water management district are deemed to meet the standards necessary for ownership by the board.

Additionally, the bill makes the following changes:

- Authorizes the division to use an appraisal prepared by the division to estimate the value of a parcel that is estimated to be worth $100,000 or less, if the director of the division finds that the cost of an outside appraisal is not justified and provided the public's interest is reasonably protected.
- Removes the board's ability to designate a qualified fee appraiser organization.
- Changes a reference to the Division of Business and Professional Regulation to the Department of Agriculture and Consumer Services as land surveyors are regulated by the latter rather than the former.
- Revises the definition of the term "nonprofit organization," relating to organizations that may provide an appraisal to the division, to include nonprofit organizations whose purpose includes the preservation of natural resources for the purposes of the acquisition of conservation lands, rather than nonprofit organizations whose purpose is the preservation of natural resources.

- Authorizes rather than requires, the department to use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.
- Defines the term "project" to mean "those Florida Forever projects selected pursuant to chapter 259."

The bill amends s. 253.031, F.S., to remove the requirement that the board keep records and papers at the U.S. Land Office in Gainesville, Florida. All documents are now held in Tallahassee as required by law.[94]

Alternatives to Fee Simple Acquisition

The bill creates s. 253.0251, F.S., to relocate subsection 259.041(11), F.S., without amending the language. Additionally, the bill deletes s. 259.101(7), F.S., the language of which closely mirrors s. 259.041(11), F.S., but applies to acquisitions under the Perseveration 2000 program.

Management Requirements

The bill amends s. 253.03, F.S., to update a reference to a repealed rule that grandfathered-in certain structures to use sovereignty submerged lands. The bill requires the board to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses that are related to water-dependent uses.

The bill amends s. 253.034, F.S., to authorize the department to submit lands to the board to consider whether to require the managing or leasing entity to release its interests in the state-owned lands and whether to surplus the lands, if the entity managing or leasing the land from the board does not meet the short-term goals as provided in the applicable land management plan for conservation lands or the land use plan for nonconservation lands. The planning period for short-term goals in a land management plan is two years and the planning period for short-term goals in a land use plan is five years.

The bill amends s. 253.034(5), F.S., to:

- Require that each updated land management plan identify conservation lands under the plan, in part or in whole, which are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
- Require that all state nonconservation lands be managed to provide the greatest benefit to the state and that any use or possession of nonconservation lands which is not in accordance with an approved land use plan is subject to termination by the board.
- Require each land use plan to contain, at a minimum, all of the following elements:
  - A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources, as opposed to an analysis of the property to determine if any significant natural or cultural resources are located on the property as required under current law.
  - A desired development outcome.
  - A schedule for achieving the desired development outcome.

[94] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

  - A description of both short-term (achievable within a 5-year planning period) and long-term (achievable within a 10-year planning period) development goals.
  - A management and control plan for invasive nonnative plants.
  - A management and control plan for soil erosion and soil and water contamination, as opposed to providing for the conservation of soil and water resources as required under current law.
  - Measureable objectives to achieve the goals identified in the land use plan.
- Remove the specification that natural or cultural resources includes archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.
- Provide clarification by adding references to state conservation lands or nonconservation lands where appropriate.
- Remove duplicative language relating to the authority of the secretary of the department, the Commissioner of Agriculture, or the Executive Director of the Fish and Wildlife Conservation Commission to submit a land management plan to the board, if the council fails to make a recommendation for the plan.

The bill amends s. 253.7821, F.S., to assign the Cross Florida Greenways State Recreation and Conservation Area to the department, rather than the Office of Greenways Management.

The bill amends s. 259.032, F.S., relating to conservation and recreation lands to:
- Remove the requirement that outdoor activities related to recreation which are authorized be compatible with the purposes for which the lands were acquired.
- Remove the requirement that conservation lands be managed for the purposes for which the lands were acquired.
- Require the board to evaluate and amend the management policy statement for a project to ensure that the policy is compatible with conservation or recreation purposes rather than consistent with the purposes for which the lands are acquired.
- Remove obsolete language relating to the land management plan for the Babcock Crescent B Ranch. The land management plan has been created.
- Revise the requirements for individual management plans by:
  - Removing the requirement that the priority schedules for conducting management activities be based on the purposes for which the lands were acquired.
  - Requiring the determination of the public uses and public access to be compatible with conservation or recreation purposes rather than consistent with the purposes for which the lands were acquired.
- Revise the legislative intent that such lands be managed and maintained in a manner that is compatible with conservation or recreation purposes rather than for the purposes for which the lands were acquired and the requirement that public access and use be consistent with acquisition purposes.
- Conform cross-references.

The bill amends s. 259.035, F.S., to clarify that the council provides assistance to the board in reviewing the recommendations and plans for state-owned conservation lands. The council does not provide the board with assistance relating to plans for state-owned nonconservation lands.

The bill amends s. 259.036, F.S., relating to the requirements of management review teams to:

- Require the review teams to determine whether conservation, preservation, and recreation lands titled in the name of the board are managed for purposes that are compatible with conservation, preservation, or recreation in accordance with the applicable land management plan, rather than for the purposes for which they were acquired.
- Revise the composition of regional land management review teams to provide a preference for private land managers from the local community and to authorize a member or staff of the jurisdictional water management district to be on the team instead of a member or staff of the local soil and water conservation district board of supervisors.
- Change references from the division to the department.

The bill amends s. 259.037, F.S., to provide an acronym for the Land Management Uniform Accounting Council (LMUAC) and remove the director of the Office of Greenways and Trails from the council.

Under s. 259.047, F.S., a state or acquiring entity is required to make reasonable efforts to keep lands in agricultural production which were in agricultural production at the time of acquisition, where consistent with the purposes for which the property was acquired. The bill amends the language to state if consistent with the purposes of conservation or recreation.

The bill amends s. 259.101, F.S., to revise the language related to the incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation purposes rather than compatible with the purposes for which such lands were acquired. The bill removes the language relating to alternatives to fee simple acquisition under this section. This language closely mirrors the authorization for alternatives to fee simple acquisitions under the Florida Forever program, which was moved to a new section. The bill conforms cross-references.

Disposition Procedures

The bill amends s. 253.0341, F.S., to include the provisions from s. 253.034(6) and (13), F.S., to provide one section of law that encompasses the surplus requirements for state lands. The bill:

- Removes authorization for local governments to submit surplusing requests directly to the board.
- Removes authorization for the board to decide to surplus nonconservation lands without a review of, or a recommendation on, the request from the council or the division.
- Requires all requests to surplus conservation lands to be submitted to the lead managing agency for review and recommendation to the council, and all requests to surplus nonconservation lands to be submitted to the division for review and recommendation to the board.
- Under current law, surplusing requests for nonconservation lands by a county or local government were required to be considered by the board within 60 days of the board's receipt of the request. Surplus requests by a county or local government to surplus conservation lands were required to be considered by the board within 120 days of the board's receipt of the request. The bill applies the 60-day review requirement to all requests, not just from a county or local government, and to requests to surplus conservation lands.

- Requires state universities or Florida College System institutions that request the use of a property that was to be declared as surplus to secure the property under a fully executed lease within 90 days after being notified that it may use such property.
- Requires the division, at least every 10 years, to review all state-owned conservation lands titled to the board to determine whether any such land is no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
  - After such review, the division is required to submit a list of identified lands to the council.
  - The council, within nine months after receiving the list, is required to provide recommendations to the board as to whether any such land is no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
  - After reviewing the list and considering the council's recommendations, if the board determines, by an affirmative vote of at least three members, that any such land is no longer needed for conservation purposes, the board is required to dispose of the lands in fee simple or with the state retaining a permanent conservation easement.
- Requires the division, at least every 10 years, to review all encumbered and unencumbered nonconservation lands titled to the board and recommend to the board whether any such lands should be retained in public ownership or disposed of by the board by a majority vote of the members.
- Clarifies that council review and recommendation on requests for surplus lands only applies to conservation lands.
- Removes language relating to the conveyance of title to property on which the Graham Building is located to Miami-Dade County. The conveyance has been executed.
- Removes the authorization for local governments to request that state lands be specifically declared surplus for the purpose of providing alternative water supply and water resource development projects, public facilities, and affordable housing.
- Removes examples of permittable uses of land surplused under certain circumstances to a state, county, or local government.
- Revises the deadline for state agencies, state universities, and Florida College System institutions requesting to lease a surplus facility or parcel from 60 days after the offer for lease to 45 days after the offer for lease.
- Adds the term "nonconservation" to clarify that only facilities or parcels of nonconservation lands are required to be first offered for lease to state agencies, state universities, and Florida College System institutions before such facility or parcel is offered for lease or sale. The bill also changes the term from "building" to "facility" to include all possible structures on the parcel.

The bill amends s. 253.111, F.S., to require the board before it sells any land to which it holds title to provide notice and afford an opportunity to receive such land to a municipality, in addition to the county, in which the land is situated. Additionally, the bill:

- Gives priority consideration to a municipality over the county, if the parcel is located within a municipality, in cases where both the county and municipality have proposed to acquire land the board intends to sell.

- Revises the notification requirements to include express mail or any commercial delivery service requiring a signed receipt, or electronic notification with return receipt.
- Removes the 40-day requirement for a determination by resolution to be made by the governing board of the county or municipality, but retains the 45-day requirement for receipt of such resolution by the board.
- Authorizes the board to convey the land to the county or municipality at a price that is equal to its market value based on, at the discretion of the division, an appraisal, a comparable sales analysis, or a broker's opinion of value. Under current law, the market value had to be based on an appraisal established by generally acceptable professional standards.

The bill amends s. 253.42, F.S., relating to the exchange of lands, to create a new process authorizing a person who owns land contiguous to state-owned lands to submit a request to the division to exchange all or a portion of the privately owned land for all or a portion of the state-owned land. The state would retain a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. The bill authorizes the division to submit the request to the council for review, in which case the council shall provide recommendations to the division. The division then is required to review the request and the council's recommendations and may provide recommendations to the board. The bill authorizes the board to approve the request if:

- At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.
- The approval does not result in a violation of the terms of a preexisting lease or agreement by the board, the department, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.
- For state-owned land purchased for conservation purposes, the board of trustees makes a determination that the exchange of land under this subsection will result in a positive conservation benefit.
- The approval does not conflict with any existing flowage easement.
- The request is approved by three or more members of the board of trustees.

The bill specifies that state-owned sovereign submerged land is not authorized for this type of exchange and that special consideration is required to be given to requests that maintain public access for any recreational purpose allowed on the state-owned land at the time the request is submitted to the board. The bill provides that a person who maintains public access on such lands is entitled to a limitation on liability. The bill requires that any land subject to a permanent conservation easement granted under this process is subject to inspection by the department to ensure compliance with the terms of the permanent conservation easement.

The bill amends s. 253.782, F.S., to remove the directive requiring the department to retain ownership of and maintain all lands or interests in land owned by the board, including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

FL-SOLARIS

The bill creates s. 253.87, F.S., to require the department to expand the scope of the FL-SOLARIS database and require:

- By July 1, 2018, that the database include all federally owned conservation lands, all lands on which the Federal Government retains a permanent conservation easement, and all lands on which the state retains a permanent conservation easement.
- By July 1, 2018, and at least every five years thereafter, that counties and municipalities identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. If a municipality qualifies as a financially disadvantaged small community it has until July 1, 2019, to complete this requirement.[95]
- The department to add the lands on a list submitted by a county or municipality to the database within six months after receiving the list.
- The department to update the database at least every five years.
- The department to conduct a study on the technical and economic feasibility of including the following lands in the database or a similar public lands inventory:
  - All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres.
  - All publicly and privately owned lands for which development rights have been transferred.
  - All privately owned lands under a permanent conservation easement.
  - All lands owned by a nonprofit or nongovernmental organization for conservation purposes.
  - All lands that are part of a mitigation bank.
- The department to submit a report regarding the study on the technical and economic feasibility of including such lands in the database to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2018.

Florida Forever Program

The bill amends s. 259.01, F.S., to revise the short title for chapter 259, F.S., from the "Land Conservation Act of 1972" to the "Land Conservation Program."

The bill repeals s. 259.02, F.S., relating to the bonding authority for state capital projects for environmentally endangered lands up to $200 million and outdoor recreation lands up to $40 million. The bond issuance has been satisfied.[96]

The bill amends s. 259.03, F.S., to revise the definition of the term "water resource development project" to delete the express exclusion of the construction of treatment, transmission, and distribution facilities from the definition. This revision authorizes projects for constructing

[95] Section 403.1838, F.S., defines the term "financially disadvantaged small community as "a municipality that has a population of 10,000 or fewer, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce."
[96] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

treatment, transmission, and distribution facilities to be eligible for funding under the Florida Forever program as water resource development projects. Additionally, water resource development projects are authorized as a "multiple use" which lands acquired under chapter 259, F.S., may be managed for, where compatible with the resource values of and management objectives for such lands.[97]

The bill amends s. 259.105, F.S., to:

- Provide increased priority under Florida Forever for:
  - Projects that can be acquired in less than fee ownership such as permanent conservation easements;
  - Projects that contribute to improving quality and quantity of surface water and groundwater; or
  - Projects that contribute to improving the water quality and flow of springs.
- Remove the requirement that where habitat or potentially restorable habitat for imperiled species is located on state lands the short-term and long-term management goals included in the land management plan must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting the other uses identified in the management plan. This language was moved to s. 259.032(8)(c), F.S., but the requirement that the goals and objectives of imperiled species management plan be consistent with the proposes for which the land was acquired was removed.
- Clarify that an affirmative vote of at least five members of the council is required to place a proposed project on the priority list.
- Remove legislative ratification requirements for rules that have been ratified and taken effect.
- Conform cross-references.

The bill amends, s. 259.1052, F.S., to delete distribution requirements under Florida Forever relating to the Babcock Crescent B Ranch. This language is obsolete as the acquisition project is now completed.

The bill amends ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S., to conform cross-references.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires each county and municipality to submit to the department a list of all conservation lands owned in fee simple by the entity and lands on which the entity holds a permanent conservation easement. The bill may require counties and municipalities to take actions requiring the expenditure of funds. As a result, the county and municipality mandates provision of Article VII, section 18, of the Florida Constitution may apply. A

[97] Section 259.105(5)(a), F.S.

law having an insignificant fiscal impact is exempt from the requirements of Article VII, section 18, of the Florida Constitution. The cost to counties and municipalities to identify and submit the list to the department is indeterminate at this time. If the cost will have an insignificant fiscal impact the exemption may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires a review of a lease to ensure that all short-term goals are being met for conservation and nonconservation lands. The department estimates that to track, review, and submit to the board for a recommendation whether to require the managing agency to release its interest and consider surplus, the department would need one full-time equivalent (FTE) employee to facilitate the non-conservation land portion under the bill.[98] Additionally, additions to the current land management database are necessary to track and provide reminders when the short-term goal reviews are due. The department estimates that costs of these additions are indeterminate without a study.[99]

The bill requires the department to review state-owned lands every 10 years, the department estimates that to facilitate these 10-year reviews, one FTE employee would be necessary.[100] The department has begun an analysis on what is necessary to enable the department to track land management plans. The costs of this addition is indeterminate without a study.[101]

The bill requires the department to include all federally owned conservation lands and all lands on which the federal government holds a permanent conservation easement, and all lands on which the state holds a permanent conservation easement. The department

[98] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[99] *Id*.
[100] *Id*.
[101] *Id*.

estimates that they will need an additional FTE to produce the initial data, establish federal contacts to acquire data, and to maintain the system and data.[102] The bill also requires counties and municipalities to submit lists of conservation lands that they own in fee simple and lands for which they hold a permanent easement. The department estimates that an FTE will be required to act as a liaison to counties and municipalities, to assure compliance, quality control, and maintain the county and municipal conservation data in FL-SOLARIS.[103] The department estimates that these costs will be $1,135,784, see chart below.[104]

Division of State Lands/Office of Operations				
Category/Description	**FTE**	**Recurring**	**Nonrecurring**	**Total Costs**
Salaries and Benefits	2.0	$145,000	-	$145,000
Expenses		$12,332	$7,764	$20,096
Contracted Services/System Development and Maintenance*		$95,000	$855,000	$950,000
Contracted Services/ FNAI Data		$20,000	-	$20,000
Transfer to DMS-HR Services-Statewide Contract		$688	-	$688
Total	**2.0**	**$273,020**	**$862,764**	**$1,135,784**

The bill requires the department to conduct a study and submit a report on the technical and economic feasibility of including lands within various criteria in FL-SOLARIS. The department estimates that this cost will be $500,000.[105]

VI. Technical Deficiencies:

The bill contains the following technical deficiencies:

- On line 295 the reference to "chapter 259" was inadvertently left out.
- On line 398 the term "Minimum Technical Standards" should be amended to read "Standards of Practice."
- On lines 511-515 the bill amends s. 253.025, F.S., to authorize rather than require the department to use outside counsel unless staff can conduct the same activity in 15 days or less. If the intent is to provide the department with flexibility to use outside counsel under any circumstance, the language should be amended to remove the clause restricting the department from being able to use outside counsel if department staff can conduct the same activity in 15 days or less.
- On lines 792-794 the term "project" is defined for purposes of the section to mean "Florida Forever projects." Within that section, on line 261, the term "project" is used to refer to joint state and federal acquisition projects. The definition of the term "project" should be removed.

[102] *Id*.
[103] *Id*
[104] *Id*.
[105] *Id*.

- On lines 1731 the term "building" was revised to "facility." However, on lines 1737, 1741, and 1746, the term "building" is used. These references should be changed to "facility."
- On lines 2046-2047 all federally owned conservation lands and all lands on which the Federal Government retains a permanent conservation easement are required to be included on FL-SOLARIS. For clarification, the language should be amended to limit the requirement to apply only to federally owned conservation lands and easements in the state.
- On line 2195 the term "statement" should be included after the word "policy."
- On line 2625 the term "purposes" should be reinstated.

VII. Related Issues:

The bill moves language relating to alternatives to fee simple acquisitions from s. 259.041, F.S., to the newly created s. 253.0251, F.S. The requirement that each applicant within a project application must provide a statement as to why they are seeking full fee simple, rather than using an alternative to fee simple, was moved and revised under the bill to apply to all applications for alternatives to fee simple. With the revision, the language no longer makes sense, see lines 830-834. This provision should be reinstated to the original language and moved to s. 259.105, F.S., relating to the Florida Forever project application requirements.

The bill consolidates the request procedures for nonconservation lands and conservation lands in s. 253.0341(12), F.S., beginning on line 1814. Within that subsection language was moved from s. 253.023(6)(j), F.S., which provides an exemption from paragraph (f). Paragraph (f) requires consideration of whether the land would be more appropriately owned or managed by the county or other unit of local government and requires such lands to be first offered to the state, county or local government. It is not clear, under current law, which requirement this exemption applies. Under the bill, this exemption will now apply to all requests to surplus lands and an additional exemption from subsection (8), relating to offers to state agencies, state universities, and Florida College System institutions, was added. The bill seems to state that all requests to surplus lands would be exempted from the requirement that the lands be first offered to a state agency, local government, state university, or Florida College System institution. This provision on lines 1829-1831 should be amended for clarification.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.025, 253.03, 253.031, 253.034, 253.0341, 253.111, 253.42, 253.782, 253.7821, 259.01, 259.03, 259.032, 259.035, 259.036, 259.037, 259.047, 259.101, 259.105, 259.1052, 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, 1013.14.

This bill creates the following sections of the Florida Statutes: 253.0251 and 253.87.

This bill repeals the following sections of the Florida Statutes: 259.02 and 259.041.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.