

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 23, 1998 Revised: \_\_\_\_\_

Subject: The Florida Forever Program

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2.	<u>_____</u>	<u>_____</u>	<u>CA</u>	<u>Withdrawn</u>
3.	<u>_____</u>	<u>_____</u>	<u>ED</u>	<u>Withdrawn</u>
4.	<u>Fournier</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

**I. Summary:**

This committee substitute provides legislative intent for the Florida Forever Program, which will become effective July 1, 2000, contingent upon approval by the electorate of a constitutional amendment. The bill expresses an intent to authorize the sale of up to \$3 billion in lands to finance the ten-year program and provides a process for funding land management needs. It authorizes the transfer of documentary stamp tax revenue from General Revenue to the Land Acquisition Trust Fund to pay debt service for the Florida Forever Program. The Preservation 2000 Program Review Study Commission is created to provide recommendations for the Florida Forever Program to the 2000 Legislature.

The committee substitute revises provisions relating to payments in lieu of taxes, requires certain uses of Preservation 2000 (P-2000) funds by the Department of Environmental Protection (DEP) and certain water management districts (WMDs), and provides a process for the Board of Trustees of the Internal Improvement Trust Fund (Trustees) to limit acquisitions in counties having a large proportion of their land in public ownership. The bill revises criteria for less than fee simple acquisitions, provides for the transfer of specified lands to Walton County, and establishes a process for the release of unneeded road reservations on Murphy Act lands.

This bill creates section 259.202 and three as yet unnumbered sections of the Florida Statutes. It amends sections 201.15, 253.82, 259.032, 259.041, 259.101, 373.59, 712.04, and 712.05 of the Florida Statutes.

**II. Present Situation:**

Florida, the nation's leader in the acquisition and protection of lands important for conservation and recreation, has three primary acquisition programs.

## **CARL**

The Conservation and Recreation Lands (CARL) Program, established in 1979 as an expansion of the 1972 Environmentally Endangered Lands (EEL) program, was the state's primary acquisition program prior to the creation of the Preservation 2000 (P-2000) program in 1990. Funded primarily by phosphate severance tax and documentary tax revenues, the program receives approximately \$50 million annually. On an annual basis, a list of proposed acquisitions is prepared and ranked by the Land Acquisition and Management Advisory Council (LAMAC) for approval by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund (Trustees). The council is composed of the heads of the Departments of Environmental Protection (DEP) and Community Affairs (DCA) as well as the heads of the Game and Fresh Water Fish Commission (GFWFC), the Division of Forestry (DOF), the Division of Historical Resources (DHR), and a designated employee of the DEP. Once approved, acquisitions are made in their order of ranking, to the greatest extent practicable. The information provided by the council includes a management prospectus, an interim management budget, and a designated management agency or agencies.

As of December 31, 1994, more than \$638 million has been expended by the CARL program and its predecessor, the EEL program.

## **SAVE OUR RIVERS**

The second major component of the state's land acquisition effort is the Save Our Rivers (SOR) program, established in 1981 to acquire lands important to the state's major river systems. While the DEP has certain responsibilities for controlling the release of funds to the districts, the water management districts (WMDs) actually purchase and manage the lands. Funding for SOR purchases comes from a dedicated portion of the state documentary stamp tax which is deposited in the Water Management Lands Trust Fund (WMLTF). The DEP releases funds to the WMDs for land acquisitions and payments in lieu of taxes, as well as for management, maintenance, and capital improvements on these lands. WMDs are allowed to issue bonds against these revenues, subject to the approval of DEP.

Unlike other state sponsored land acquisition programs (except the Florida Communities Trust), the title to lands purchased through the SOR program is held by the WMDs rather than the Trustees. The WMDs are authorized to acquire the fee or other interest in lands necessary for water management, water supply, and the conservation and protection of water resources.

Although substantial sums have been expended by the WMDs using documentary stamp tax revenues, the districts' annual P-2000 allocations have greatly increased the pace of land acquisition activity. To date, the WMDs have expended nearly \$500 million in P-2000 funds to acquire nearly 500,000 acres and have approved commitments to expend an additional \$23.5 million to acquire 17,000 acres. Although the source of these funds is the P-2000 program, all such moneys must be spent using SOR procedures.

The WMD's P-2000 and SOR funds are distributed as follows:

1. Thirty percent to the South Florida WMD.
2. Twenty-five percent to the Southwest Florida WMD.
3. Twenty-five percent to the St. Johns River WMD.
4. Ten percent to the Suwannee River WMD.
5. Ten percent to the Northwest Florida WMD.

### **P-2000**

The 1990 enactment of the P-2000 program provided significantly-increased funding for land acquisition. This ambitious program provides for the annual sale of up to \$300 million in bonds, not to exceed a total of \$3 billion over a 10-year period, and the use of the proceeds to acquire lands for conservation and recreation and the provision of open space within urban areas. Although there is no requirement that bonds be sold annually, the Legislature has provided funds from the documentary stamp tax for the issuance of approximately \$300 million in bonds in each year of the period from 1991 through 1997. Less the costs of issuance and other costs, the proceeds of bond sales are deposited into the Florida Preservation 2000 Trust Fund (P-2000 TF) and are distributed by the DEP annually as follows:

1. Fifty percent (\$150 million) to the DEP for the purchase of lands under the CARL program.
2. Thirty percent (\$90 million) to the state's five WMDs for the purchase of lands needed for water management, conservation of water resources, implementation of surface water improvement and management (SWIM) plans, and to implement the Everglades Construction Project.
3. Ten percent (\$30 million) to the DCA's Florida Communities Trust (FCT) for land acquisition grants and loans to local governments to provide open space in urban areas. Funds are also used to acquire development rights in the Green Swamp.
4. Two and nine-tenths percent (\$8.7 million) to DEP's Division of Recreation and Parks (DRP) for the purchase of inholdings and additions to state parks.
5. Two and nine-tenths percent (\$8.7 million) to the Department of Agriculture and Consumer Services' DOF for the purchase of inholdings and additions to state forests.
6. Two and nine-tenths (\$8.7 million) to the GFWFC for the purchase of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife.

7. One and three-tenths percent (\$3.9 million) to DEP's Office of Greenways and Trails (OGT) to acquire greenways and trails or greenways and trail systems pursuant to ch. 260, F.S., including, but not limited to, abandoned railway rights-of-way and the Florida National Scenic Trail.

As of February 28, 1998, over \$1.5 billion has been expended under the P-2000 program to acquire more than 975,000 acres. A further \$167.6 million is currently reserved for approved commitments to acquire 99,606 acres.

Section 201.15, F.S., provides for the transfer of documentary stamp tax revenue from the General Revenue Fund to the Land Acquisition Trust Fund to pay debt service on Preservation 2000 bonds. The authority for additional annual bond issues for the P-2000 program expires in fiscal year 1999-2000.

### **III. Effect of Proposed Changes:**

Section 1. Section 259.202, F.S., is created to provide a legislative declaration that the alteration and development of Florida's natural areas to accommodate its rapidly growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, and public beaches, and that the potential development of the state's remaining natural areas and escalation of land values require a continuation of government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's invaluable quality of life.

To address these concerns the Legislature finds:

- To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems, and assist in achieving the planning goals of the DEP and the water management districts, water resource development projects on public lands, where compatible with the resource values of and management objectives for such lands, are appropriate. All lands acquired in the future under the Florida Forever Program and other state land acquisition programs may be used for water supply and water resource development projects compatible with their resource values and or management objectives. Funds provided under the Florida Forever Program shall not be used for the construction of wells or pipeline facilities. As used in this legislation, multiple use also includes public recreation, water supply, water resource development projects, and sustainable forestry management, where appropriate. Permittable water resource development and water supply development projects may be allowed only under the following conditions: the minimum flows and levels have been established for those waters potentially affected by the project; the project complies with all conditions for the issuance of permits under Part II of chapter 373, F.S.; and the project is consistent with the Regional Water Supply Plan of the water management district.

- The availability of public hunting lands is being reduced as more landowners are leasing their lands for private hunting. Additional emphasis should be placed on the acquisition and management of lands that will be open for appropriate public hunting and wildlife management strategies.
- The needs of urban Florida for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust, the state shall place additional emphasis and increase funding for acquiring, protecting, preserving, and restoring open space, greenways and trails, and recreation properties within urban areas where pristine natural communities or water bodies no longer exist because of their proximity to developed property.
- Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, where compatible with the resource values of and management objectives for such lands, promotes an appreciation for Florida's natural assets and improves the quality of life.
- Acquisition of lands, in fee simple or in any lesser interest, should be based on a comprehensive assessment of Florida's natural resources and planned so as to protect the integrity of ecological systems and to provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban as well as rural areas, and water recharge.
- The acquisition of lands needed to complete projects undertaken under the Preservation 2000 program should be emphasized, to enhance management efficiency and protect extensive natural areas.
- Public agencies or other entities that receive funds under the Florida Forever Program are encouraged to better coordinate their expenditures so that project acquisitions, when combined with acquisitions under the Preservation 2000, Save Our Rivers, the Florida Communities Trust, and other public land acquisition programs, will form more complete patterns of protection for natural areas and functioning ecosystems, to better accomplish the intent of the Florida Forever Act.
- A long-term financial commitment to managing Florida's public lands must accompany any new land acquisition program to ensure that the natural resource values of such lands are protected, that the public has the opportunity to enjoy the lands to their fullest potential, and that the state achieves the full benefits of its investment of public dollars.
- Many of Florida's unique ecosystems such as the Florida Everglades are facing ecological collapse due to Florida's burgeoning population. To preserve these valuable ecosystems for future generations, parcels of land must be acquired to facilitate ecosystem restoration.

This section also provides that any lands acquired pursuant to the Florida Forever Program, where title is vested in the Trustees, may be disposed of by the Trustees in accordance with the procedures set forth in s. 253.034(6), F.S. Lands with titles vesting in a WMD governing board may be disposed of by the owning WMD in accordance with the procedures set forth in ss. 373.056 and 373.089, F.S. All agencies which hold title to lands acquired under the Florida Forever program must biennially evaluate their inventory of such lands to determine whether any of the properties are suitable for surplus.

Lands determined to be surplus must be sold for fair market value, except the price of lands sold as surplus to a local government shall not exceed the price paid by the state or a WMD to originally acquire the lands and such lands shall be used for public purposes. Before land can be determined to be of no further benefit to the public as required by s. 253.034(6), F.S., or to be no longer required for its purposes under s. 373.056(4), F.S., there must first be a determination by the Land Acquisition and Management Advisory Council that such land no longer needs to be preserved in furtherance of the intent of the Florida Forever Act.

- For lands proposed for surplus within the original project boundaries or the core parcel, there must be a finding by the council that the land has no unique or high-quality natural resources; is of low natural resource values, as determined by a biological assessment or survey conducted by the Florida Natural Areas Inventory or its successor, or is of lower natural resource values than the land proposed to be purchased with the proceeds from its sale. The Trustees must review and approve or deny such surplus decisions.
- For lands proposed for surplus located outside of the original project boundary the council must presume that the lands are to be surplus unless: A biological assessment or survey conducted by the Florida Natural Areas Inventory or its successor has determined that the lands are of such quality that surplus should not be approved, or the lead managing agency can provide sufficient evidence that the loss of such lands would substantially harm the purposes for which the land was purchased.

Requests for surplus may be made by any public or private entity or person. All requests are to be submitted to the lead managing agency for review and recommendation to the council. Lead managing agencies shall have 90 days to review such requests and make recommendations. Any surplus requests that have not been acted upon within these requirements shall be immediately scheduled for hearing at the next regularly scheduled council meeting.

No disposition of land may be made if such disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the Florida Forever Act to lose the exclusion from gross income for purposes of federal income taxation. Any revenue derived from the disposal of such lands may not be used for any purpose except for deposit into the Florida Forever Trust Fund, the Water Management Lands Trust Fund, or the appropriate local government trust fund, depending on the entity which held title to the land, for the acquisition of new lands which meet the criteria pursuant to this section.

Lands identified as suitable for surplus shall first be offered to local governmental entities for a period of 90 days. Local governmental uses for such surplus lands may include public schools, public libraries, fire or law enforcement substations, and recreational centers. Local governmental requests for surplus lands shall be expedited throughout the surplusing process. State agencies shall have the subsequent opportunity to acquire the surplus lands, for a period not to exceed 30 days after the offer to local governments expires. Surplus properties in which governmental agencies have expressed no interest shall then be available for sale on the private market.

Section 2. This section provides a finding that the sale of bonds to implement the Florida Forever Program is appropriate, and authorizes the sale of up to \$3 billion in bonds over the ten-year period beginning July 1, 2001 and ending July 1, 2010.

Section 3. This section provides intent that the state develop creative techniques to maximize its acquisition and management funding, including alternatives to fee simple acquisition. Florida Forever projects to be acquired using alternatives to fee simple acquisition, after meeting applicable selection criteria, shall be ranked based on price, with the highest priority given to projects for which the sellers are willing to accept the greatest reduction below the appraised value of the property. However, no projects using alternatives to fee simple acquisition may be undertaken if the purchase price exceeds two-thirds of the project's appraised value.

Section 4. This section provides a finding that sufficient funds must be made available for management, maintenance, capital improvements, and protection of lands acquired through the Florida Forever, Preservation 2000, and other programs for the acquisition of lands for conservation and recreation. Therefore, effective July 1, 2000, new funds, not including bond proceeds, that are credited to the Conservation and Recreation Lands Trust Fund created pursuant to s. 259.032(2)(a), F.S., and the Water Management Lands Trust Fund created pursuant to s. 373.59(1), F.S., after payment of debt service requirements for prior bond issues, shall be transferred to the State Lands Management Trust Fund which is to be created pursuant to general law. Moneys in the State Lands Management Trust Fund shall be used for management, maintenance, and capital improvements on recreation, conservation, environmental, or water management lands, including, but not limited to, those lands acquired with funds from the Conservation and Recreation Lands Trust Fund, the preservation 2000 Trust Fund, the Water Management Lands Trust Fund, or the Water Resources Development Account. The trust fund may also be used for water supply development and fixed capital outlay projects to implement approved Surface Water Improvement and Management plans. Up to 1.5 percent of the total deposits ever deposited into the Water Resources Development Account, the Conservation and Recreation Lands Trust Fund, the Water Management Lands Trust Fund, the Preservation 2000 Trust Fund, and the Florida Forever Trust Fund shall be reserved annually for management, maintenance, and capital improvements on eligible lands.

Section 5. This section provides for the Preservation 2000 Program Review Study Commission. The commission will have 15 members. The Governor shall appoint five members and the President of the Senate, and Speaker of the House of Representatives will each appoint five members, three of which shall be legislators. The membership of the commission must reflect a

broad range of interests including legislative interests and expertise related to land restoration, acquisition, and management, including but not limited to, persons with training in hydrogeology, wildlife biology, engineering, real estate and forestry management, and persons with substantial expertise representing environmental interests; agricultural and silvicultural interests, outdoor recreational interests; and land development interests. Each appointing authority shall consider gender and racial balance in addition to particular expertise when making appointments.

Members of the commission may receive per diem and expenses for travel. No person who is or has been a lobbyist as defined in s. 112.3148, F.S., at any time during the 24 months preceding the nomination with any entity whose interests could be affected by recommendations of the commission, may be appointed.

This section assigns the commission to the DEP for administrative purposes and requires that appointments must be made by September 15, 1998. The commission's first meeting must be held by October 15, 1998. The commission will expire August 31, 1999. The chair of the commission will be selected by its members. The commission is to review and evaluate the Preservation 2000 program and provide information and recommendations to the Legislature to assist in the implementation of the Florida Forever Act, including:

- Appropriate modifications and funding levels for the program or a similarly constituted program after June 30, 2000, especially for funding additional emphasis on open space and recreation in urban areas.
- Appropriate changes in legislative policies for managing conservation lands purchased with bond proceeds including but not limited to:
  1. Multiple uses of such lands;
  2. Use for water supply purposes;
  3. Use of state funds for management to assist local governments in managing lands purchased for conservation and recreation;
  4. Use of state funds for management for exotic plant control; and
  5. Appropriate levels of funding to be allocated for management of lands and the development of management plans.
- Appropriate circumstances for declaring lands to be surplus and returning them to private or public use.
- Appropriate changes in legislative policies for providing payment in lieu of taxes to local governments where substantial public lands are removed from local tax rolls.



- Appropriate changes in legislative policies for the acquisition of inholdings and additions to lands in state ownership.
- Appropriate changes in legislative policies relating to the involvement of local governments in acquisition decisions for purchases within their boundaries, including the possibility of allowing local governments to have veto power over acquisitions in their jurisdiction where public land ownership accounts for over 35 percent of the tax roll.
- Appropriate strategies for evaluating the state's progress in the acquisition of conservation and recreation lands, to be based, in part, on a review of the "Florida Preservation 2000 Needs and Priorities Addendum Report" published by the DEP in December, 1997.
- Appropriate changes in legislative policies relating to land acquisition procedures.
- Appropriate changes in legislative policies relating to funding categories to be eligible to receive bond proceeds, and whether such categories should receive annual allocations for each year of the funding program.

The commission's report to the Governor and Legislature is due by September 1, 1999.

The DEP will provide primary staff support for the commission, with assistance from other agencies which have received Preservation 2000 funds. The bill provides a \$75,000 appropriation from the Water Management Lands Trust Fund to fund the commission.

Section 6. Section 259.032, F.S., is amended to increase the population threshold for payments in lieu of taxes to counties to compensate them for Preservation 2000 and Florida Forever acquisitions from 75,000 or less to 100,000 or less and to provide such payments to school boards. This section also provides payments in lieu of taxes to Glades County to compensate for tax losses due to the opening of a privately owned prison leased to the state. All payments in lieu of taxes are increased from ten years to fifteen years.

Section 7. Section 259.041, F.S., is amended to authorize the Division of State Lands to use, as its own, appraisals obtained by a public agency or nonprofit organization, provided the appraiser is selected from the division's list of appraisers and the appraisal is reviewed and approved by the division. For the purposes of this chapter, "nonprofit organization," means an organization whose purposes include the preservation of natural resources, and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

Section 8. Section 259.101, F.S., is amended to authorize the DEP to use one-tenth of its Preservation 2000 CARL allocation for fixed capital outlay projects to benefit lands acquired for conservation and recreation.

This section also requires the Southwest Florida Water Management District to use at least 20 percent of its annual Preservation 2000 allocation for water supply development activities, but

such water supply development activities may not include the construction of wellfields or distribution facilities. Whenever a water management district considers the purchase of lands for water supply purposes, it must establish as a priority the development of minimum flows and levels for those lands pursuant to s. 373.042, F.S. The South Florida Water Management District must use at least 20 percent of its annual allocation for Everglades restoration activities.

This section also provides that no additional acquisition under the Preservation 2000 program may be undertaken in a county having more than 35 percent of its land in public ownership without the approval of at least five members of the Board of Trustees of the Internal Improvement Trust Fund.

The section requires that projects to be acquired using alternatives to fee simple acquisition, after meeting applicable selection criteria, be ranked based on price, with the highest priority given to projects for which the sellers are willing to accept the greatest reduction below the appraised value of the property. However, no projects using alternatives to fee simple acquisition may be undertaken if the purchase price exceeds two-thirds of the project's appraised value.

Finally, this section revises provisions requiring that unexpended acquisition funds which have been on deposit in the accounts of the Florida Communities Trust, Division of Recreation and Parks, Division of Forestry, Office of Greenways and Trails, and Game and Fresh Water Fish Commission for more than two fiscal years be redistributed to the DEP's CARL acquisition program and the Water Management Districts, to specify the subaccounts to be used. Also revised is the date for the redistribution, from FY 1998-1999 to FY 1999-2000.

Section 9. Section 373.59, F.S., is amended to revise the payments in lieu of taxes program administered by the water management districts in the same manner as it is revised for the DEP in section 6 of the bill.

Section 10. This section provides that, notwithstanding section 259.101(6),(7), and (8), F.S., the Board of Trustees of the Internal Improvement Trust Fund may under chapters 93-184, 95-334, and 95-275, L.O.F., convey the lands located in Walton County specifically identified as the New Town, consistent with the Walton County Comprehensive Plan, to Walton County at a price not to exceed the price paid by the board for the lands plus any applicable interest, if the disposition of the land would not have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the Florida Preservation 2000 Trust Act to lose their exclusion from gross income for purposes of federal income taxation. Any revenue derived from the disposal of the lands may not be used for any purpose except for deposit into the Florida Preservation 2000 Trust Fund for recredit to the share held under section 259.101(3), F.S., in which the disposed of land is described.

The New Town Center must be developed consistent with the October 31, 1996, South Walton New Town Master Plan of Development, incorporated in its entirety into the Walton County Comprehensive Plan and Land Development Code.

If any of the subject lands acquired by Walton County are resold to private interests, they must be sold at fair market value and the proceeds from the resale must be used exclusively for development of the New Town Center, including its infrastructure and related school facilities.

Section 11. Section 253.82, F.S., is amended to vest all reservations of easements on deeds by the Trustees conveying land acquired under chapter 18296, L.O.F., 1937, (the Murphy Act), by operation of law and without the necessity of instruments of conveyance from the Trustees, in the governmental entity having right and title to the road to which the reservations are adjacent. All reservations adjacent to a road that was designated as a state road at the time of the reservation, which road is currently held by the state, are conveyed to the Department of Transportation. All reservations adjacent to a road that was designated as a state road at the time of the reservation, which road is located in an unincorporated area of a county or owned by the county within any incorporated area, are conveyed to the respective county. Any other reservation within an incorporated area adjacent to a road that was designated as a state road at the time of the reservation, which reservation is not otherwise conveyed to the state or the county, is conveyed to the incorporated area. The conveyance includes all rights, title, and interest in the reservation held by the Trustees.

Each entity that holds title to Murphy Act reservations must establish a procedure for reviewing any deed that contains a reservation when a review is requested or a road project is anticipated. The review process must provide for:

- A determination of whether the language of the deed created a reservation at the time of the original conveyance.
- A review of any release of the reservation provided by the property owner.
- The recording of a notice of the nonexistence of a reservation if reservation language in the deed does not impact the property.
- A determination of whether any or all of the reservation may be released, and a form for recording the release.
- A process to allow for review through mediation if requested by the property owner or through binding arbitration under chapter 44, F.S.

Any fee charged may not exceed the actual cost to review the deed, perform an appeal, and pay any recording expenses. Any such fee may not exceed \$300.

Any owner of property encumbered by a Murphy Act reservation who has been denied a release of all or part of the reservation or who has received notice of a governmental entity's intent to preserve the reservation under s. 712.05, F.S., may appeal to the entity and show that the reservation substantially denies the property owner the current economic use of the property held

by the owner. For purposes of this determination, the term “current economic use” means the use of the property on the date notice of the easement is filed under s. 712.05, F.S.

Upon a determination by the governmental entity that the reservation substantially denies the property owner the current economic use of the property held by the owner, the governmental entity must purchase the real property and improvements not retained by the property owner in fee simple title or release all or part of the reservation as necessary to allow for beneficial use of the property.

If the governmental entity and property owner are unable to agree as to whether the reservation substantially denies the current economic use of the property or as to the purchase price, the property owner may request mediation or binding arbitration under chapter 44, F.S., to resolve these issues.

Before the payment of any compensation, the property owner must provide to the governmental entity copies of any title insurance policies and notice of any compensation received from a title company with respect to the easement.

The process for release of any road reservation covered by this section or payment for property impacted by the use of a reservation covered by this section shall be solely in accordance with this section. Any action for the taking of property related to road construction is separate and distinct from an action under this section.

The governmental entity is not liable for attorney’s fees or costs incurred by the owner in establishing the impact of the road reservation on the property.

Section 12. Section 712.04, F.S., is amended to provide that all reservations of easements in deeds by the Trustees conveying land acquired under chapter 18296, L.O.F. 1937, shall be extinguished by the Marketable Record Title Act on July 1, 2001, subject to the provisions of s. 712.03, F.S., and further subject to the right of any governmental entity that holds title to the reservations to preserve such reservations that are necessary for future transportation projects in adopted transportation plans by filing notice under s. 712.05, F.S., before July 1, 2001.

Section 13. Section 712.05, F.S., is amended to provide that any governmental entity that claims a road reservation pursuant to a deed conveyed under the Murphy Act may preserve the reservation, or any portion thereof, necessary for future transportation projects in adopted transportation plans and protect the reservation from extinguishment by the operation of ch. 712, F.S., by filing for record, prior to July 1, 2001, a notice, in writing, in accordance with ch. 712, F.S. The notice will preserve the reservation or portion thereof for 10 years following the date of record if the reservation is used or identified by the governmental entity in the final design plans of a road project scheduled for construction to begin before the end of the 10-year period. Any reservation used or identified in the final design plans of a road project scheduled for construction to begin before the end of the 10-year period is not extinguished.

Section 14. The Legislature finds that balancing property interests of private citizens and governmental entities is an important function of the Legislature. Therefore, the Legislature finds that sections 11, 12, and 13, and 14 of this act fulfill an important state interest.

Section 15. Section 210.15, F.S., is amended to authorize transfers for debt service from General Revenue to the Land Acquisition Trust Fund for the Florida Forever Program. The amount subject to transfer is increased every year until fiscal year 2009-2010, when it will reach its maximum level of \$600,000 million.

Section 16. Sections 1, 2, 3, 4, and 15 of this act shall take effect July 1, 2000 but only upon approval by the electorate of a constitutional amendment permitting the sale of bonds as provided by law for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation, as provided in SB 528 or similar legislation. Otherwise, this act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This bill requires local governments to purchase the property of owners of Murphy Act lands whose land is burdened with a transportation reservation, if the local government intends to use the easement for a transportation project and the project or the reservation will deny the owner the current economic use of the property. While the amount of the compensation will vary depending on the circumstances, it could total substantial sums over time. The bill also requires local governments to develop a process for review of deeds containing such reservations when requested to do so or when a road project is anticipated. The costs to perform this task should not be substantial, however. Because the bill does not provide funding for these programs, it appears to constitute an unfunded mandate on local governments which will require a two-thirds vote of the membership of each house of the Legislature for passage.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

## V. Economic Impact and Fiscal Note:

### A. Tax/Fee Issues:

Contingent upon approval of the electorate of a constitutional amendment permitting the sale of bonds as provided by law for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation, as provided in SB 528 or similar legislation, documentary stamp tax revenue will be transferred to the Land Acquisition Trust Fund from the General Revenue Fund. The amount subject to transfer is increased every year until fiscal year 2009-2010, when it will reach its maximum level of \$600 million.

A fee of up to \$300 may be charged for the review process for Murphy Act reservations.

### B. Private Sector Impact:

Owners of property burdened with Murphy Act reservations could benefit if their property is released from these reservations or purchased due to substantial impairment of the property's current economic use. They would also have to pay a fee for the review process, although such fees will vary among governmental entities and have not yet been established.

While the bill imposes no direct costs on the public through user fees or taxes, there is an implicit reallocation of general revenue moneys after July 1, 2000 for bond debt service.

### C. Government Sector Impact:

Contingent on approval by the electorate of a constitutional amendment permitting the sale of bonds as provided by law for the purposes of conservation, etc., in any year after July 1, 2000 in which bonds are issued, there will be a reduction in the general revenue funding available for other purposes. In the past, the normal growth in documentary stamp tax revenues has been sufficient to fund the P-2000 program. Senate Bill 528 was introduced to authorize a constitutional amendment to allow the sale of bonds for the acquisition of conservation and recreation lands after 2013, when the current authorization to do so expires. The Florida Forever Program is dependent on the adoption of that amendment.

Several provisions of the bill which would have an impact are contained in "intent" language which will not be effective until July 1, 2000, and then only if a constitutional amendment is adopted to permit the sale of bonds for land acquisition after 2013.

Provisions having fiscal impacts which will be effective upon the act becoming a law include:

- The threshold population for receiving payments in lieu of taxes is increased from 75,000 to 100,000, payments are increased from 10 to 15 years, and school boards are made

eligible for such payments. The impact of these changes is unknown at this time, as payments are dependent on land acquisitions and millage levied.

- The DEP may use one-tenth of its P-2000 CARL allocation for fixed capital outlay projects to benefit lands acquired for conservation and recreation.
- The Southwest Florida WMD must use at least 20% of its annual P-2000 allocation for water supply development activities.
- The South Florida WMD must use at least 20% of its annual P-2000 allocation for Everglades restoration activities.
- The requirement that the Trustees authorize any new acquisition in a county having more than 35% of its lands in public ownership by an extraordinary vote could result in fewer acquisitions in such counties, thus preserving their tax bases.
- The requirement that less than fee acquisitions be acquired at no more than two-thirds of their appraised value could result in savings or, alternatively, in fewer such acquisitions.
- Provisions delaying the redistribution of unspent P-2000 acquisition funds by the five small P-2000 entities to CARL and WMDs by one year will allow those programs to continue on-going acquisition efforts and reduce the potential for increased less than fee purchases by the DEP and WMDs.
- The transfer of specified bonds to Walton County at a cost of less than \$250 per acre will have an impact. While the 420 acres proposed to be sold to Walton County have not been appraised, the DEP reports that in 18 sales of small parcels of comparable land in the area, most recently in 1997, the price per acre ranged from \$1,005 - \$11,429 per acre. Because of the potentially large difference between the possible sale price and the actual appraised value of the lands for the New Town Center, Walton County could benefit greatly from the sale. The P-2000 Trust Fund will not receive appraised value for the lands as required under s. 253.111, F.S., and, as revenues from sales of P-2000 lands are required to be used for acquisition, the funds available for future purchases will be decreased.
- Governmental entities will have to pay for real property if the use or continued reservation of a road reservation on a Murphy Act parcel has the effect of substantially impairing the current economic use of the property. The Department of Transportation has estimated that this would cost approximately \$1,250,000 per year for state highway projects. No estimate of the cost to local government has been made.

The DEP projects it would not receive approximately \$50,000 annually in fees for releases of reservations which are currently deposited into the Internal Improvement Trust Fund,

however, the department would not have to conduct the records searches or process the applications for release.

**VI. Technical Deficiencies:**

The bill authorizes the sale of lands to Walton County at the price paid plus any applicable interest. If the intent is to recapture the interest the funds used to purchase the lands would have earned had they been on deposit, the bill does not clearly state this intent. As drafted, this provision appears too vague to be given effect.

If the bill is intended to permit the disposition of the land to Walton County without the Trustees making a determination that the land no longer needs to be preserved in furtherance of the intent of the P-2000 Act, it does not do so; although the disposition could be made “notwithstanding s. 259.101(6),(7), and (8), F.S.,” it would be made “under chapters 93-184, 95-334, and 95-275, L.O.F.” Chapter 95-334, L.O.F., creates the provisions in s. 259.101(6),(7), and (8), F.S.

**VII. Related Issues:**

The sale of lands at the price paid for them by the state, rather than at appraised value as required under s. 253.111, F.S., would be a significant departure from the state’s current practice. With the tremendous influx of new residents, Florida’s land values can be expected to continue to rise. Land acquired by the state’s past conservation programs may have been acquired at a fraction of its value in today’s market. Enactment of this bill could establish a precedent which will be sought to be used by many local governments having needs most easily met by the use of state lands.

**VIII. Amendments:**

None.