

**STORAGE NAME:** h1389a.ag.doc

**DATE:** April 4, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
AGRICULTURE & CONSUMER AFFAIRS  
ANALYSIS**

**BILL #:** HB 1389

**RELATING TO:** Rural land conservation easements

**SPONSOR(S):** Representative(s) Dockery

**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 8 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS (FRC)
- (3) COUNCIL FOR COMPETITIVE COMMERCE
- (4)
- (5)

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I. SUMMARY:

HB 1389 creates the "Rural and Family Lands Protection Act." This legislation limits urban expansion by conserving farmland and green space through rural land conservation easements. The bill empowers the Department of Agriculture and Consumer Services (department) to administer a program offering either a perpetual or a 30-year rural land conservation easement. These easements will be targeted primarily towards timber and ranch lands.

The bill provides the state the right of "first refusal" to purchase the property in agreements to 30-year easements that have run out. In addition, the bill allows the department to enter into resource conservation agreements, under certain conditions, to compensate landowners for habitat and hydrological restoration.

Funding for this legislation would come from the sale of up to \$100 million in bonds annually over a 10-year period. The effective date of this legislation is July 1, 2001.

**On April 4, 2001, the House Committee on Agriculture and Consumer Affairs adopted a strike-everything amendment, which is traveling with the bill. Please see section VI, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Fueled by climate, recreational opportunities, and low taxes, Florida leads the nation in population growth. There is a growing concern that the rapid pace of farmland conversion to other uses, such as urban expansion will greatly reduce green space and dramatically change the landscape of the state.

The Department of Agriculture and Consumer Services reports that a recent University of Florida study indicates that at least 130,000 acres of farmland are being converted annually to other uses. Rural land in its natural or near-natural state provides many irreplaceable benefits: aquifer recharge, wild species habitat, recreation, agricultural production, aesthetic benefits, as well as others.

The Green Swamp Land Authority created pursuant to s. 380.0677, F.S., provides a program for the creation of land protection agreements. The agreements limit the use of the lands in exchange for a payment. Generally, agricultural uses are maintained, and the agreement is not necessarily in perpetuity. The Green Swamp program includes the right of a water management district to conduct monitoring activities to ensure compliance with the agreement.

C. EFFECT OF PROPOSED CHANGES:

HB 1389 creates the "Rural and Family Lands Protection Act". This legislation creates a program to be administered by the Department of Agriculture and Consumer Services (department), which will purchase two types of rural land conservation easements (easements):

- Permanent easements, and
- Thirty-year easements.

The bill provides that the easements be targeted towards timber and ranch lands. It charges the department with establishing an application, selection, and agreement process to emphasize wildlife and watershed benefits in selecting applicants; define benefits, propose management plans, and establish easement values; appraise individual easements and underlying fee values; and make annual or lump-sum payments for easements or agreements.

In agreements to a 30-year easement, the state shall have the right to purchase the property or extend the easement based on current value at the time easement was conveyed plus a reasonable escalator not to exceed 60 percent. The bill provides for easement payments to be distributed in a lump sum or on a prorated basis.

In addition, the bill allows the department to enter into resource conservation agreements, under certain conditions, to compensate landowners for habitat and hydrological restoration. The department is authorized to seek funds from federal sources to supplement the state funds to support the program, as well as to develop criteria for use of said funds.

The legislation also authorizes the department to use funds from the unallocated proceeds of the documentary stamp tax payment of interest on bonds for easements. The bill stipulates the amount transferred may not exceed \$10 million in fiscal year 2002, \$20 million in 2003, \$30 million in 2004, \$40 million in 2005, \$50 million in 2006, \$60 million in 2007, \$70 million in 2008, \$80 million in 2009, \$90 million in 2010, and \$100 million in 2011. And lastly, the bill authorizes the issuance of bonds for the purchase of easements and specifies the funding source.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1:** Naming said act as the "Rural and Family Lands Protection Act"; and, providing definitions.

**Section 2:** Creating s. 570.70, F.S.; authorizing the Department of Agriculture and Consumer Services (department) to implement a program providing two types (perpetual and thirty-year) of rural land conservation easements; requiring easements be targeted towards timber and ranch lands; authorizing the department to establish an application, selection and agreement process; enabling the state, at the end of a 30-year easement, to purchase the property or extend the easement; allowing easement payments to be distributed in a lump sum or on a prorated basis; allowing the department to enter into resource conservation agreements with landowners; directing the department to seek funds from federal sources to use in conjunction with state funds to carry out the program; directing the department to develop criteria for the use of funds to purchase conservation easements.

**Section 3:** Amending s. 201.15, F.S.; authorizing the department to use funds from the unallocated proceeds of the documentary stamp tax for payment of interest on bonds for conservation easements; restricting the amounts transferred.

**Section 4:** Creating s. 215.619, F.S.; authorizing the issuance of bonds for purchasing rural land conservation easements; authorizing payment from taxes distributed in s. 201.15(1)(c), F.S., for bonds issued,

**Section 5:** Providing an effective date of July 1, 2001.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See Section D. (Fiscal Comments)

2. Expenditures:

See Section D. (Fiscal Comments)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Section D. (Fiscal Comments)

2. Expenditures:

See Section D. (Fiscal Comments)

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Section D. (Fiscal Comments)

D. FISCAL COMMENTS:

Over a 10-year period, up to \$100 million that would otherwise be available in the General Revenue Fund would be used for debt service or bonds. In addition, there would likely be some costs associated with the development of rules by participating agencies. The Department of Agriculture and Consumer Services anticipates a need for additional staff and funding to administer the program.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

**COMMITTEE ON AGRICULTURE AND CONSUMER AFFAIRS**

On April 4, 2001, the Committee on Agriculture and Consumer Affairs adopted a strike-everything amendment to HB 1389. This amendment authorizes the Department of Agriculture and Consumer Services (department) to allocate moneys to

- Acquire perpetual easements,
- Enter into agricultural protection agreements, and
- Enter into resource conservation agreements.

Rural lands protection (perpetual) easements prohibits the construction of buildings, roads, or other structures with the exception of those structures and unpaved roads necessary to the agricultural operations on the land or structures necessary for other activities allowed under the easement. Also prohibited is the subdivision of the property, dumping or placing of trash on the property, and activities that affect the natural hydrology of the land, or that detrimentally affect water conservation, erosion control, soil conservation, or fish or wildlife habitat.

Resource conservation agreements are contracts for services that provide annual payment to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above what is already required by law. These agreements are for a term of not less than 5 years and no more than 10 years. These agreements are only available to property owners already engaged in a conservation easement or rural lands protection easement.

Agricultural protection agreements are for a term of 30 years and provide payments to landowners having significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner. As in the rural lands protection easements, the same prohibitions apply. Upon entering into an agricultural protection agreement, the landowner grants the state the option of purchasing the property at the end of the agreement based on the value of the property at the time the agreement is entered into plus a reasonable escalator. The escalator is capped at 2% of the value of the property at the time the agreement is entered into multiplied by the number of full calendar years from the date of the commencement of the agreement. At the end of the agreement, the agreement may be extended for up to 5 years with the state still retaining the option to purchase the property at the end of the extension.

Payment for conservation easements and rural land protection easements shall be a lump-sum payment at the time the easement is entered into. Landowners entering into an agricultural protection agreement may receive up to 50 percent of the purchase price at the time the agreement is entered into and remaining payments on the balance shall be equal annual payments over the term of the agreement. Payments for the resource conservation agreements shall be equal payments over the term of the agreement.

The amendment provides for the department to work in consultation with the Department of Environmental Protection, the water management districts, and the Florida Fish and Wildlife Conservation Commission to adopt rules that establish an application process, prioritize projects toward ranch and timber lands using sustainable practices, establish an appraisal process for easements, and establish a method to determine payments under an agricultural protection agreement or a resource conservation agreement. The department is directed to seek funds from federal sources to be used in conjunction with state funds in the administration of this act.

The amendment provides for documentary stamp taxes collected to be deposited into the Conservation and Recreation Lands Program Trust Fund of the Department of Agriculture and Consumer Services. These funds shall be used first to pay debt service due on any Rural Land Protection bond or to make any other payments required pursuant to the bond documents authorizing the issuance before such

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moneys are used for other purposes. The amendment authorizes the issuance of Rural Land Protection bonds not exceeding \$1 billion. Such bonds may be issued over the next 10 fiscal years commencing on July 1, 2002, in an amount not exceeding \$100 million in any fiscal year, subject to some provisions. The duration of each series of bonds issued may not exceed 20 annual maturities.

The amendment provides the state will not take any action that adversely affects the rights of bondholders or reduces the portion of documentary stamps taxes distributed into the Conservation and Recreation Lands Program Trust Fund as long as such bonds are outstanding. Such bonds do not constitute a general obligation of, or a pledge of the full faith and credit of, the state. The proceeds of the sale of bonds, less associated costs, will be deposited into the Conservation and Recreation Lands Program Trust Fund. The initial series of Rural Land Protection bonds shall be validated in addition to any other bonds required to be validated pursuant to s. 215.82, F.S. Any complaint for validation of bonds shall be filed only in the circuit court of the county where the seat of state government is situated.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

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Debbi Kaiser

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Susan Reese