

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1770

SPONSOR: Natural Resources Committee and Senator Laurent

SUBJECT: Rural Land Protection

DATE: February 19, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gee	Voigt	NR	Favorable/CS
2.			AG	
3.			FT	
4.			AGG	
5.			AP	
6.				

I. Summary:

This bill provides for the distribution of certain excise taxes on documents to the Rural Lands Program Trust Fund of the Department of Agriculture and Consumer Services. It authorizes the issuance of bonds for rural land protection, provides certain conditions, provides for the deposit of proceeds, and provides uses for funds in the Conservation and Recreation Lands Program Trust Fund. The bill also provides conclusions of a study by the Department of Environmental Protection and authorizes the use of rural land protection bonds to implement provisions relating to conservation and rural land protection easements and agreements.

This bill amends ss. 201.15, 570.207, 570.70, and 570.71, F.S. It creates s. 215.619 of the Florida Statutes.

II. Present Situation:

The Rural and Family Lands Protection Act (Act) was enacted by the 2001 Legislature in CS/SB 1922 (ss. 60-63 of ch. 2001-279, L.O.F.).

Pursuant to s. 570.70(5), F.S., the purpose of the Act is to bring under public protection lands that serve to limit subdivision and conversion of agricultural and natural areas that provide economic, open space, water, and wildlife benefits by acquiring land or related interests in land such as perpetual, less-than-fee acquisitions, agricultural protection agreements, and resource conservation agreements and innovative planning and development strategies in rural areas.

Section 570.71, F.S., authorizes the Department of Agriculture and Consumer Services (DACS), on behalf of the Board of Trustees of the Internal Improvement Trust Fund (Trustees) to acquire

perpetual, less-than-fee interests in land, to enter into agricultural protection agreements, and to enter into resource conservation agreements for the following public purposes:

- Promotion and improvement of wildlife habitat;
- Protection and enhancement of water bodies, aquifer recharge areas, wetlands, and watersheds;
- Perpetuation of open space on lands with significant natural areas; or
- Protection of agricultural lands threatened by conversion to other uses.

To accomplish these purposes, beginning July 1, 2002, the DACS may:

1. Purchase conservation easements, as defined in s. 704.06, F.S. Payment will be a lump-sum payment at the time the easement is created.
2. Purchase rural-lands protection easements, which are a perpetual right or interest in agricultural land which is appropriate to retain the land in predominantly its current state and to prevent the subdivision and conversion of the land into other uses. Payment will be a lump-sum payment at the time the easement is created. This right or interest in property may prohibit only the following:
 - Construction or placing of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities described in s. 704.06(11), F.S.;
 - Subdivision of the property;
 - Dumping or placing of trash, waste, or offensive materials; 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, except those required for environmental restoration; federal, state, or local government regulatory programs; or best management practices.
3. Fund resource conservation agreements, which are contracts for services which provide annual payments to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above that which is already required by law or which provide recreational opportunities. They will be for a term of not less than 5 years and not more than 10 years. Property owners will become eligible to enter into a resource conservation agreement only upon entering into a conservation easement or rural lands protection easement. Payments for the agreements will be paid annually over the term of the agreement.

4. Fund agricultural protection agreements, which are for terms of 30 years and will 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. For the length of the agreement, the landowner must agree to prohibit:
 - Construction or placing of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities described in s. 704.06(11), F.S.;
 - Subdivision of the property;
 - Dumping or placing of trash, waste, or offensive materials; 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.

As part of the agricultural protection agreement, the parties must agree that the state will have a right to buy a conservation easement or rural land protection easement at the end of the 30-year term or prior to the landowner transferring or selling the property, whichever occurs later. The landowner may transfer or sell the property before the expiration of the 30-year term, but only if the property is sold subject to the agreement and the buyer becomes the successor in interest to the agricultural protection agreement. Upon mutual consent of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement. 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 will be equal annual payments over the term of the agreement.

Although no funds were made available to implement the Act, the DACS is authorized to use any funding made available by the state, federal government, other governmental entities, nongovernmental organizations, and private individuals. No more than 10 percent of any funds made available to implement this act shall be expended for resource conservation agreements and agricultural protection agreements.

The DACS, in consultation with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, and the water management districts was directed to conduct a study to determine and prioritize needs for implementing the act. The study has been completed and recommends that priority be given to protecting significant species habitat, areas providing groundwater recharge, and areas containing natural floodplain. Although the study indicates a need for \$1.46 billion over a ten-year period to keep pace with the development of agricultural lands, the DACS has recommended that the program be phased in, beginning with funding of no less than \$25 million in the first year. The DACS reports that such an appropriation would be sufficient to pursue and protect approximately 14,000 acres while providing \$1.25 million for resource conservation agreements. A phased funding approach, the DACS reports, will allow

sufficient time to: develop rules and a process for evaluating properties; solicit and evaluate properties, contract for land acquisition services, and procure appraisals. Such an initial appropriation will also allow the DACS to begin pursuing matching federal funds. Once the program is fully operational and easements have been acquired, the DACS reports that it will be in a position to reevaluate its forecast model based on actual experience and seek an appropriate level of funding to assure that the program's long term goals and objectives are met.

Section 201.15, F.S., provides for the distribution of sixty-two and sixty-three hundredths of the documentary stamp tax proceeds. These distributions are used to fund debt service on Preservation 2000 and Florida Forever bonds and the Land Acquisition Trust Fund. After \$30 million is provided for beach restoration and \$2 million for marine mammal care, any remaining funds are paid into the General Revenue Fund. Documentary stamp tax proceeds are estimated to be approximately \$1.3 billion in FY 2002-2003.

Pursuant to s. 570.207(1), F.S., the Conservation and Recreation Lands Program Trust Fund has been created within the DACS, to be used for the management of conservation and recreation lands.

The 2001 Legislature enacted s. 215.98(1), F.S., which states in part "...The Legislature declares that it is the policy of this state to exercise prudence in undertaking the authorization and issuance of debt. In order to implement this policy, the Legislature desires to authorize the issuance of additional state tax-supported debt only when such authorization would not cause the ratio of debt service to revenue available to pay debt service on tax-supported debt to exceed 6 percent. If the six percent target debt ratio will be exceeded, the authorization of such additional debt must be accompanied by a legislative statement of determination that such authorizations and issuance is in the best interest of the state and should be implemented. The Legislature shall not authorize the issuance of additional state tax-supported debt if such authorization would cause the designated benchmark debt ratio of debt service to revenues available to pay debt service to exceed seven percent unless the Legislature determine that such additional debt is necessary to address a critical state emergency."

It appears that the state's current debt ratio slightly exceeds six percent. Increases in Public Education Capital Outlay (PECO) borrowing and transportation spending could further increase the ratio. In addition, the Auditor General recently reported that, based on the six percent target debt ratio, no future debt capacity is expected to be available until 2008.

III. Effect of Proposed Changes:

Section 1. Section 201.15(1)(c), F.S., is amended to authorize the deposit of documentary stamp tax proceeds into the Rural Lands Program Trust Fund of the DACS pursuant to s. 215.619, F.S., which authorizes the issuance of rural land protection bonds. Any such funds must first be used 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 any funds are used for other purposes.

Section 2. Section 215.619, F.S., is created to authorize the issuance of rural land protection bonds in an amount not exceeding \$1 billion. Such bonds may be issued over the next 10 fiscal

years beginning on July 1, 2002, in an amount not exceeding \$100 million in any fiscal year, subject to the provisions of s. 570.71, F.S., and pursuant to s. 11(e), Art. VII of the State Constitution. The duration of each series of bonds issued may not exceed 20 annual maturities.

This section provides that the state will not take any action that will materially and adversely affect the rights of rural land protection bondholders so long as such bonds are outstanding, including, but not limited to, a reduction in the portion of documentary stamp taxes distributable to the Rural Lands Program Trust Fund for payment of debt service.

Any bonds issued pursuant to this section will be payable from taxes distributable to the Rural Lands Program Trust Fund pursuant to s. 201.15(1)(c), F.S. Such bonds will not constitute a general obligation of, or a pledge of the full faith and credit of, the state. The DACS is directed to request the Division of Bond Finance of the State Board of Administration to issue the rural land protection bonds. The Division of Bond Finance will issue such bonds pursuant to the State Bond Act. The proceeds from the sale of rural land protection bonds, less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, will be deposited into the Conservation and Recreation Lands Program Trust Fund of the DACS as provided in s. 570.71, F.S.

The bill prohibits any sale, disposition, lease, easement, license, or other use of any land, water areas, or related property interests acquired or improved with proceeds of rural land protection bonds which would cause all or any portion of the interest of such bonds to lose the exclusion from gross income for federal income tax purposes.

The initial series of rural land protection bonds will 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 issued pursuant to this section may be filed only in the circuit court of the county where the seat of state government is situated; the notice required to be published by s. 75.06, F.S., may be published only in the county where the complaint is filed; and the complaint and order of the circuit court may be served only on the state attorney of the circuit in which the action is pending.

Section 3. Section 570.207(1), F.S., is amended to authorize the DACS to use rural land protection bond proceeds and any other funds deposited into its Conservation and Recreation Lands Program Trust Fund for the purposes of the Act to acquire conservation and rural land protection easements and to fund agricultural protection and resource conservation agreements.

Section 4. Section 570.70, F.S., is amended to include in existing legislative findings the results of the study required by s. 570.71(14), F.S.

Section 5. Section 570.71(12), F.S., is amended to authorize the DACS to use rural land protection bonds to implement the Act.

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

Section 7. The Act takes effect July 1, 2002, if CS/SB 1768 or similar legislation creating the Rural Lands Program Trust Fund is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Landowners who elect to participate in the program would receive undetermined amounts. To some degree, this benefit could be offset by restrictions established by easements and agreements.

C. Government Sector Impact:

The Office of Economic and Demographic Research estimates that, based on six percent interest on \$100 million in bonds issued annually, debt service for the program would be:

Year 1 -	\$ 8.7 million
Year 2 -	\$17.4 million
Year 3 -	\$26.1 million
Year 4 -	\$34.8 million
Year 5 -	\$43.5 million
Year 6 -	\$52.2 million
Year 7 -	\$60.9 million
Year 8 -	\$69.6 million
Year 9 -	\$78.3 million
Year 10 -	\$87.0 million
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Total	\$478.5 million

These funds would otherwise be deposited into the General Revenue Fund. Documentary stamp tax proceeds are estimated at \$1.3 billion for FY 2002-2003. The General Revenue amounts expended for bond debt service under this bill would impact other state programs that compete for funding from the General Revenue Fund. Also it should be noted that SB-684 authorizes a \$75 million annual bonding program for Everglades Restoration which would also be dependent on General Revenue Funds for debt service payments.

As noted in VII Related Issues, the use of Florida Forever funds is specifically authorized and encouraged, where appropriate, for “land protection agreements and similar tools.” The Florida Forever program will make up to \$3 billion available by 2010, a portion of which could be made available for the types of easements contemplated by the Act. Neither this bill nor the legislation creating the Act provide funds for the DACS to administer the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Staff notes that a potential source of funding for the types of easements expected to be acquired through this program already exists. Pursuant to s. 259.105(2)(b), F.S., relating to the Florida Forever program, the Legislature has recognized that “acquisition is only one way to achieve the aforementioned goals and encourages the development of creative partnerships between governmental agencies and private landowners. Land protection agreements and similar tools should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection at a lower financial cost to the public, and to provide private landowners with the opportunity to enjoy and benefit from their property.: The Florida Forever program will provide up to \$3 billion in bond proceeds over the period 2001-2010 for land acquisition and interest in land. In addition, the state’s five water management districts and the Department of Environmental Protection have completed a number of less-than-fee acquisitions in recent years and can be expected to continue such acquisitions.

VIII. Amendments:

None.