

STORAGE NAME: h0749.frc.doc
DATE: February 8, 2002

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 749
RELATING TO: State Lands
SPONSOR(S): Representative(s) Dockery

TIED BILL(S):

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

- (1) HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL
 - (3) COUNCIL FOR READY INFRASTRUCTURE
 - (4)
 - (5)
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I. SUMMARY:

HB 749 amends provisions of statute to clarify that staff functions related to the disposition of state lands, including land exchanges, shall be performed by staff from the Department of Environmental Protection. Outdated and duplicative provisions of statute are repealed. The membership of the Board of Trustees of the Internal Improvement Fund (the Board) is revised to conform to the requirements of the State Constitution.

HB 749 provides that the state may not require receipt of two acres of conservation land for every one acre of conservation land sold, leased, exchanged, or transferred out of state ownership unless that is the only way a net positive conservation benefit can be achieved. The Board is required to conform rules governing the disposition of state lands to the provisions of the bill. Statutory definitions for "net positive conservation benefit" and for "surplus lands" are created.

HB 749 clarifies the authority of the Board to exchange state-owned lands titled in the Board's name with local governments, as well as private individuals or corporations, and confirms the authority of the Board to act without the direction of the Acquisition & Restoration Council when contracting for land exchanges.

HB 749 is effective on July 1, 2002, except as otherwise provided in the bill.

(On January 23 2002, the House Natural Resources & Environmental Protection Committee unanimously adopted two amendments that are traveling with HB 749. Please see the "Amendments or Committee Substitute Changes" section of the bill analysis for an explanation of the amendments.)

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. PRESENT SITUATION:

Section 253.034, F.S.

Chapter 99-247, Laws of Florida (CS/CS/SB 908), was enacted in the 1999 Regular Session to create the Florida Forever Program and to implement section 18, Article X of the State Constitution. Section 253.034, F.S., governing the use of state-owned lands, was amended to require that the Board must determine by a two-thirds vote that state-owned conservation lands are no longer needed for conservation purposes prior to disposal through the surplusing process. For purposes of surplusing property, all lands acquired prior to July 1, 1999, through acquisition programs created in Chapter 259, Florida Statutes, were determined to be conservation lands. The Acquisition and Restoration Council (ARC), also created in chapter 259, Florida Statutes, was required to review all surplusing requests, and to make recommendations to the Board regarding those requests. The Board is not required to accept ARC recommendations.

During the 2001 Regular Session, the Legislature enacted Chapter 2001-275, Laws of Florida, (CS/SB 1468, 1st Engrossed). The bill amended statutory provisions relating to the Florida Forever program, directed funding from the Preservation 2000 program to Everglades restoration efforts, and amended provisions in chapter 253, Florida Statutes, relating to the surplusing of state lands. Subsection (2) of s. 253.034, F.S., was amended to define "conservation lands" as those lands owned by state and being managed for conservation purposes. Subsection (6) of s. 253.034, F.S., authorizing the Board to declare conservation lands as "surplus lands" for disposal purposes, was amended to provide that in the case of land exchanges involving conservation lands, a two-thirds vote of the Board was necessary to determine that the exchange would result in a net positive conservation benefit to the state. A statutory definition of "net positive conservation benefit" was not created.

Section 253.42, F.S.

Section 253.42, F.S., originally enacted in 1921 in section (1) of Chapter 8525, Laws of Florida, provides the Board with the authority to "exchange lands held or owned by, or vested in, said board for other lands in the state owned by private individuals or corporations." The Board is further authorized to fix the terms and conditions of such exchanges, including selecting the lands to be exchanged and determining any sum or sums of money necessary to equalize the value of any exchanged property.

Section 18, Art. X, State Constitution

Section 18 of Article X of the State Constitution was part of Revision 5, proposed by the Constitutional Revision Commission (CRC Proposal 102), to be included on the ballot in the November 1998 General Election. Section 18, Article X was approved by more than 72 percent of Florida's voters participating in the election, and constitutionally regulates the disposition of conservation lands.

Section 18, Article X provides that state-owned lands designated for conservation purposes as provided by the Legislature through general law, can only be disposed of by a two-thirds vote of the governing board of the agency holding title to determine that the lands are no longer needed for conservation purposes. Chapter 99-247, Laws of Florida, enacted in the 1999 Regular Session, implemented the provisions of section 18, Article X by requiring that the Board determine by a two-thirds vote that conservation lands owned by the state are no longer necessary for conservation purposes, can be declared surplus lands, and can be disposed of. Chapter 99-247, Laws of Florida, also defined conservation lands to be those lands acquired by the state prior to July 1, 1999, through any of the land acquisition programs created in Chapter 259, Florida Statutes.

Chapter 2001-275, Laws of Florida, was enacted during the 2001 Regular Session (CS/SB 1468, 1st Engrossed), to further implement the provisions of section 18, Article X, by requiring that when exchanging conservation lands, the Board must determine by a two-thirds vote that the exchange will result in the state receiving a net positive conservation benefit, which under existing Board rules would include at least twice as much acreage as is being exchanged, in addition to other considerations authorized in those rules.

Rules of the Board of Trustees of the Internal Improvement Trust Fund

The Board's rules governing the exchange of state-owned conservation lands are contained in Chapter 18-2 of the Florida Administrative Code (F.A.C.). Chapter 18-2, F.A.C. is entitled "Management of Uplands Vested in the Board of Trustees" and Rule 18-2.018 (3)(b)7. governs the exchange of uplands owned by the Board by requiring that the state receive a minimum of two times the acreage that is being conveyed out of state ownership. However, this provision has proved restrictive and there have been instances when the state's attempts to acquire in-holdings through the exchange process have failed due to the unwillingness of a private property owner to give up two acres of valuable lands only to receive one acre of land in return.

C. EFFECT OF PROPOSED CHANGES:

HB 749 provides the following:

- Authorizes the staff of the Department of Environmental Protection to perform staff duties related to land exchanges, as well as duties related to the acquisition, administration, and disposition of state lands.
- Reorders provisions of statute relating to duties of the Department of Agriculture and Consumer Services.
- Repeals outdated provisions of statute relating to the use of funds in the Internal Improvement Trust Fund, and repeals duplicative provisions of statute.
- Confirms the membership of the Board with the requirements of the State Constitution.
- Provides that rules of the Board may not restrict the disposition or exchange of state-owned lands by requiring a two-for-one acreage exchange except under certain conditions.

- Establishes definitions for “Council”, “net positive conservation benefit”, and “surplus lands.”
- Establishes in statute that the Board may exchange state-owned lands with local governments, as well as private individuals or corporations.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 253.002, F.S., to clarify that staff from the Department of Environmental Protection will perform staff duties related to the exchange of state lands, as well as duties related to the acquisition and disposition of state lands. Reorders language related to staff duties of the Department of Agriculture and Consumer Services to a more appropriate subsection. Repeals duplicative language.

Section 2. Amends s. 253.01, F.S., to repeal outdated provisions relating to the use of funds allocated to the Internal Improvement Trust Fund.

Section 3. Amends subsections (1) and (2) of s. 253.02, F.S., to clarify that funds from the sale, transfer, or exchange of state-owned lands is irrevocably vested with the Board, and that the power to sell, transfer, or exchange state-owned lands rests with the Board.

Section 4. Amends subsections (1) and (2) of s. 253.02, F.S., effective January 7, 2003, by amending the membership of the Board to conform with the requirements of the State Constitution.

Section 5. Amends subsection (1) of s. 253.03, F.S., to repeal duplicative language. Amends subsection (7) of s. 253.03, F.S., to provide that the disposition of state lands may not be restricted by any rule of the Florida Administrative Code requiring that the state receive twice as much acreage as is being conveyed out of state ownership unless that is the only means of achieving a net positive conservation benefit. Provides that rules governing the disposition of state-owned conservation lands must be conformed to the provisions of the bill.

Section 6. Amends subsection (1) of s. 253.034, F.S., to clarify that the Acquisition and Restoration Council created in s. 259.035, F.S., will assist the Board in developing rules to carry out provisions of chapter 253, Florida Statutes, relating to the surplusage of state-owned lands. Amends subsection (2) of s. 253.034, F.S., to provide that “Council” means the Acquisition and Restoration Council; that “surplus lands” means conservation or non-conservation lands available for disposition pursuant to the provisions of s. 253.034, F.S.; and that “net positive conservation benefit” means compensation over and above the market value or replacement value of state conservation lands. “Net positive conservation benefit” is further defined as compensation including, but not limited to, monetary or other considerations **and** the state’s receipt of conservation lands with similar or higher conservation values or characteristics. Provides that when a “net positive conservation value” can only be achieved through the receipt of conservation lands, the state shall not require more than twice as much acreage as is being conveyed.

Section 7. Amends the introductory paragraph of subsection (6) of s. 253.034, F.S., effective January 7, 2003, to conform with requirements of the State Constitution with regard to the membership of the Board. Provides that a three-fourths vote of the Board is necessary when disposing of surplus lands, or exchanging conservation lands owned by the state.

Section 8. Amends s. 253.42, F.S., to clarify in statute that the Board is authorized to exchange state-owned lands with local governments as well as private individuals or corporations. Provides that the management of lands received by the state in a land exchange may be leased to one of the three agencies, or a water management district, that manage the state’s conservation lands.

Section 9. Provides that the bill will take effect on July 1, 2002, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The private sector may see a beneficial economic impact from new rules governing the exchange of state-owned lands.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 749 does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 749 does not reduce the authority that municipalities or counties have to raise revenues.

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

HB 749 does not reduce the percentage of state tax revenues shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

HB 749 requires that the Board conform rules governing the disposition of state lands to the provisions of the bill.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 23, 2002, the House Natural Resources & Environmental Protection Committee unanimously adopted two amendments to HB 749. The first amendment revised the definition of "net positive conservation benefit" to clarify that in any exchange of state-owned lands, the state will receive land that is at least equal in value and acreage to the land being exchanged. The second amendment was a technical amendment to conform the bill with s. 18, Art. X of the State Constitution, relating to the disposition of state conservation lands. Both amendments are traveling with HB 749.

VI. SIGNATURES:

COMMITTEE ON HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

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AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

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