

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1407 w/CS Land Acquisition

**SPONSOR(S):** Spratt

**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Lands and Water Resources (Sub)</u>	<u>10 Y, 0 N</u>	<u>Lotspeich</u>	<u>Lotspeich</u>
2) <u>Natural Resources</u>	<u>17Y, 0N w/CS</u>	<u>Lotspeich</u>	<u>Lotspeich</u>
3) <u>Agriculture &amp; Environment Apps. (Sub)</u>	<u>12 Y, 0 N</u>	<u>Dixon</u>	<u>Dixon</u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

This bill requires the DEP to inventory all lands owned by the federal government, the state, the water management districts, and local governments on a county-by-county basis, with the exception of rights-of-way for existing, proposed, or anticipated transportation facilities. Where more than 50 percent of the land in a county is in federal, state, water management district, and local government ownership, the DEP must identify all lands in the county purchased using the various conservation trust funds in cases. The bill also provides conditions under which certain lands must be made available for surplus. It eliminates reversion of state funds for certain land acquisition purposes and requires state agencies and water management districts to prepare and submit to the Department of Revenue requests for certification of payment in lieu of taxes applications from requesting local governments. The bill also eliminates the ten-year limit on payment in lieu of taxes for each tax loss.

The bill will result in a positive fiscal impact to local governments since many tracts of land will be returned to local government ad valorem tax rolls. The bill will also result in a positive fiscal impact to the state since the proceeds from the sale of surplus lands will flow to the state for either future land acquisitions or land management. The bill will require expenditures from the DEP to implement the program.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1407d.ap.doc

**DATE:** April 10, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | 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. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Issue – Public lands surplusings**

Since 1972, under various statutory provisions, the state has acquired conservation and recreation lands (hereinafter referred to as “conservation lands”) under a variety of programs, including the Environmentally Endangered Lands (EEL) program, the Conservation and Recreation Lands (CARL) program, the Save Our Coast program, the Save Our Rivers program, the Preservation 2000 (P2000) program and the Florida Forever program. These programs have sought to place natural areas into public ownership in order to maintain the state’s unique natural resources and to provide lands for public recreation. The Department of Environmental Protection (DEP) administers most state-level program activities. However, other program activities are performed by other entities, including the Department of Community Affairs, the Department of Agriculture and Consumer Services, the five water management districts, and local governments.

As of March 2001, the total conservation lands in the state acquired and managed by federal, state, and local governments was 8,666,345 acres. Of this total approximately 4 million acres is federally owned and managed, 4.3 million acres is state owned and managed, and 280,000 acres is owned and managed by local governments. Additional tracts have been bought over the last two years. Currently, the total acreage of conservation lands is approximately 25 percent of the total land in the state.

The state can acquire land that is not needed for conservation purposes in order to acquire those parcels that are needed for conservation. This can occur when landowners refuse to sell tracts of land that the state desires unless other adjoining tracts are included in the purchase.

As a result of these long-standing and extensive land acquisition efforts, many counties now have large percentages of the lands within their boundaries in public ownership and not available as part of the ad valorem tax base. Some of these lands are not needed for conservation purposes.

Under current law, the Board of Trustees of the Internal Improvement Trust Fund (Board) is required to determine those lands which are no longer needed for conservation and which can be surplus (see ss. 253.034(6), F.S.). The Board may dispose of such surplus lands by a two-thirds vote. As provided by a process set forth in statute, at least every five years there is to be an evaluation of the state’s land holdings to identify those lands that are not being used for the purposes for which they were acquired, and recommendations are to be made to the Board for the surplus of such lands.

The proceeds from the sale of surplus lands are to be deposited to the fund from which the lands were acquired. If that fund no longer exists the proceeds are to go to an appropriate account to be used for land management by the lead agency assigned the lands prior to the lands being declared surplus.

### **Issue – Payment in lieu of taxes**

Current law provides that payments shall be made to local governments from the CARL Trust Fund and the Water Management Lands (WML) Trust Fund to compensate those governments for the loss of ad valorem tax revenue suffered as a result of the acquisition of lands in the county under the Preservation 2000 program or the Florida Forever program (see ss. 259.032(12) and, ss. 373.59(10), F.S). Only those counties with populations of 150,000 or fewer are eligible for such payment in lieu of taxes.

The law provides that any funds reserved for payment in lieu of taxes from the CARL Trust Fund and the WML Trust Fund which were not paid out are to revert to those trust funds for land acquisition. It also provides that local governments that did not receive payment in lieu of taxes for lands purchased under the Preservation 2000 program in 1999 and 2000 are to receive retroactive payment for those tax losses.

Payments in lieu of taxes are to be made annually to qualifying local governments after certification by the Department of Revenue and after the DEP has provided supporting documents to the Comptroller and has requested that the payment be made.

Current law also provides that moneys credited to the CARL Trust Fund each year which are not used for management, maintenance, capital improvements, or payment in lieu of taxes are to be made available for land acquisition.

Payments in lieu of taxes made to local governments from the Water Management Lands Trust Fund are limited to ten annual payments.

### **Issue – Board approval of purchases**

The Board currently has the authority to adopt rules to implement the state's land acquisition program, including rules which address:

- procedures to be followed in the acquisition process;
- the determination of the value of parcels;
- special requirements when multiple owners are involved; and
- requirements for obtaining option agreements.

### **Effect of Proposed Change**

#### **Issue – Public lands surplusing**

The bill requires the DEP to begin an inventory, on a county by county basis, of all lands owned by the federal government, the state, the water management districts, and local governments, with the exception of rights-of-way for existing, proposed, or anticipated transportation facilities. In any county in which over 50 percent of the lands in the county are owned by the government, DEP is required to identify those lands bought through any of the state's conservation lands programs.

The bill requires that the inventory distinguish between those lands which were acquired as part of a "core" parcel and those lands which are "not essential" to meet the conservation purposes of the

program under which they were acquired. Those lands which are identified as “not essential” are required to be made available to the public for purchase. Priority is to be given to those buyers who intend to return the property to productive use and reenter the lands on the county’s ad valorem tax roll.

### **Issue – Payments in lieu of taxes**

The bill deletes current provisions of law that require reserved funds in the CARL and WML Trust Funds which are not used for payment in lieu of taxes to revert to those trust funds, and deletes an outdated provision that requires retroactive payments in lieu of taxes from the CARL and WML Trust Funds.

The bill deletes the current requirement that the DEP provide documentation to the Comptroller supporting a request by a local government for payment in lieu of taxes, and requires that the state agency or water management district that acquired the land be responsible for preparing and submitting requests to the Department of Revenue for certification.

The bill also repeals sections 259.0322 and 373.5905, F.S. concerning the reinstatement of payments in lieu of taxes from the DEP and the water management districts.

### **Issue – Board approval of purchases**

The bill provides additional rulemaking authority to the Board to adopt rules that require that the Board unanimously approve state purchase of property in any county where the purchase would mean that at least one-half of the land within the county would be in public ownership.

#### **C. SECTION DIRECTORY:**

Section 1. Amends s. 253.034, F.S., to provide for the sale of surplus lands.

Section 2. Amends s. 259.032, F.S., to address payments in lieu of taxes.

Section 3. Amends s. 259.041, F.S., to provide additional rulemaking authority to the Board.

Section 4. Amends s. 373.59, F.S., to address payments in lieu of taxes.

Section 5. Repeals sections 259.0322 and 373.5905, F.S.

Section 6. Provides an effective date of July 1, 2003.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

##### **1. Revenues:**

The sale of surplus lands will generate indeterminate but potentially significant funds for the state for its land acquisition and land management programs.

2. Expenditures:

1. Non-recurring Effects:

The DEP estimates that the hardware and software necessary to conduct the required inventory will cost approximately \$1,000,000.

Another approximately \$500,000 in contracting costs are anticipated.

2. Recurring Effects:

The DEP estimates that an additional 5 FTE's and 3 OPS positions will be needed over a three-year period to satisfy data inventory requirements of this bill at an estimated cost of \$333,884 per year.

An additional FTE to handle the payment in lieu of taxes notification requirements of the bill is estimated to cost \$30,315.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The return of surplus lands to local government ad valorem tax rolls should have significant, though indeterminate, positive revenue impacts to local governments. In addition, the revisions to the provisions regarding payments in lieu of taxes will result in additional revenues flowing to local governments.

2. Expenditures:

There may be some minor indeterminate costs to counties associated with updating the data on their tax rolls

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The sale of surplus lands to private interests could have a significant positive economic impact on individuals and private businesses in communities throughout the state.

D. FISCAL COMMENTS: HB 1789, the General Appropriations Act as passed the House, does not include funding for payment in lieu of taxes.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable, because this bill does not require counties or cities to spend funds or take an action requiring the expenditure of funds.

2. Other: None

**B. RULE-MAKING AUTHORITY:**

The bill provides additional rulemaking authority to the Board to adopt rules that require the Board to unanimously approve state purchase of property in any county where the purchase would mean that at least one-half of the land within the county would be in public ownership.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

**Comments from DEP:**

The DEP currently has a database of land records of the Board of Trustees of the Internal Trust Fund listing acquisitions, dispositions, and encumbrances, since statehood in 1845. The Division of State Lands (division) does not have an inventory of federal lands, water management district, or local government, on a county-by-county basis. In order to provide data as required in this bill, the division would have to use Department of Revenue (DOR) data and reconcile it back to current Board of Trustees (BOT) data and financial data in the FLAIR system. The DEP's inventory would also have to include water management districts' acquisitions and dispositions. Incorporation of all water management district and other state purchased land documents into the current system is estimated to take 3 years, after receipt of documents. To reconcile current agency systems to DOR systems would also take 3 years, and all 67 counties would have to participate in 'cleaning-up' the data in the DOR system.

The provision requiring DEP to identify and make available for purchase to public or private entities, "non-essential" parcels within projects acquired by the state or water management districts with conservation program funds (EEL, CARL, P2000, WMLTF, SOR, SOC) in counties in which more than 50% of the land is owned by the federal, state (including water management districts) and local governments would be very difficult to administer.

Besides the monumental task that it would be to develop an inventory of the type contemplated in this bill, the division finds problematic the concept of "non-essential" parcels as represented in this bill. Essential parcels, also referred to in statute as "core parcels", were those parts of a project that were of the highest resource significance, the minimum size for manageability and connectivity, or simply the part of a project that logically should be acquired first or without whose acquisition other parts would not provide sufficient resource protection or manageability. Identifying "essential parcels" was never intended to imply that no other parcels within a CARL or Florida Forever project were important for protection of natural or cultural resources. While it is assumed during the design of projects that there would be a degree of resource protection and adequate manageability if only the essential parcels were purchased, it has also always been recognized that the other parts of CARL and Florida Forever projects also contained significant resources, provided buffers, or otherwise added to the overall resource protection intended to be provided by the project. The choice of the word "essential" for what is really just meant to be just "Phase I" of a project was unfortunate, for it leads those not familiar with the resources or the process by which projects are selected and designed to conclude that anything that is not "essential" is also not significant or necessary. It has never been the practice to add projects with substantial areas of no significance.

Identification of essential or core parcels was not even a part of the evaluation, selection, and acquisition process of the division until around 1986. By this time, acquisition for conservation purposes had been underway since approximately 1973. Additionally, the water management districts do not use a uniform project evaluation and acquisition methodology. Some may include the formal

identification of essential or core parcels, some may not. In the case of some of the earlier acquired projects, evaluative information about projects has probably even been destroyed, according to accepted state protocols. The division has no idea what procedures the water management districts use for information storage and retrieval. DEP is concerned that if no essential or core parcel was formally identified in a project by the state or the districts, who or what process would make that determination to satisfy the requirements of this language?

As an additional note, the division has a relatively aggressive policy in place at this time to identify lands not being utilized or needed for state purposes and surplusing them in order to return them to the tax rolls.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On April 3, 2003, the House Committee on Natural Resources favorably adopted an amendment that accepted rights-of-way of existing, proposed and anticipated transportation facilities from inclusion in the required inventory of government-owned lands.