

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Appropriations Subcommittee on the Environment and Natural Resources

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**BILL:** CS/SB 204

**INTRODUCER:** Environmental Preservation and Conservation Committee and Senator Bradley and others

**SUBJECT:** Land Acquisition Trust Fund

**DATE:** December 6, 2017      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Istler</u>	<u>Rogers</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEN</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

**I. Summary:**

CS/SB 204 increases the annual appropriation from the Land Acquisition Trust Fund (LATF) for spring restoration, protection, and management projects from \$50 million to \$75 million. Additionally, the bill requires \$50 million to be appropriated from the LATF to the St. Johns River Water Management District for projects dedicated to the restoration of the St. Johns River and its tributaries or the Keystone Heights Lake Region.

**II. Present Situation:**

**Land Acquisition Trust Fund**

Documentary stamp tax revenues are collected under ch. 201, F.S., which requires an excise tax to be levied on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at 35 cents per \$100.<sup>1</sup>

In 2014, Florida voters approved Amendment One, a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues

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<sup>1</sup> See ss. 201.02 and 201.08, F.S.

derived from documentary stamp taxes be deposited into the Land Acquisition Trust Fund (LATF). Article X, s. 28 of the State Constitution requires that funds in the LATF be expended only for the following purposes:

As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.<sup>2</sup>

To implement Art. X, s. 28 of the State Constitution, the Legislature passed ch. 2015-229 Laws of Florida. This act, in part, amended the following sections of law:

- Section 201.15, F.S., to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from documentary stamp taxes.
- Section 375.041, F.S., to designate the LATF within the Department of Environmental Protection (DEP) as the trust fund to serve as the constitutionally mandated depository for the required percentage of documentary stamp tax revenues.<sup>3</sup>

Under s. 375.041, F.S., funds deposited into the LATF must be distributed in the following order and amounts:

- First, obligations relating to debt service, specifically:
  - First to payments relating to debt service on Florida Forever Bonds and Everglades restoration bonds; and
  - Then, to payments relating to debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District.
- Then, before funds are authorized to be appropriated for other uses:
  - A minimum of the lesser of 25 percent of the funds remaining after the payment of debt service or \$200 million annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan,<sup>4</sup> or the Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. From these funds, the following specified distributions are required:

<sup>2</sup> FLA. CONST. art. X, s. 28.

<sup>3</sup> Ch. 2015-229, s. 9, s. 50, Laws of Fla.

<sup>4</sup> Note that the “Long-Term Plan” includes the Restoration Strategies Regional Water Quality Plan.

- \$32 million annually through the 2023-2024 fiscal year for the Long-Term Plan;
  - After deducting the \$32 million, the minimum of the lesser of 76.5 percent of the remainder or \$100 million annually through the 2025-2026 fiscal year for the CERP; and
  - Any remaining funds for Everglades projects under the CERP, the Long-Term Plan, or the NEEPP.
- A minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million annually for spring restoration, protection, and management projects; and
  - Five million annually through the 2025-2026 fiscal year to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka.<sup>5</sup>
  - Sixty-four million to the Everglades Trust Fund in the 2018-2019 fiscal year and each fiscal year thereafter, for the Everglades Agricultural Area reservoir project.
- Then, any remaining moneys are authorized to be appropriated for the purposes set forth in Art. X, s. 28 of the State Constitution.<sup>6</sup>

In August 2017, the Revenue Estimating Conference projected that \$2.62 billion of documentary stamp taxes will be collected in FY 2018-2019. After deducting the costs of collection and enforcement of the tax, thirty-three percent of the net revenues collected (approximately \$862.2 million) must be deposited into the LATF in accordance with Art. X, s. 28 of the State Constitution.<sup>7</sup>

### **Spring Restoration, Protection, and Management Projects**

Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet or more of water per second. Florida has 33 first magnitude springs in 18 counties that discharge a total of more than 64 million gallons of water per day. Spring discharges are used to determine groundwater quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to groundwater chemistry.

Urban sprawl, the growing demand for groundwater, and the introduction of fertilizers, pesticides, and other pollutants to the springshed, are major issues impacting the health of Florida's springs.<sup>8</sup> The water quality of a spring system is regularly assessed to determine whether it is meeting water quality standards. When a springs system is not meeting such standards, the system is formally identified as impaired, and the DEP is required to adopt Total Maximum Daily Loads (TMDLs).<sup>9</sup> A TMDL is a scientific determination of the maximum amount of a given pollutant that a surface water body can absorb and still meet the water quality

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<sup>5</sup> Section 375.041, F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, *Documentary Stamp Tax, Executive Summary* (Aug. 2017) available at <http://edr.state.fl.us/Content/conferences/docstamp/docstampexecsummary.pdf> (last visited November 28, 2017).

<sup>8</sup> Florida Department of Environmental Protection (FDEP), Florida's Springs, Protecting Nature's Gems, *Threats to Springs*, <http://www.floridasprings.org/protecting/threats1/> (last visited Sept. 26, 2017).

<sup>9</sup> Section 403.067, F.S.

standards that protect human health and aquatic life.<sup>10</sup> To achieve TMDLs for a surface water body, the DEP works with local stakeholders to adopt and implement Basin Management Action Plans (BMAPs).<sup>11</sup> BMAPs represent a comprehensive set of strategies, including permit limits on wastewater facilities, urban and agricultural best management practices, conservation programs, financial assistance, and revenue generating activities, designed to achieve the pollutant reductions necessary to meet a TMDL.<sup>12</sup>

Water quantity or spring flows are affected by water consumption and overuse.<sup>13</sup> The water management districts (WMDs) or the DEP are required to establish minimum flows and levels (MFLs) for surface and ground waters. The “minimum flow” is the limit at which further withdrawals from a watercourse would significantly harm water resources or ecology; the “minimum level” is the level of a groundwater or surface water body at which further withdrawals would significantly harm water resources.<sup>14</sup> If the flow or level is currently below, or within 20 years will fall below, an applicable MFL, the WMD is required to implement a recovery or prevention strategy.<sup>15</sup>

The Florida Department of Agriculture and Consumer Services, in coordination with the DEP, the WMDs, and other stakeholders, works to develop Best Management Practices (BMPs) to address agricultural water quality and water use impacts, including the reduction of nutrient loads to meet TMDLs.<sup>16</sup> BMPs are individual or combined practices developed through research, field testing, and expert review to be the most effective and practicable means for improving water quality, taking into account economic and technological considerations.<sup>17</sup> The implementation of agricultural BMPs is based on a watershed approach to address agricultural nutrient loadings as a whole.<sup>18</sup>

Spring restoration, protection, and management projects may be designed to achieve TMDLs through a BMAP, address MFLs through a recovery or prevention strategy, or implement BMPs. For the 2017-2018 fiscal year, forty springs projects will receive \$50 million, bringing the total investment in springs to more than \$94 million during the fiscal year.<sup>19</sup> Examples of such projects include, but are not limited to: investments in wastewater treatment facilities; water quality improvement projects; aquifer recharge projects; reclaimed water projects; purchase of

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<sup>10</sup> FDEP, *Total Maximum Daily Loads (TMDL) Program*, <http://www.dep.state.fl.us/water/tmdl/index.htm> (last visited Sept. 5, 2017).

<sup>11</sup> Section 403.067, F.S.

<sup>12</sup> FDEP, *TMDL Program*.

<sup>13</sup> FDEP, *Florida’s Springs, Protecting Nature’s Gems, Water Consumption and Overuse*, <http://www.floridasprings.org/protecting/threats1/> (last visited Sept. 26, 2017).

<sup>14</sup> Section 373.042, F.S.

<sup>15</sup> Section 373.0421, F.S.

<sup>16</sup> Florida Department of Agriculture and Consumer Services (FDACS), *Agriculture and Water Quality*, [http://www.freshfromflorida.com/content/download/33106/813038/BMP\\_Backgrounder\\_Updated.pdf](http://www.freshfromflorida.com/content/download/33106/813038/BMP_Backgrounder_Updated.pdf) (last visited Sept. 26, 2017).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> FDEP, *Governor Scott Announces \$50 Million for Springs Restoration Projects Across Florida*, <https://content.govdelivery.com/accounts/FLDEP/bulletins/1af65c7> (last visited Oct. 9, 2017).

conservation lands for water quality protection; stormwater improvement; water quality sampling and monitoring; meter implementation; and irrigation system efficiency upgrades.<sup>20</sup>

### **St. Johns River Water Management District**

The St. Johns River Water Management District (SJRWMD) is one of five WMDs established in the state. The SJRWMD covers all or part of 18 counties in northeast and east-central Florida and includes ten major watersheds.

#### ***St. Johns River***

The St. Johns River is the longest river that is entirely within the state.<sup>21</sup> The St. Johns River is divided into three watersheds: the Lower St. Johns River Basin, the Middle St. Johns River Basin, and the Upper St. Johns River Basin. Because the river flows north, the upper basin refers to the area that forms in Indian River and Brevard counties, south of the middle and lower basins.<sup>22</sup> Major tributaries that flow into the St. Johns River include the Wekiva River, the Econlockhatchee River, and the Ocklawaha River.<sup>23</sup>

Stormwater runoff from urban areas, treated domestic and industrial wastewater, and agricultural runoff from farming areas affect the water quality of the St. Johns River.<sup>24</sup> The largest contributor of pollution in the lower basin is treated wastewater, with additional significant sources of nutrient pollution coming from agricultural areas.<sup>25</sup> The upper basin was drained and diked and now the floodwaters from the basin drain to the Indian River Lagoon to the east, which diminishes the water quality in the lagoon and degrades the upper basin's remaining marshes.<sup>26</sup>

#### ***Keystone Heights Area Lakes***

The Keystone Heights area lakes are located in southwestern Clay County.<sup>27</sup> The lakes were created when a layer of limestone collapsed creating sinkholes that connect to the Upper Floridan Aquifer.<sup>28</sup> The natural geologic features of this karst terrain result in lake level fluctuations that have occurred over many decades.<sup>29</sup>

The district has been working to protect and maintain the water levels in the lakes in the Keystone Heights region and has undertaken numerous projects and studies regarding the region to better understand the dramatic fluctuations in lake water levels and to help meet current and

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<sup>20</sup> See *FY 17-18 Springs Projects*, <http://www.flgov.com/wp-content/uploads/2017/08/17-18-ss.pdf>, for the complete list of projects.

<sup>21</sup> SJRWMD, *The St. Johns River*, <https://www.sjrwmd.com/waterways/st-johns-river/> (last visited Sept. 5, 2017).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> SJRWMD, *Lower St. Johns River Basin*, <https://www.sjrwmd.com/waterways/st-johns-river/lower/> (last visited Sept. 5, 2017).

<sup>26</sup> SJRWMD, *Upper St. Johns River Basin*, <https://www.sjrwmd.com/waterways/st-johns-river/upper/> (last visited Sept. 23, 2017).

<sup>27</sup> SJRWMD, *Senate Bill 234: Land Acquisition Trust Fund Bill Analysis* (Feb. 3, 2017) (on file with the Senate Environmental Preservation and Conservation Committee).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

long-term water supply needs for the region.<sup>30</sup> The district has focused on projects that will lead to improved water levels in the lakes and the underlying Floridan aquifer. The district is reevaluating the MFLs for certain lakes in order to implement updated methods, develop a hydrologic model, and analyze additional long-term hydrologic data to ensure that the MFLs are based on the most up-to-date methods and criteria.<sup>31</sup> The district has also focused on projects that benefit the Floridan aquifer by increasing recharge or by reducing water withdrawals in the region.<sup>32</sup>

### III. Effect of Proposed Changes:

Subparagraph s. 375.041(2)(b)2., F.S., requires a minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million to be appropriated annually from the Land Acquisition Trust Fund (LATF) for spring restoration, protection, and management projects. The bill amends that subparagraph to increase the distribution to a minimum of the lesser of 10.7 percent of the funds remaining after the payment of debt service or \$75 million.

Additionally, the bill creates another statutorily required distribution from the LATF to require \$50 million to be appropriated annually to the St. Johns River Water Management District for projects dedicated to the restoration of the St. Johns River and its tributaries or the Keystone Heights Lake Region.

The bill requires the annual distribution to be reduced by an amount equal to the debt service paid annually on bonds issued for such restoration purposes after July 1, 2018.

The bill takes effect July 1, 2018.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill increases annual distributions for spring restoration from the LATF to a minimum of the lesser of 10.7 percent of the funds remaining after the payment of debt service or \$75 million. This is an increase of \$25 million. The bill also establishes a \$50 million annual distribution to the St. Johns River Water Management District for the St. Johns River or Keystone Heights Lake Region restoration activities. There is currently \$5.5 million in the recurring base budget for the St. Johns River or Keystone Heights Lake Region so the \$50 million distribution is an increase of \$44.5 million.

Agencies that receive funds from the LATF are the Departments of Environmental Protection, State, and Agriculture and Consumer Services as well as the Fish and Wildlife Conservation Commission. These agencies receive legislative appropriations for various items; such as springs restoration, Everglades and Northern Everglades restoration, Lake Apopka restoration, beach restoration, and land management activities. The additional \$69.5 million in distributions may affect the funding available to appropriate for these other purposes funded from the trust fund. Projections of Fiscal Year 2018-19 documentary tax revenues deposited into the LATF totals \$862.2 million, which is an increase of \$33.3 million. This increase in collections will offset some of the negative fiscal impact to the available funds.

**VI. Technical Deficiencies:**

If the intent of this legislation is to establish a continuing appropriation of \$50 million annually to the St. Johns River Water Management District, without further legislative action in subsequent fiscal years, the language “shall be appropriated annually” should be clarified to read, “is appropriated annually.”

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 375.041 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environmental Conservation and Preservation on October 9, 2017:**

The committee substitute clarifies that annual springs restoration funding should be a minimum of \$75 million by amending the percentage for calculating the amount of LATF dollars required to be distributed.

- B. **Amendments:**

None.