

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1117 Conservation of Wildlife

**SPONSOR(S):** Agriculture & Natural Resources Subcommittee, Harrison

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1456

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	15 Y, 0 N, As CS	Deslatte	Blalock
2) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N	Massengale	Massengale
3) State Affairs Committee			

### SUMMARY ANALYSIS

Current law specifies that the Board of Trustees of the Internal Improvement Trust Fund (BOT) is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state. Current law also specifies that state-owned lands must be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. Where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the BOT, public land not designated for single-use purposes should be managed for multiple-use purposes. All multiple-use land management strategies must address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands.

The bill specifies that a zoo or aquarium that is accredited by the Association of Zoos and Aquariums (AZA) and operating a facility in the state can apply to the BOT or to the governing board of a water management district (WMD) for authorization to use state lands for the purpose of conducting enhanced research in husbandry, reproductive biology, endocrinology, nutrition, genetics, behavior, health, and ecology of selected population of ungulates and avian species. The application must provide certain criteria. The BOT or the governing board of the WMD is authorized to approve the application if the BOT or governing board determines that the proposed project is in the best interest of the state by considering the following:

- Whether the project is consistent with the state's goals for the lands that will be used for the project, as described in the approved land management plan for those lands, and will not cause harm to the land or the surrounding land.
- Whether the project, through alliances and relationships with organizations, universities, federal and state agencies, or other members of the AZA, or otherwise, will have a positive economic impact on the state or the communities surrounding the project location.

The bill directs the Florida Fish and Wildlife Conservation Commission (FWCC) to provide technical assistance to the BOT or to the governing board of a WMD in reviewing each application.

The bill's impact on state revenues and expenditures is indeterminate. The impact on state revenues will depend on the response of aquariums and zoos applying to use state lands and the negotiated terms of the leases. The FWCC may experience an increased workload in assisting with the review of project applications, as well as monitoring sites for compliance with laws. The bill appears to have no fiscal impact on local government.

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

STORAGE NAME: h1117c.ANRAS

DATE: 2/14/2012

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Board of Trustees of the Internal Improvement Trust Fund (BOT)**

At statehood on March 3, 1845, Florida received 500,000 acres of land from the federal government for the benefit of internal improvements. Through the Swamp and Overflowed Lands Act of 1850, the state received an additional 20 million acres of land. In 1855, the Board of Trustees of the Internal Improvement Trust Fund (BOT) was created as an agency of the Florida government to hold these lands. The federal government also made other land grants to the state for varied purposes such as educational facilities, and the seat of government. In 1967, the Florida Legislature vested the BOT with most of the lands owned by the various agencies, boards, and commissions of the state and made the BOT responsible for all state lands, with but few exceptions. These lands are held in trust for the use and benefit of the people of the State of Florida.

The BOT consists of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The BOT is recognized in the State Constitution, and its powers and duties are provided by statute as the acquisition, administration, management, control, supervision, conservation, protection, and disposition of the state-owned lands under its control. The Department of Environmental Protection, through its Division of State Lands, performs all staff duties and functions related to the acquisition, administration, and disposition of state-owned lands to which title is vested in the BOT, with exceptions for certain activities of the water management districts and the Department of Agriculture and Consumer Services.

The BOT administers one of the largest conservation and recreation land buying programs in the nation, with more than 3.3 million acres of conservation and non-conservation uplands. These include state parks, forests, wildlife management areas, historic sites, public universities, and state facilities. The Board of Trustees oversees its conservation lands as a trust on behalf of the citizens of Florida for the protection of the state's natural resources and scenic beauty.

The BOT also administers the state's sovereignty lands, those water bodies within the state's territorial limits that were navigable at the date of statehood. These include coastal shores below mean high water, and navigable fresh waters such as rivers and lakes below ordinary high water. The public status of these lands is protected by the Public Trust Doctrine as codified in Article X, Section 11 of the Florida Constitution.<sup>1</sup>

Section 253.02, F.S., specifies that the BOT cannot sell, transfer, or otherwise dispose of any lands the title to which is vested in the BOT except by vote of at least three of the four trustees.

Section 253.03, F.S., specifies that the BOT is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state. These lands specifically include:

- All swamp and overflowed lands held by the state or which may hereafter inure to the state;
- All lands owned by the state by right of its sovereignty;
- All internal improvement lands proper;
- All tidal lands;
- All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;

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<sup>1</sup> Cabinet Affairs website, <http://cabinet.myflorida.com/cabprocess.html>

- All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way; and
- All lands which have accrued, or which may hereafter accrue, to the state from any source whatsoever, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way, spoil areas, or borrow pits or any land, the title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act.

The BOT is authorized and directed to administer all state-owned lands and is responsible for the creation of an overall and comprehensive plan of development concerning the acquisition, management, and disposition of state-owned lands so as to ensure maximum benefit and use.

### **State owned lands and uses**

Section 253.034(1), F.S., specifies that all lands acquired must be managed to serve the public interest by protecting and conserving land, air, water, and the state's natural resources, which contribute to the public health, welfare, and economy of the state. These lands must also be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The statute further states that it is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the BOT, public land not designated for single-use purposes be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands.

Section 253.034(5), F.S., specifies that a manager of state conservation lands must submit to the Division of State Lands a land management plan every 10 years. Whenever the manager of conservation lands intends to make substantive land use or management changes that were not addressed in the approved plan, the land manager must update the land management plan.

Section 253.034(10), F.S., provides additional uses of conservation lands to include water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. When the lands are used for these purposes, they must meet the following conditions:

- The use must not be inconsistent with the management plan for the lands;
- The use must be compatible with the natural ecosystem and resource values of such lands;
- The proposed use must be appropriately located on such lands where due consideration is given to the use of other available lands;
- The using entity must reasonably compensate the titleholder for the use based on an appropriate measure of value; and
- The use must be consistent with the public interest.

### **Association of Zoos & Aquariums**

The Association of Zoos & Aquariums (AZA) was founded in 1924 and is dedicated to the advancement of zoos and aquariums in the areas of conservation, education, science, and recreation. Zoos and aquariums can apply to be accredited by the AZA. The AZA selects Accreditation Commission members who are experts in their fields to evaluate the zoo or aquarium. The zoo or aquarium must meet the AZA's standards for animal management and care, including living environments, social groupings, health, and nutrition. The Accreditation Commission also evaluates the veterinary program, involvement in conservation and research, education programs, safety policies and procedures, security, physical facilities, guest services, and the quality of the institution's staff. The application takes months to complete and 6 months to study and evaluate. Zoos and aquariums that are

accredited must keep up with evolving standards and must go through the accreditation process every 5 years. Currently, there are 16 zoos and aquariums in Florida that are accredited by the AZA.

### **Effect of Proposed Changes**

The bill specifies that a zoo or aquarium that is accredited by the AZA and operating a facility in the state can apply to the BOT for authorization to use state lands, or to the governing board of a water management district (WMD), for authorization to use lands of the WMD, for the purpose of conducting enhanced research in husbandry, reproductive biology, endocrinology, nutrition, genetics, behavior, health, and ecology of selected populations of ungulates<sup>2</sup> and avian species.

The application must provide the following:

- Information relating to the principals and sponsors of the project.
- A description of the funding and sources of funding that will be used to support the project.
- The size, proximate location, and type of land sought.
- A detailed description of the proposed project, including a description of the research to be conducted and the animals that will be used in the research. Projects that involve mammalian species that are carnivores or primates are prohibited.
- A description of the infrastructure necessary to conduct the research project, including buildings, utilities, roadways, and containment facilities.
- A description of a plan to ensure timely recovery of animals that have escaped because of natural disasters or other unforeseen events.

The BOT or the governing board of the WMD is authorized to approve the application if the BOT or governing board determines that the proposed project is in the best interest of the state by considering the following:

- Whether the project is consistent with the state's goals for the lands that will be used for the project, as described in the approved land management plan for those lands, and will not cause harm to the land or the surrounding land.
- Whether the project, through alliances and relationships with organizations, universities, federal and state agencies, or other members of the AZA, or otherwise, will have a positive economic impact on the state or the communities surrounding the project location.

The bill directs the Fish and Wildlife Conservation Commission (FWCC) to provide technical assistance to the BOT or to the governing board of a WMD in reviewing each application.

#### **B. SECTION DIRECTORY:**

Section 1. Provides for certain zoos and aquariums to apply to the BOT, or to the governing board of a WMD, for authorization to use state lands for the purpose of conducting enhanced research; providing application requirements; providing criteria that the board or the governing board of a WMD, must consider in reviewing the application; requiring the FWCC to assist the board, or the governing board of a WMD.

Section 2. Provides an effective date of July 1, 2012.

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

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

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

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<sup>2</sup> Ungulates are defined as hoofed animals. Commonly known examples of ungulates include: horses, zebras, donkeys, cattle/bison, rhinoceroses, camels, hippos, tapirs, goats, pigs, sheep, giraffes, okapis, moose, elk, deer, antelopes, and gazelles.

The bill's impact on state revenues is indeterminate. The impact will depend on the response of aquariums and zoos applying to use state lands and the negotiated terms of the leases.

2. Expenditures:

The bill's impact on state expenditures is indeterminate. The FWCC may experience an increased workload in assisting with the review of project applications, as well as monitoring sites for compliance with laws, but may perform these responsibilities within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 31, 2012, the Agriculture & Natural Resources Subcommittee amended and passed HB 1117 as a committee substitute (CS). The CS provides that a zoo or aquarium can apply to the BOT or a governing board of a WMD for the purpose of conducting enhanced research in husbandry, reproductive biology, endocrinology, nutrition, genetics, behavior, health, and ecology of selected populations of ungulates and avian species. The CS provides that the application must provide a description of a plan to ensure timely recovery of escaped animals resulting from natural disasters or other unforeseen events. The CS provides that the BOT or the governing board of a WMD may approve the application. Lastly, the CS provides that the FWCC must provide technical support to the BOT or to the governing board of a WMD.