

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 1075	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	State Affairs Committee; Agriculture & Natural Resources Appropriations Subcommittee; Caldwell and others	106 Y's	10 N's
COMPANION BILLS:	CS/SB 1290; CS/HB 359; CS/CS/SB 546; SB 1312	GOVERNOR'S ACTION: Approved	

SUMMARY ANALYSIS

CS/CS/HB 1075 passed the House on March 3, 2016. The bill was amended by the Senate on March 10, 2016, and subsequently passed the House on March 11, 2016. The bill includes portions of CS/HB 359, CS/CS/SB 546, and SB 1312. The bill addresses a number of issues relating to acquiring, managing, and disposing of state lands, including:

- Combining the acquisition procedures for all state lands into one section of law;
- Requiring conservation lands to be managed for conservation, recreation, or both, consistent with any existing land management plan, rather than for the purpose for which they were acquired;
- Requiring the Department of Environmental Protection (DEP) to submit conservation lands that are not meeting their short-term goals to the Acquisition and Restoration Council (ARC) to consider management and disposition options;
- Combining the disposition procedures for all state lands into one section of law;
- Directing land managers, as part of their every 10-year management plan update, to identify any conservation lands that could be disposed of in fee simple or with the state retaining a permanent conservation easement;
- Removing priority consideration given to local governments when surplus lands;
- Providing an exchange process that allows a person who owns land contiguous to Board of Trustees-titled land to request an exchange of all or a portion of the state-owned land, with the state retaining a permanent conservation easement, for a permanent conservation easement over all or a portion of the contiguous privately owned land;
- Authorizing minimal secondary non-water dependent uses that are related to a water-dependent use over sovereign submerged lands;
- Requiring ARC to give priority to proposed Florida Forever projects that can be acquired in less than fee and projects that contribute to improving springs or groundwater;
- Requiring the DEP to add federally owned conservation lands and state and federally owned conservation easements to the FL-SOLARIS state lands data base by July 1, 2018;
- Requiring each county and city to submit to DEP, by July 1, 2018, a list of all conservation lands owned by the local government and lands on which the local government holds a permanent conservation easement. Financially disadvantaged small communities have until July 1, 2019, to submit the same information;
- Directing DEP to complete a study by January 1, 2018, regarding the technical and economic feasibility of including privately owned conservation lands in a public lands inventory; and
- Requiring the Department of Agriculture and Consumer Services to follow certain acquisition procedures when acquiring conservation easements through the Rural and Family Lands Program.

The bill also streamlines the surplus procedures for Water Management District lands and authorizes the Florida Fish and Wildlife Conservation Commission to adopt by rule protection zones that restrict the speed and operation of vessels to protect and prevent harm to springs.

The bill provides an appropriation of \$396,040 in recurring funds and \$1,370,528 in nonrecurring funds from the General Revenue Fund to implement specific provisions of the bill. The bill will have an indeterminate fiscal impact on state and local governments, and no fiscal impact on the private sector.

The bill was approved by the Governor on April 14, 2016, ch. 2016-233, L.O.F., and will become effective on July 1, 2016.

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

STORAGE NAME: h1075z1.ANRS

DATE: April 18, 2016

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

State Lands

The State of Florida owns lands for many purposes including preservation, conservation, recreation, water management, historic preservation, and administration of government. These lands include:

- All swamp and overflowed lands held by the state or which may inure to the state;
- All lands owned by the state by right of its sovereignty;¹
- 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;
- 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 accrue, to the state.²

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) holds state lands in trust for the use and benefit of the people of Florida.³ The Board of Trustees consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture.⁴ This body may acquire, sell, transfer, and administer state lands in the manner consistent with chapters 253 and 259, F.S.⁵

The Department of Environmental Protection (DEP), through its Division of State Lands (DSL), performs all staff duties and functions related to the acquisition, administration, and disposition of state lands.⁶ The Water Management Districts (WMD) may perform staff duties and functions related to their regulation of water resource management,⁷ such as authorizing the use of sovereign submerged lands.⁸ The Department of Agriculture and Consumer Services (DACS) may perform staff duties and functions related to their regulation of aquaculture leases and the acquisition, administration, and disposition of conservation easements,⁹ such as authorizing the use of sovereign submerged lands.¹⁰ Lastly, the Fish and Wildlife Conservation Commission (FWC) may authorize use of sovereign lands related to aquatic weed control and aquatic plant management.¹¹

According to the DEP, the Board of Trustees owns approximately 13 million acres.¹² Approximately 3.4 million of these acres are conservation lands,¹³ 113,000 acres are nonconservation lands, and 9 million acres are sovereign submerged lands.¹⁴

¹ These are “sovereignty submerged lands,” which include but are not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated. Rule 18-21.003(61), F.A.C.

² Section 253.03(1), F.S.

³ Section 253.001, F.S.

⁴ Section 253.02(1), F.S.

⁵ Id.

⁶ Section 253.002(1), F.S.

⁷ Id.

⁸ Rule 18-21.0051(2), F.A.C.

⁹ Section 253.002(1), F.S.

¹⁰ Rule 18-21.0051(3), F.A.C.

¹¹ Section 253.002(1), F.S.

¹² DEP Presentation on Management of State-Owned Lands, Agriculture and Natural Resources Subcommittee, October 21, 2015, available at:

<http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2852&Session=2016&DocumentType=Meeting%20Packets&FileName=anrs%2010-21-15.pdf>.

“Conservation lands” are lands managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands acquired solely to facilitate the acquisition of other conservation lands.¹⁵ Lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation (“nonconservation lands”) are not designated conservation lands.¹⁶ Nonconservation lands include the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, State University or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that possess no significant natural or historical resources.¹⁷

The Board of Trustees authorizes several agencies to manage state lands including DACS, FWC, the Department of State (DOS), and DEP through its Office of Coastal and Aquatic Management and the Florida Park Service.¹⁸ Other entities may also manage the land, subject to approval of the Board of Trustees. These agencies and other entities hold a property interest in the land in the form of a management agreement, lease, or other property instrument.¹⁹ These instruments may not be executed for a period greater than is necessary to provide reasonable use of the land for the existing or planned life cycle or amortization of the improvements.²⁰

Chapter 253, F.S., was the original authorizing statute for land acquisition and management by the State of Florida by and through the Board of Trustees. Chapter 253, F.S., applies to both nonconservation and conservation lands. As the Legislature created various conservation and recreation land acquisition programs over the years, additional statutory authorizations for conservation and recreation land acquisition and management were placed in chapter 259, F.S. Currently, both chapters 253 and 259, F.S., must be referenced for a complete understanding of all the land acquisition, surplus, and management processes for state lands.

Acquisition of State Lands

Present Situation

Prior to acquiring land, the Board of Trustees must follow the provisions in s. 253.025, F.S.²¹ An agency wishing to acquire land for its use must first coordinate with DSL to determine the availability of existing, suitable state-owned lands in the area and the proposed public purpose.²² If no suitable state-owned lands exist, the acquisition may proceed.²³

The Board of Trustees must also comply with the requirements of s. 259.041, F.S., to acquire conservation lands.²⁴ The Board of Trustees may waive the requirements when the public’s interest is

¹³ Florida Natural Areas Inventory, *Summary of Florida Conservation Lands*, www.fnai.org/PDF/Maacres_201502_FCL_plus_LTF.pdf (last visited January 13, 2016).

¹⁴ DEP Presentation on Division of State Lands, State Affairs Committee, March 6, 2015, available at: <http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2851&Session=2015&DocumentType=Meeting%20Packets&FileName=sac%203-6-15.pdf>.

¹⁵ Section 253.034(2)(c), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Supra* note 12, DEP Presentation on Management of State-Owned Lands.

¹⁹ Section 253.034(4), F.S.

²⁰ *Id.*

²¹ Section 253.025(1), F.S. These procedures may be waived to follow federally mandated procedures when acquiring federal lands or when acquiring land from a state agency.

²² Section 253.025(2), F.S. This requirement does not apply to property for transportation facilities and transportation corridors and property for borrow pits for road building purposes.

²³ *Id.*

²⁴ Section 259.041(1), F.S.

reasonably protected.²⁵ Further, when the Board of Trustees acquires land jointly with a WMD for conservation, it may follow the WMD's acquisition procedures.²⁶

Land acquisitions are voluntary, negotiated acquisitions.²⁷

Appraisals

The Board of Trustees must obtain an appraisal of the property prior to negotiations to acquire both nonconservation and conservation lands.²⁸ Parcels valued at more than \$1 million require two appraisals.²⁹ State agencies may not offer more than the value of the land determined by the highest approved appraisal when there are one or two appraisals.³⁰ For conservation land, when the two appraisals for a parcel exceeding \$1 million differ significantly, a third appraisal may be obtained.³¹ When there are three appraisals, a state agency may not offer more than the higher of the two closest appraisals if they do not diverge significantly.³² If they do diverge significantly, the state agency may not offer more than 120 percent of the lower of the two closest appraisals.³³ Parcels valued at \$100,000 or less may use a comparable sales analysis or other reasonably prudent procedure provided the public's interest is protected.³⁴ DSL may perform the appraisal for conservation lands acquisitions when the estimated value of a parcel is \$100,000 or less.³⁵

The agency acquiring the property must pay the appraisal fees.³⁶ When acquiring conservation lands, the acquiring agency must also pay associated costs.³⁷

The Board of Trustees must approve qualified fee appraisal organizations.³⁸ DSL must use appraisals prepared by a member of an approved appraisal organization or a state-certified appraiser.³⁹ DSL may use an appraisal obtained by a public agency or nonprofit organization, provided the appraiser is selected from DSL's list of appraisers and the appraisal is reviewed and approved by DSL.⁴⁰ Further, the Board of Trustees may consider an appraisal acquired by a seller when acquiring nonconservation lands, but such appraisal may not be used in lieu of acquiring its own appraisal to determine the maximum offer allowed.⁴¹ DSL reviews these appraisals for compliance with the rules.⁴²

Appraisal reports are confidential and exempt from disclosure under the public records law until an option contract is executed or two weeks before the contract or agreement is considered by the Board of Trustees.⁴³ However, DSL may disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a

²⁵ Id. The Legislature placed this provision in statute to streamline the acquisition process for conservation lands. 94-74 Fla. Op. Att'y Gen. 1 (1994).

²⁶ Section 259.041(17), F.S.

²⁷ Sections 253.025(3) and 259.041(4), F.S.

²⁸ Sections 253.025(6)(a) and 259.041(7), F.S.; Rule 18-1.005(1), F.A.C.

²⁹ Sections 253.025(6)(a) and 259.041(7)(b), F.S.

³⁰ Rule 18-1.006(6)(c), F.A.C.

³¹ Section 259.041(7)(b), F.S.

³² Rule 18-2.006(6)(c), F.A.C.

³³ Id.

³⁴ Section 253.025(6)(a), F.S.

³⁵ Section 259.041(7)(b), F.S.

³⁶ Sections 253.025(6)(b) and 259.041(7)(c), F.S.

³⁷ Section 259.041(7)(c), F.S.

³⁸ Sections 253.025(6)(b) and 259.041(7)(c), F.S.

³⁹ Id. The appraisal procedures are governed by ch. 18-1, F.A.C.

⁴⁰ Sections 253.025(6)(d) and 259.041(7)(f), F.S.

⁴¹ Section 253.025(6)(f), F.S.

⁴² Section 253.025(6)(e), F.S.

⁴³ Sections 253.025(6)(d) and 259.071(7)(e), F.S.

written agreement with DSL to purchase and hold property for subsequent resale to DSL.⁴⁴ The nonprofit organization's purpose must be for the preservation of natural resources.⁴⁵ When acquiring conservation lands, DSL may disclose appraisal reports to private landowners in acquisition of alternatives to fee simple.⁴⁶

Negotiation and the Agreement to Purchase

Prior to negotiations, an agent or broker representing a landowner must provide a written statement verifying its fiduciary relationship with the seller.⁴⁷ The Board of Trustees may contract for its own real estate acquisitions services.⁴⁸ The acquiring agency must inform the seller in writing that all agreements for purchase are subject to approval of the Board of Trustees.⁴⁹ The negotiating parties must make all offers and counteroffers in writing.⁵⁰ These offers and counteroffers are confidential and exempt from disclosure under the public records law until an option contract is executed or two weeks before the contract or agreement is considered by the Board of Trustees.⁵¹

The final offer must be in the form of an option contract or agreement for purchase and signed by the owner and acquiring agency.⁵² In the final agreement for purchase, the landowner must agree to provide evidence of marketability of title in the form of title insurance or a written title opinion prior to conveyance.⁵³ The Board of Trustees may waive the marketability of title requirement when it is provided by the acquiring agency or the property appraised \$10,000 or less and there are no apparent impediments to marketability of title.⁵⁴ When acquiring conservation lands, the acquiring agency must pay for this service.⁵⁵

The acquiring agency must forward to DSL the signed option agreement or agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefor.⁵⁶ The Board of Trustees, or its designee, must approve or reject the agreement within 45 days.⁵⁷ An acquiring agency may resubmit an agreement for purchase that has been previously disapproved when such deficiencies have been corrected.⁵⁸

Agreements to acquire real property for the purposes described in chapter 259, F.S. (conservation lands), chapter 260, F.S. (Greenways and Trails), and chapter 375, F.S. (Outdoor Recreation and Conservation Lands), must be reviewed by DEP.⁵⁹ Further, these agreements must be approved by the Board of Trustees if:

- The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the Board of Trustees;
- The contract price agreed to by the seller and acquiring agency exceeds \$1 million;

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Section 259.041(7)(e), F.S.

⁴⁷ Sections 253.025(7)(a) and 259.041(8)(a), F.S.

⁴⁸ Sections 253.025(7)(b) and 259.041(8)(b), F.S.

⁴⁹ Sections 253.025(7)(c) and 259.041(7)(f), F.S.

⁵⁰ Sections 253.025(7)(d) and 259.041(8)(c), F.S.

⁵¹ Id.

⁵² Sections 253.025(7)(h) and 259.041(9)(a), F.S.

⁵³ Sections 253.025(5) and 259.041(6), F.S.

⁵⁴ Id.

⁵⁵ Rule 18-1.004(2)(a), F.A.C.

⁵⁶ Sections 253.025(7)(i) and 259.041(9)(a), F.S.

⁵⁷ Sections 253.025(7)(i) and 259.041(9)(b), F.S.

⁵⁸ Id.

⁵⁹ Section 259.041(3), F.S.

- The acquisition is the initial purchase in a project; or
- The purchase involves other conditions that require approval based on a Board of Trustees rule.⁶⁰

Donations of Land

The Board of Trustees may not accept a dedication, gift, grant, or bequest of lands and appurtenances until it receives evidence of marketable title.⁶¹ Further, the Board of Trustees may not accept a dedication, gift, grant, or bequest of lands and appurtenances it owns in fee, by its sovereignty, or that are so encumbered so as to preclude the use of such lands and appurtenances for any reasonable public purpose.⁶² The Board of Trustees may accept a dedication, gift, grant, or bequest of lands and appurtenances without marketability of title, or when the title is nonmarketable, if it determines that such lands and appurtenances have value and are reasonably manageable by the state, and that their acceptance would serve the public interest.⁶³ An appraisal is not required for donated lands and appurtenances.⁶⁴

Conveyances

All sellers must convey land to the Board of Trustees in no less than a special warranty deed.⁶⁵ The Board of Trustees may accept a donation through a quit claim deed⁶⁶ from the Federal government, a county, or other state agency if it determines the quit claim deed is in the best interest of the public.⁶⁷ The Board of Trustees may also accept a quit claim deed to aid in clearing title.⁶⁸ The Board of Trustees may acquire tax deeds and tax certificates.⁶⁹

Deeds filed in the public records purporting to transfer title to the Board of Trustees do not vest title unless the document indicates the Board of Trustees accepted the transfer.⁷⁰

Eminent Domain for Conservation Lands

The Board of Trustees may direct DEP to acquire conservation land through the eminent domain process when:

- The state made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached; and
- The land is of special importance to the state because of one or more of the following reasons:
 - The land involves an endangered or natural resource and is in imminent danger of development;
 - The land is of unique value to the state and the failure to acquire it will result in irreparable loss to the state; or
 - The failure of the state to acquire the land will seriously impair the state's ability to manage or protect other state-owned lands.⁷¹

⁶⁰ Id.

⁶¹ Sections 253.025(8)(a) and 259.041(10)(a), F.S.

⁶² Sections 253.025(8)(a) and 259.041(10)(b), F.S.

⁶³ Sections 253.025(8)(a) and 259.041(10)(a), F.S.

⁶⁴ Id.

⁶⁵ Sections 253.025(9) and 259.041(12), F.S. A special warranty deed is a deed where the grantor only agrees to defend title against those claims and demands of the grantor and those claiming by and under the grantor. Black's Law Dictionary 424 (7th ed. 1999).

⁶⁶ A quit claim deed is a deed that conveys a grantor's complete interest or claim in certain real property, but neither warrants nor professes that the title is valid. Black's Law Dictionary 424 (7th ed. 1999).

⁶⁷ Sections 253.025(9) and 253.025(12), F.S.

⁶⁸ Id.

⁶⁹ Sections 253.025(10) and 259.041(13), F.S.

⁷⁰ Section 253.025(8)(b) and 259.041(10)(a), F.S.

⁷¹ Section 259.041(14), F.S.

A majority of the Board of Trustees must vote in a regularly scheduled and advertised meeting to acquire land through eminent domain.⁷²

Acquiring Conservation Lands on an Immediate Basis

The Board of Trustees may direct DEP to purchase conservation lands on an immediate basis when the lands:

- Are listed or placed at auction by the federal government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;
- Are listed or placed at auction by the federal government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or
- Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.⁷³

A majority of the Board of Trustees must vote to acquire the land on an immediate basis.⁷⁴ The Board of Trustees may waive or modify all acquisition procedures to acquire these lands.⁷⁵ The lands acquired on an immediate basis must, at the time of purchase, be on one of the acquisition lists or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.⁷⁶

Acquisition Rules

The Board of Trustees may adopt rules to implement the requirements for acquisition of conservation lands.⁷⁷ For conservation lands, these rules must include:

- The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents and closing agents, and the content of appraisal reports;
- The determination of the value of parcels which the state has an interest to acquire;
- Special requirements when multiple landowners are involved in an acquisition; and
- Requirements for obtaining written option agreements so that the interests of the state are fully protected.⁷⁸

Effect of the Bill

The bill relocates and consolidates the acquisition provisions contained in chapters 253 and 259, F.S., into one statute, by amending s. 253.025, F.S., and repealing 259.041, F.S. Although consolidated, the procedures remain largely the same. The bill:

- Combines language from ss. 253.025(1) and 259.041(1), F.S., to require the Board of Trustees to follow the procedures in s. 253.025, F.S., when acquiring property. In addition to being able to waive the procedures in statute for federally mandated procedures when using federal funds, the Board of Trustees will be able to waive all procedures, except the ones in subsections (4), (11), and (22) for all lands, not just conservation lands as allowed currently;
- Moves language from ss. 253.025(9) and 259.041(1), F.S., to s. 253.025(1), F.S., to indicate that all lands acquired pursuant to s. 253.025, F.S., will vest in the Board of Trustees, unless otherwise provided by law;

⁷² Id.

⁷³ Section 259.041(15), F.S.

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ Id.

⁷⁷ Sections 253.025(12) and 259.041(2), F.S.

⁷⁸ Section 259.041(2), F.S.

- Moves the rulemaking authority for acquisition of conservation lands from s. 259.041(2), F.S., to s. 253.025(3), F.S. Now the rules for the acquisition of all lands must include the procedures previously required only for conservation lands;
- Moves the acquisition requirements in s. 259.041(3), F.S., for real property acquired for purposes described in chapter 259, F.S. (conservation lands), chapter 260, F.S. (Greenways and Trails), and chapter 375, F.S. (Outdoor Recreation and Conservation Lands) to s. 253.025(4), F.S. Now the procedures will apply to lands acquired under chapter 253, F.S., for these purposes. Further, the language is changed to indicate that the acquiring agency must justify why acquisition of Florida Forever lands is in the public interest. This change is consistent with current law;
- Combines the appraisal procedures from ss. 253.025(6) and 259.041(7), F.S., into s. 253.025(8), F.S. The bill:
 - Changes “division” to “department” or “board” where appropriate;
 - Changes the reference to the Department of Business and Professional Regulation (DBPR) to the DACS to recognize that land surveyors are regulated by DACS rather than DBPR;
 - Authorizes a third appraisal for all lands if two appraisals for property valued more than \$1 million differ significantly. This procedure is already allowed in rule 18-1.006, F.A.C.;
 - Authorizes DSL to prepare an appraisal for property less than \$100,000 for all lands, not just conservation lands;
 - Requires the acquiring agency to pay for appraisal fees and associated costs for all lands. Currently, acquiring agencies are not expressly required to pay “associated costs” for nonconservation lands;
 - Eliminates the Board of Trustees’ ability to designate a qualified fee appraiser organization to perform appraisal for the state because “fee appraiser organizations” no longer exist;
 - Prohibits the fee appraiser and review appraiser from acting in any manner that may be construed as negotiating with the owner of a parcel proposed for acquisition. This prohibition currently only exists in the acquisition procedures for conservation lands;
 - Relocates the public records exemption for appraisals from s. 253.025(6)(f), F.S., to s. 253.025(8)(f), F.S. DEP may disclose the appraisal report to the private land owner when acquiring alternatives to fee simple interest for all lands, not just conservation lands, if it determines disclosing the report will bring the acquisition to closure. The bill alters the definition of “nonprofit organization” to only require their purpose to include preservation of natural resources when the nonprofit is helping acquire conservations lands;
- Moves language from s. 259.041(8)(b), F.S., to s. 253.025(9)(b), F.S. The bill provides a more extensive list of real estate services the Board of Trustees may use for all lands, not just conservation lands. The bill also authorizes, rather than requires, DEP to hire outside counsel to perform acquisition closings if it cannot conduct the same activity in 15 days or less;
- Moves language from s. 259.041(1)(c), F.S., to s. 253.025(10)(c), F.S. Now, the maximum value of all land to be purchased, not just conservation land, approved by the Board of Trustees may not increase or decrease as a result of a change in zoning, permitted land use, or changes in market forces that occur within one year after DEP or the Board of Trustees approves a contract for purchase;
- Moves the authorization to use eminent domain to acquire conservation lands in certain situations from s. 259.041(14), F.S., to s. 253.025(11), F.S. To authorize eminent domain procedures, the bill requires a vote of at least three of the Board of Trustees members rather than a majority vote;
- Amends s. 253.025(16), F.S., to change “department” to “Department of Agriculture and Consumer Services” to avoid confusion over acquisition and disposition of forest lands;
- Moves the authorization to immediately acquire conservation lands in certain situations from s. 259.041(15), F.S., to s. 253.025(22), F.S.; and

- Moves s. 259.041(17), F.S., to s. 253.025(23), F.S., to authorize the Board of Trustees to use the acquisition procedures of a WMD when acquiring any land jointly with that WMD, not just conservation land.

The changes to s. 253.025, F.S., may require amendments to chapter 18-1, F.A.C.

The bill repeals s. 259.02, F.S., which authorized issuing bonds to acquire environmentally endangered lands and outdoor recreation lands. These programs are complete.

The bill repeals ss. 259.1052(6) and (7), F.S., to remove outdated provisions relating to the acquisition of the Babcock Ranch.

Alternatives to Fee Simple Acquisitions

Present Situation

The Legislature encourages the acquisition of less-than-fee interest in land to maximize acquisition and management funds for Florida Forever and Preservation 2000 projects.⁷⁹ “Alternatives to fee simple acquisition” include, but are not limited to: purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique.⁸⁰

The Legislature determined that using alternatives to fee simple acquisition achieves the following public policy goals:

- Allows more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds;
- Retains, on local government tax rolls, some portion of or interest in lands which are under public protection; and
- Reduces long-term management costs by allowing private property owners to continue acting as stewards of their land, where appropriate.⁸¹

The Legislature intended that portions of Florida Forever and Preservation 2000 funds be used to acquire alternatives to fee simple interests.⁸² The Legislature noted it intended for public agencies to acquire lands in fee simple for public access and recreational activities.⁸³ However, public access must be negotiated with and agreed to by the private landowners who retain interests in such lands.⁸⁴

Conservation land acquisition project plans must identify when full fee simple title is required and may use alternatives to fee simple title to bring remaining projects under protection.⁸⁵ The Acquisition and Restoration Council (ARC) may give preference to alternatives to fee simple title acquisitions when developing an acquisition plan.⁸⁶

⁷⁹ Sections 259.041(11)(a) and 259.101(7)(a), F.S.

⁸⁰ Sections 259.041(11)(b) and 259.101(7)(b), F.S.

⁸¹ Sections 259.041(11)(a) and 259.101(7)(a), F.S.

⁸² Id.

⁸³ Section 259.101(7)(a), F.S.

⁸⁴ Id.

⁸⁵ Sections 259.041(11)(b) and 259.101(7)(b), F.S.

⁸⁶ Section 259.041(11)(c), F.S. ARC is a ten member board established to assist the Board of Trustees to review the recommendations and plans for state-owned lands. Four members are appointed by the Governor. One member is appointed by the Secretary of DEP. One member is appointed by the Director of the Florida Forest Service. Two members are appointed by the Executive Director of FWC. One member is appointed by the Secretary of DOS. Lastly, one member is appointed by the Commissioner of Agriculture. Section 259.035, F.S.

DEP and the WMDs must implement initiatives to use alternative to fee simple acquisition and educate the public on such acquisitions.⁸⁷ The initiative must include at least two alternatives to fee simple acquisitions per year.⁸⁸

In the absence of direct comparable sales information, DEP may appraise alternatives to fee simple acquisitions based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.⁸⁹

The agency managing the land acquired through alternatives to fee simple acquisition must inspect and monitor the land according to the terms of the purchase agreement relating to the interest acquired.⁹⁰

ARC may give preference to those less than fee simple acquisitions that provide any public access when developing its acquisition plan.⁹¹

Effect of the Bill

The bill relocates and consolidates the procedures for acquisition of alternatives to fee simple interests from ss. 259.041(11) and 259.101(7), F.S., to the newly created s. 253.0251, F.S. The bill adds DACS to the list of agencies that must implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives by amending s. 253.0251(4), F.S. Further, the bill adds DACS to the list of agencies that may enter into joint acquisition agreements for alternatives to fee simple acquisition.

The bill creates s. 570.715, F.S., to require DACS to follow certain acquisition procedures when acquiring conservation easements through the Rural and Family Lands Program. These procedures are substantially similar to procedures other agencies must follow. DACS will no longer need to seek approval from DEP to acquire conservations easements through the Rural and Family Lands Program. In addition, the bill transfers and redesignates the public records exemption for appraisals from s. 259.041(7)(e), F.S., to s. 570.715(5), F.S. DACS may disclose the appraisal report to the private land owner when acquiring alternatives to fee simple interest for conservation easement acquisitions if it determines disclosing the report will bring the acquisition to closure.

Management and Use of State Lands

Present Situation

Generally, the state manages its uplands in a manner that will provide the greatest combination of benefits to the general public.⁹² The Board of Trustees may authorize use of these lands when it determines such use to be in the public interest.⁹³

The state manages conservation lands acquired under chapter 259, F.S., 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.⁹⁴ These lands provide for areas of natural resource-based recreation, and ensure the survival of plant and animal species and the conservation of finite and renewable natural resources.⁹⁵ One of the specific goals for managing conservation lands acquired under chapter 259, F.S., is to manage the lands for the purpose for which they were acquired.⁹⁶ When the state acquires conservation land with existing agricultural uses, the managing agency must make a

⁸⁷ Sections 259.041(11)(c) and 259.101(7)(c), F.S.

⁸⁸ Section 259.101(7)(c), F.S.

⁸⁹ Sections 259.041(11)(e) and 259.101(7)(d), F.S.

⁹⁰ Sections 259.041(11)(f) and 259.101(7)(e), F.S.

⁹¹ Section 259.041(11)(c), F.S.

⁹² Rule 18-2.018(2)(b), F.A.C.

⁹³ Rule 18-2.018(1), F.A.C.

⁹⁴ Section 259.034(1), F.S.

⁹⁵ Id.

⁹⁶ Sections 259.032(7)(b), (c), (e), (8)(e)1., 6., 7., (9)(a), 259.036(1), (4), (5), 259.101(6)(a), and 259.101(2)(a)11., F.S.

reasonable effort to keep the land in agricultural production so long as the use is consistent with the purpose for which the land was acquired.⁹⁷ Further, conservation lands acquired under the Preservation 2000 program must be managed to make them available for public recreational use if the recreational use does not interfere with the protection of natural resource values.⁹⁸

There does not appear to be a special management standard for nonconservation lands.

Activities on sovereign submerged lands may not be contrary to the public interest.⁹⁹ The Board of Trustees manages sovereign submerged lands to encourage water-dependent uses and public access.¹⁰⁰ A “water dependent activity” is an activity that can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereign submerged lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereign submerged lands is an integral part of the activity.¹⁰¹ The Board of Trustees limits activities on sovereign submerged lands to water dependent activities only, unless it determines, on a case-by-case basis, that the activities are in the public interest.¹⁰²

The Board of Trustees may adopt fees to charge agencies and private individuals for leasing or otherwise using state-owned lands.¹⁰³ These fees may only compensate the Board of Trustees for costs incurred in the administration and management of such lands.¹⁰⁴

While not explicitly distinguished in the statutes or rules, managers of conservation lands must prepare and follow “land management plans” while managers of nonconservation lands must prepare “land use plans” or “operational reports.”¹⁰⁵

All state agencies who use state lands must submit a management plan or operational report to DSL.¹⁰⁶ The management plan must include:

- The land acquisition program, if any, under which the property was acquired;
- The designated single use or multiple use management for the property;
- Proximity of the property to other significant state, local, or federal land or water resources;
- A statement as to whether the property is within an aquatic preserve or a designated area of critical state concern, or an area under study for such designation;
- The location and description of known and reasonably identifiable renewable and non-renewable resources of the property;
- A description of actions the agency plans to take to locate and identify unknown resources;
- The identification of resources on the property that are listed in the Natural Area Inventory;
- A description of past uses of the property;
- A detailed description of existing and planned use(s) of the property;
- For managed areas larger than 1,000 acres, an analysis of the multiple-use potential of the property;
- A detailed assessment of the impact of planned uses on the renewable and non-renewable resources of the property, including soil and water resources, and a detailed description of the specific actions that will be taken to protect, enhance and conserve these resources and to mitigate damage caused by such uses, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination;

⁹⁷ Section 259.047(2), F.S.

⁹⁸ Section 259.101(8), F.S.

⁹⁹ Rule 18-21.004, F.A.C.

¹⁰⁰ Section 253.03(15), F.S.

¹⁰¹ Rule 18-21.003(71), F.A.C.

¹⁰² Rule 18-21.004(1)(g), F.A.C.

¹⁰³ Section 253.03(2) and (11), F.S.

¹⁰⁴ Id.

¹⁰⁵ See s. 253.034(5), (6), and (13), F.S.; Rule 18-2.018(3)(a)5., F.S.

¹⁰⁶ Rule 18-2.018(3)(a)5.a., F.A.C.

- A description of management needs and problems for the property;
- Identification of adjacent land uses that conflict with the planned use of the property;
- A description of legislative or executive directives that constrain the use of such property;
- A finding regarding whether each planned use complies with the State Lands Management Plan;
- An assessment as to whether the property, or any portion, should be declared surplus;
- Identification of other parcels of land within or immediately adjacent to the property that should be purchased because they are essential to management of the property;
- A description of the management responsibilities of each agency and how such responsibilities will be coordinated; and
- A statement concerning the extent of public involvement and local government participation in the development of the plan.¹⁰⁷

All other lessees who use state lands must submit an operational report to DSL within a year of the execution of the lease. Examples of what must be in an operational report include:

- A map showing the approximate location and boundaries of the property, the location of any structures or improvements to the property, and a statement as to whether the property is adjacent to an aquatic preserve or a designated area of critical state concern or an area under study for such designation;
- The land acquisition program, if any, under which the property was acquired;
- The designated single or multiple use management for the property;
- The approximate location and description of known renewable and non-renewable resources of the property;
- A description of past and existing uses of the property;
- A description of alternative or multiple uses of the property considered by the lessee and a statement detailing why such uses were not adopted;
- An assessment of the impact of planned uses on the renewable and non-renewable resources of the property and a description of the specific actions that will be taken to protect, enhance and conserve those resources and to compensate or mitigate the damage that is caused by such use;
- A description of management needs and problems on the property;
- A description of the management responsibilities of each entity and how such responsibilities will be coordinated;
- A statement concerning the extent of public involvement and local government participation, if any, in the development of the plan; and
- A statement of gross income generated, net income and expenses.¹⁰⁸

Specifically for conservation lands, the individual management plan from both public and private managers must include:

- A statement of the purpose for which the lands were acquired, the projected use or uses, and the statutory authority for such use or uses;
- Key management activities necessary to achieve the desired outcomes, including, but not limited to, providing public access, preserving and protecting natural resources, protecting cultural and historical resources, restoring habitat, protecting threatened and endangered species, controlling the spread of nonnative plants and animals, performing prescribed fire activities, and other appropriate resource management;
- A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources;
- A priority schedule for conducting management activities, based on the purposes for which the lands were acquired;

¹⁰⁷ Rule 18-2.021(4), F.A.C.

¹⁰⁸ Rule 18-2.018(3)(a)5.b., F.A.C.

- A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities;
- A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value for which the lands were acquired. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities; and
- A determination of the public uses and public access that would be consistent with the purposes for which the lands were acquired.¹⁰⁹

Land management plans for conservation lands must also include short-term and long-term goals including measurable objectives to achieve those goals.¹¹⁰ Short-term and long-term management goals must include measurable objectives for the following, as appropriate:

- Habitat restoration and improvement;
- Public access and recreational opportunities;
- Hydrological preservation and restoration;
- Sustainable forest management;
- Exotic and invasive species maintenance and control;
- Capital facilities and infrastructure;
- Cultural and historical resources; and
- Imperiled species habitat maintenance, enhancement, restoration, or population restoration.¹¹¹

While developing a land management plan for conservation lands, at least one public meeting must be held in one of the affected counties.¹¹²

Managers of conservation and nonconservation land must submit an updated land management plan or land use plan every 10 years for approval by the Board of Trustees.¹¹³ All conservation land managers must also include an analysis of any lands that may no longer be needed for conservation and suitable for potential surplus in each management plan or update.¹¹⁴ DSL does not require this surplus analysis for managers of nonconservation lands.¹¹⁵

Upon completion of the management plan, ARC reviews the land management plan and provides a recommendation to the Board of Trustees.¹¹⁶ The Board of Trustees may approve, modify, or reject the land management plan.¹¹⁷ The land management plan becomes effective upon approval of the Board of Trustees.¹¹⁸

Periodically, the Board of Trustees, through DEP, creates regional management review teams composed of:

- One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition;
- One individual from the Division of Recreation and Parks within DEP;
- One individual from the Florida Forest Service within DACS;
- One individual from FWC;
- One individual from DEP's district office in which the parcel is located;

¹⁰⁹ Section 259.032(8)(e), F.S.

¹¹⁰ Section 253.034(5)(a), F.S.

¹¹¹ Section 253.034(5)(b), F.S.

¹¹² Section 253.034(5)(f), F.S.

¹¹³ Sections 253.034(5)(e), (6)(c), and 259.032(8)(c), F.S.

¹¹⁴ Rule 18-2.021(4), F.A.C.

¹¹⁵ See Rule 18-2.018(3)(a)5.b., F.A.C.

¹¹⁶ Section 253.034(5)(d), F.S. Land management plans submitted by the Department of Corrections, the Department of Juvenile Justice, and the Department of Children and Families are not subject to review by ARC. Section 253.034(9), F.S.

¹¹⁷ Section 253.034(5)(h), F.S.

¹¹⁸ Section 253.034(5)(d), F.S.

- A private land manager mutually agreeable to the state agency representatives;
- A member of the local soil and water conservation district board of supervisors; and
- A member of a conservation organization.¹¹⁹

These teams evaluate whether conservation lands are being managed for the purpose for which they were acquired and the adopted land management plan.¹²⁰ The evaluation must occur before the land manager submits its 10 year land management plan update.¹²¹ The team reviews:

- The extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features; and
- The extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices, including public access, are in compliance with the adopted management plan.¹²²

When the land manager has not adopted a land management plan, the review team must consider the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices are in compliance with the management policy statement and management prospectus for that property.¹²³

Once completed, the review team supplies its review to the land manager, DSL, and ARC.¹²⁴ DEP must report the finding to the Board of Trustees if the review team finds the land manager:

- Is not managing the land for the purposes for which they were acquired;
- Is not managing the land in compliance with the adopted land management plan, management policy statement, or management prospectus; or
- Failed to address the review findings in the updated management plan.

Effect of the Bill

The bill changes the management and use requirements and criteria for state lands by:

- Amending s. 253.03(2) and (11), F.S., to combine the authorization for the Board of Trustees to charge fees to agencies and private individuals for use of state-owned lands into s. 253.03(11), F.S.;
- Amending s. 253.03(7)(c), F.S., to update a reference to a repealed rule for grandfathered properties over sovereign submerged lands;
- Amending s. 253.03(15), F.S., to authorize minimal secondary non-water dependent uses over sovereign submerged lands that are related to a water-dependent use. This change is intended to authorize uses such as dock lockers, fish cleaning stations, and pump out facilities that are related to a water dependent use;
- Amending s. 253.034(4), F.S., to provide a consequence for not meeting short-term goals in a land management or land use plan. If the managing entity does not meet the short-term goals within two years for conservation lands, DEP may submit the land to ARC to consider whether the goals should be modified, the land should be offered to another entity for management or lease, or ARC should recommend to the Board of Trustees to surplus the land. If the managing entity does not meet the short-term goals within five years for nonconservation lands, DEP may submit the land to the Board of Trustees to consider whether to require the managing entity to release its interest in the land or whether to surplus the land;
- Amending s. 253.034(5), F.S., and adding s. 253.034(5)(i), F.S. to require nonconservation lands to be managed to provide the greatest benefit to the state and to set forth what must be in a land use plan for nonconservation lands. Land use plans must conform to the appropriate

¹¹⁹ Section 259.036(1)(a), F.S.

¹²⁰ Section 259.036(1), F.S.

¹²¹ Section 259.036(2), F.S.

¹²² Section 259.036(3), F.S.

¹²³ Section 259.036(4), F.S.

¹²⁴ Section 259.036(2), F.S.

policies and guidelines of the state land management plan. Short-term goals must be met within five years and long term goals must be met within 10 years. The Board of Trustees may terminate use of these lands when they are not managed according to the land use plan. Land use plans must include:

- A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources;
 - A desired development outcome;
 - A schedule for achieving the desired development outcome;
 - A description of both short-term and long-term development goals;
 - A management and control plan for invasive nonnative plants;
 - A management and control plan for soil erosion and soil and water contamination;
 - Measureable objectives to achieve the goals identified in the land use plan; and
 - Reference to appropriate statutory authority for such use or uses;
- Amending s. 253.034(5)(a), F.S., to distinguish the management requirements for conservation lands from the management requirements for nonconservation lands;
 - Amending s. 253.034(5)(d), F.S., to remove duplicative language that occurs in s. 253.034(5)(g);
 - Amending s. 253.034(5)(e), F.S., to direct land managers, as part of their every 10-year management plan update, to identify any conservation lands that could be disposed of in fee simple or with the state retaining a permanent conservation easement;
 - Amending s. 253.034(5)(i)1., F.S., to allow agencies to group nonconservation lands under one land use plan when the land uses are similar;
 - Amending s. 253.7821, F.S., to change the management responsibilities of the Cross Florida Greenway from the Office of Greenways and Trails to DEP. The Office of Greenways and Trails exists within DEP under the Division of Recreation and Parks;¹²⁵
 - Amending s. 259.01, F.S., to change the name of the chapter from the “Land Conservation Act of 1972” to the “Land Conservation Program;”
 - Amending s. 259.032(7)(b), (c), and (d), F.S., to remove the requirement that conservation lands must be managed for the purpose for which they were acquired. The bill amends s. 259.032(7)(d), F.S., to require each conservation land’s management policy statement to be compatible with conservation, recreation, or both;
 - Amending s. 259.032(8)(b), F.S., to move from s. 259.105(2)(a)11.b., F.S., the membership requirements for an advisory group that helps develop individual management plans when the state conservation lands contains habitat or potentially restorable habitat for imperiled species;
 - Amending s. 259.032(8)(c), F.S., to replace the reference to the Land Acquisition and Management Advisory Council, which does not exist, with ARC;
 - Repealing s. 259.032(8)(d)2., F.S., to remove the deadline to adopt a land management plan for the Babcock Ranch. FWC and DACS adopted a land management plan in 2008;¹²⁶
 - Amending s. 259.032(8)(e)4., 6., and 7., F.S., to remove the requirement that conservation land individual management plans include a priority schedule for conducting management activities based on the purpose for which the lands were acquired, a cost estimate for conducting the management activities that would enhance public recreation values for which the lands were acquired, and a determination of public uses and public access that would be consistent with purposes for which the lands were acquired. Individual management plans will still require a priority schedule for conducting management activities and cost estimates for conducting other management activities to enhance public recreation value. The bill amends s. 259.032(8)(e)7., F.S., to require the individual management plans to include a determination of public uses and public access that would be compatible with conservation, recreation, or both;
 - Amending s. 259.032(9)(a), F.S., to specify the legislative intent that conservation lands should be managed and maintained in a manner that is compatible with conservation, recreation, or

¹²⁵ DEP, *The Office of Greenways and Trails*, <http://www.dep.state.fl.us/gwt/> (last visited November 1, 2015).

¹²⁶ Lee County, *Babcock Ranch Preserve Management Plan*, <https://www.leegov.com/conservation2020/documents/LSP/BRP.pdf> (last visited November 1, 2015).

both, consistent with the land management plan. The bill also requires that public access should not harm the resources the state is seeking to protect on the public's behalf. The statute previously stated conservation lands should be managed for the purpose for which they were acquired and public access and use of conservation lands must be consistent with purposes for which they were acquired;

- Amending s. 259.035(3), F.S., to specify that ARC provides assistance to the Board of Trustees when reviewing recommendation and plans for state-owned conservation lands. ARC does not perform this function for nonconservation lands;
- Amending s. 259.036(1), F.S., to require the land management review teams to evaluate whether the state-owned conservation lands are being managed in a manner compatible with conservation, preservation, or recreation purposes, rather than the purpose for which they were acquired;
- Amending s. 259.036(4), F.S., to require the land management review teams to evaluate whether the state-owned conservation lands are being managed in a manner compatible with conservation, recreation, or both, rather than the purpose for which they were acquired, when a land management plan has not been timely adopted;
- Amending s. 259.036(5), F.S., to require the land management review teams to evaluate whether the state-owned conservation lands are being managed in a manner compatible with conservation, recreation, or both, consistent with the land management plan, rather than the purpose for which they were acquired;
- Amending s. 259.036(1)(a), F.S., to change the membership of land management review teams to provide a preference that the private land manager comes from the local community and the team may have either member or staff from the jurisdictional WMD or a member from the local soil and water conservation district board of supervisors;
- Amending s. 259.037, F.S., to replace references to the "council" with references to the Land Management Uniform Accounting Council, or LMUAC, to avoid confusion with ARC, which is also called the "council" in chapter 259, F.S.;
- Amending s. 259.047(2), F.S., to require agencies acquiring conservation lands to make a reasonable effort to keep lands in agricultural production, if the lands were in agricultural production at the time of acquisition, when such activities are consistent with the purposes of conservation and recreation, rather than the purpose for which they were acquired;
- Amending s. 259.101(6)(a), F.S., to authorize the Board of Trustees to allow public and private uses on lands acquired under the Preservation 2000 program that are compatible with conservation, preservation, or recreation purposes, rather than compatible with the purposes for which the land was acquired; and
- Amending s. 259.105(2)(a)11., F.S., to provide that it is the intent of the Legislature that the Florida Forever program advance the goals and objectives of imperiled species management in a manner that is compatible with conservation, recreation, or both, consistent with the land management plan, rather than consistent with the purpose for which they land was acquired.

These changes may require the Board of Trustees to amend chapters 18-2 and 18-21, F.A.C.

Disposition of State Lands

Present Situation

The Board of Trustees may determine which state lands may be surplus.¹²⁷ To dispose of conservation lands, the Board of Trustees must determine whether the land is no longer needed for conservation purposes and may dispose of such lands by an affirmative vote of at least three members.¹²⁸ To dispose of nonconservation lands, the Board of Trustees must determine whether the land is no longer needed and may dispose of such lands by an affirmative vote of at least three members.¹²⁹

Every 10 years, the land manager evaluates and indicates whether state lands are still being used for the purpose for which they were originally leased.¹³⁰ For conservation lands, ARC reviews the land manager's findings and then provides a recommendation to the Board of Trustees whether the lands can be surplus.¹³¹ For nonconservation lands, DSL reviews the findings and then provides a recommendation to the Board of Trustees whether the lands can be surplus.¹³²

The Board of Trustees may surplus lands that are not actively being managed or when a land management plan has not been adopted as described above.¹³³

Any public or private entity or person may ask the Board of Trustees to surplus lands.¹³⁴ The lead managing agency must review the request and make a recommendation to ARC within 90 days.¹³⁵ ARC must immediately schedule a hearing to review the request at the next regularly scheduled hearing for any surplus requests that have not been acted upon within 90 days.¹³⁶

Leasing or Selling Land

Before a building or parcel of land is offered for lease or sale, DSL must first offer the land for lease to state agencies, state universities, and Florida College System institutions.¹³⁷ Within 60 days of the offer, the interested state agencies, state universities, or Florida College System institutions must submit a plan outlining the intended use, including future use, of the building or parcel of land before approval of a lease to the Board of Trustees for review.¹³⁸ The Board of Trustees must then compare the estimated value of the building or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state.¹³⁹

If an application is filed with the Board of Trustees requesting it sell certain lands, or if the Board or Trustees decides to sell state land, it must first notify the municipality and county in which the land is located that the land is available for purchase before consideration of private offers.¹⁴⁰ The board of county commissioners must notify the Board of Trustees by resolution whether it intends to purchase the land within 40 days.¹⁴¹ If the Board of Trustees receives the resolution within 45 days, it must then

¹²⁷ Section 253.034(6), F.S.

¹²⁸ Id.

¹²⁹ Id.

¹³⁰ Section 253.034(6)(c), F.S.

¹³¹ Section 253.034(6)(c), F.S.

¹³² Id.

¹³³ Section 253.034(6)(d), F.S.

¹³⁴ Section 253.034(6)(j), F.S.

¹³⁵ Id.

¹³⁶ Id.

¹³⁷ Section 253.034(13), F.S.

¹³⁸ Id.

¹³⁹ Id.

¹⁴⁰ Sections 253.034(6)(f) and 253.111(1), F.S.

¹⁴¹ Section 253.111(2), F.S.

convey the land to the county at the appraised market value.¹⁴² Lands that are the subject of a request for surplusing described above are not required to be first offered to local or state governments.¹⁴³

DSL must determine the sale price of the land by considering an appraisal.¹⁴⁴ If the value of the land is estimated at \$500,000 or less, DSL may use a comparable sales analysis or broker's opinion.¹⁴⁵ DSL must offer parcels valued at more than \$500,000 by competitive bid first.¹⁴⁶ If the parcel is not successfully sold by competitive bid, or the parcel is valued at \$500,000 or less, then DSL may sell the property by any reasonable means.¹⁴⁷

Exchanging Land

To exchange conservation lands, the Board of Trustees must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit.¹⁴⁸ When exchanging conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the Board of Trustees may request land of equal conservation value from the county or local government, but no other consideration.¹⁴⁹

When exchanging nonconservation lands, the Board of Trustees must first offer the lands at no cost to county and local governments when the lands were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid and the use proposed by the county or local government is for a public purpose.¹⁵⁰

When exchanging state-owned lands not acquired by the state through gift, donation, or any other conveyance for which no consideration was paid with counties or local governments, the exchanges may be of equal value.¹⁵¹ "Equal value" is defined as the conservation benefit of the lands being offered for exchange by a county or local government being equal or greater in conservation benefit than the state-owned lands.¹⁵² Such exchanges may include cash transactions if based on an appropriate measure of value of the state-owned land, but must also include the determination of a net-positive conservation benefit by ARC, irrespective of appraised value.¹⁵³

Disposition of Funds Received

Proceeds from any sale of surplus conservation lands before July 1, 2015, must be deposited into the Florida Forever Trust Fund.¹⁵⁴ Proceeds from any sale of surplus conservation lands after July 1, 2015, must be deposited into the Land Acquisition Trust Fund.¹⁵⁵ Funds received from the sale of surplus nonconservation lands, or lands that were acquired by gift, by donation, or for no consideration, must be deposited into the Internal Improvement Trust Fund.¹⁵⁶

¹⁴² Section 253.111(3), F.S.

¹⁴³ Section 253.034(6)(j), F.S.

¹⁴⁴ Section 253.034(6)(g), F.S.

¹⁴⁵ Id.

¹⁴⁶ Section 253.034(6)(h), F.S.

¹⁴⁷ Id.

¹⁴⁸ Section 253.034(6), F.S.

¹⁴⁹ Section 253.42(1), F.S.

¹⁵⁰ Id.

¹⁵¹ Section 253.42(2), F.S.

¹⁵² Id.

¹⁵³ Id.

¹⁵⁴ Section 253.034(6)(k), F.S.

¹⁵⁵ Section 253.034(6)(l), F.S.

¹⁵⁶ Section 253.034(6)(m), F.S.

The Board of Trustees may not surplus or exchange lands if the effect of the sale or exchange would cause all or any portion of the interest on any revenue bonds issued to lose their tax exempt status.¹⁵⁷

The Board of Trustees may adopt rules for the procedures for administering surplus land requests and criteria for when DSL may approve requests to surplus nonconservation lands on behalf of the Board of Trustees.¹⁵⁸

Since 2000, the Board of Trustees declared surplus and disposed of approximately 3,041 conservation acres. This raised \$14,438,157 in revenue. The Board of Trustees also received 939.8 conservation acres in exchange with a value of \$30,726,946. The revenues were returned to the fund from which those lands were acquired, or if the fund no longer existed, they were deposited into an appropriate account to be used for land management by the lead managing agency for that property.¹⁵⁹

Effect of the Bill

The bill consolidates the disposition procedures for state lands into one statute by repealing s. 253.034(6) and (13), F.S., and amending s. 253.0341, F.S. Although consolidated, the procedures remain largely the same. The bill:

- Moves the standard for determining which lands to surplus from s. 253.034(6), F.S., to s. 253.0341(1), F.S. The bill moves the procedure to consider requests to surplus nonconservation lands in s. 253.0341(1), F.S., to s. 253.0341(11), F.S.;
- Moves the designation of certain lands as conservation lands from s. 253.034(6)(a), F.S., to s. 253.0341(2), F.S.;
- Moves the procedure for local governments to request surplus of conservation lands from s. 253.0341(2), F.S., to s. 253.0341(12), F.S. The bill combines the procedure for public or private entities or persons to request lands be sold as surplus from s. 253.034(6)(j), F.S., into s. 253.0341(12), F.S. Further, the bill changes the deadline for the Board of Trustees to consider such a request from 120 days to 60 days;
- Moves the designation of certain lands as nonconservation lands from s. 253.034(6)(b), F.S., to s. 243.0341(3), F.S.;
- Removes the procedure for local governments to request state lands be surplus for providing alternative water supply and water resource development from s. 253.0341(3), F.S. Such requests can be made under the new s. 253.0341(12), F.S.;
- Moves the procedure for the surplus of lands conveyed to a local government for affordable housing from s. 253.0341(3), F.S., to s. 253.0341(19), F.S.;
- Moves the requirement that each land manager evaluate and indicate to the Board of Trustees whether the land is being used for the purpose for which it was originally leased from s. 253.034(6)(c), F.S., to s. 253.0341(4), F.S.;
- Repeals s. 253.0341(4), F.S., to delete an obsolete reference to a conveyance the Board of Trustees has already executed;
- Moves the surplus procedure for ARC to review lands not being actively managed or for which a land management plan has not been completed from s. 253.034(6)(d), F.S., to s. 253.0341(5), F.S. The bill changes the language to clarify that the procedure applies to conservation lands;
- Moves the procedure for ARC to review conservation lands for surplus from s. 253.034(6)(e), F.S., to s. 253.0341(6), F.S. The bill changes the language to clarify the procedure applies to conservation lands;
- Repeals the procedure for ARC to consider, before the land is surplus, whether conservation lands would be better managed by local governments in s. 253.034(6)(f), F.S.;
- Moves the requirement that surplus land must first be offered to state agencies, state universities, and Florida College System institutions from s. 253.034(13), F.S., to s. 253.0341(7), F.S. Moves the procedure to determine the sale price of surplus land from s. 253.034(6)(g), F.S., to s. 253.0341(8), F.S.;

¹⁵⁷ Section 253.034(6)(n), F.S.

¹⁵⁸ Section 253.034(6)(p), F.S.

¹⁵⁹ DEP, Agency Analysis of 2016 House Bill 1075, p. 4 (January 12, 2016).

- Moves the requirement to offer properties valued more than \$500,000 by competitive bid from s. 253.034(6)(h), F.S., to s. 253.0341(9), F.S.;
- Moves the procedure for determining whether lands identified for surplus are to be held for other public purposes or are no longer needed from s. 253.034(6)(i), F.S., to s. 253.0341(10), F.S. The bill adds that the entity approved to use the conservation land by the board of trustees must secure the property under a fully executed lease within 90 days;
- Moves the procedure for the disposition of funds from the sale of state lands from s. 253.034(6)(k), (l), and (m), F.S., to s. 253.0341(12), (13), and (14), F.S.;
- Moves the prohibition on the surplus of lands that would cause all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes from s. 253.034(6)(n), F.S., to s. 253.0341(15), F.S.;
- Moves the exception that filled, formerly submerged lands not exceeding five acres is not subject to review by ARC from s. 253.034(6)(o), F.S., to s. 253.0341(16), F.S.; and
- Moves the authority to make rules for surplus land procedures from s. 253.034(6)(p), F.S., to s. 253.0341(17), F.S.

The bill removes the requirement that surplus nonconservation land must first be offered to counties by amending s. 253.111, F.S. Further, preference for local governments receiving surplus lands prior to an exchange is also removed from s. 253.42(1), F.S.

The bill creates s. 253.42(4), F.S., to allow a land owner to apply to DSL to exchange private lands contiguous to state-owned lands with the state. A person who owns land contiguous to Board of Trustees-titled land may request to exchange title to all or a portion of the contiguous state-owned land, with the state retaining a permanent conservation easement over all or a portion of the former state lands, for a permanent conservation easement over all or a portion of the contiguous privately owned land. If DSL elects to proceed with the exchange, it must submit the proposed exchange to ARC for review. ARC must provide a recommendation to DSL. If DSL elects to forward the exchange request to the Board of Trustees, it must submit its recommendation along with ARC's recommendation to the Board of Trustees. This provision does not allow the Board of Trustees to exchange sovereign submerged lands.

For the Board of Trustees to approve the exchange:

- The privately held land must be bordered by state-owned land on at least 30 percent of its perimeter and the exchange must not create an inholding;
- Approval of the exchange must not cause the Board of Trustees, DEP, DACS, or FWC to violate the terms of a preexisting lease;
- For conservation land, the Board of Trustees must determine the exchange will result in a net positive conservation benefit. This requirement is consistent with the requirement for other exchanges of conservation lands;
- Approval of the exchange must not conflict with an existing flowage easement; and
- At least three members of the Board of Trustees must approve the request.

The Board of Trustees must give special consideration to a request that maintains public access for any recreational purpose allowed on the state-owned land at the time the request is submitted. Further, once exchanged, lands subject to permanent conservation easements are subject to inspection by DEP to ensure compliance with the terms of the permanent conservation easement.

Florida Forever Selection Process

Present Situation

In 1999, the Legislature created the Florida Forever Program.¹⁶⁰ This program sought to purchase environmentally sensitive lands to protect natural resources, avoid degradation of water resources,

¹⁶⁰ Chapter 99-247, Laws of Fla.

improve recreational opportunities, and preserve wildlife habitat.¹⁶¹ The state issued Florida Forever bonds to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources, in urban and rural settings, for the purposes of restoration, conservation, recreation, water resource development, or historical preservation, and for capital improvements to lands and water areas that accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.¹⁶² A “water resource development project” does not include construction of treatment, transmission, or distribution facilities.¹⁶³

ARC, with the assistance of the Florida Natural Area Inventories and several state agencies, evaluates applications for acquisition projects under the Florida Forever Program and provides recommendations to the Board of Trustees.¹⁶⁴ To be considered for acquisition under the Florida Forever Program, the project must contribute to the achievement of the following goals:

- Enhance the coordination and completion of land acquisition projects;
- Increase the protection of Florida’s biodiversity at the species, natural community, and landscape levels;
- Protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state;
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state;
- Increase natural resource-based public recreational and educational opportunities;
- Preserve significant archaeological or historic sites;
- Increase the amount of forestland available for sustainable management of natural resources; or
- Increase the amount of open space available in urban areas.¹⁶⁵

Further, ARC must give weight to the following factors when considering applications:

- The project meets multiple goals described above;
- The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources;
- The project enhances or facilitates management of properties already under public ownership;
- The project has significant archaeological or historic value;
- The project has funding sources that are identified and assured through at least the first 2 years of the project;
- The project contributes to the solution of water resource problems on a regional basis;
- The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished;
- The project implements an element from a plan developed by an ecosystem management team;
- The project is one of the components of the Everglades restoration effort;
- The project may be purchased at 80 percent of appraised value;
- The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements; and
- The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.¹⁶⁶

¹⁶¹ Section 259.105(2)(a), F.S.

¹⁶² Section 215.618(1)(a), F.S.

¹⁶³ Section 259.03(6), F.S.

¹⁶⁴ Section 259.105(3) and (8), F.S.

¹⁶⁵ Section 259.105(4), F.S.

Further, ARC must give increased priority to those projects that have matching funds available and to project elements previously identified on an acquisition list that can be acquired at 80 percent or less of appraised value.¹⁶⁷ ARC must also give increased priority to those projects where the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:

- Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;
- Protecting areas underlying low-level military air corridors or operating areas; and
- Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.¹⁶⁸

Effect of the Bill

The bill:

- Amends s. 259.105(10), F.S., to require ARC to give priority to proposed projects under Florida Forever that can be acquired in less than fee, projects that contribute to improving the quality and quantity of surface water and groundwater, and projects that contribute to improving the water quality and flow of springs; and
- Amends s. 259.105(19), F.S., to delete an obsolete rulemaking requirements that DEP completed in 2010.¹⁶⁹

These changes may require the Board of Trustees to amend chapter 18-24, F.A.C.

State Lands Record Keeping

Present Situation

The Board of Trustees must maintain a public land office that keeps and preserves all records, surveys, plats, maps, field notes, and patents, and all other evidence touching the title and description of the public domain, and all lands granted by Congress to this state.¹⁷⁰ This is done through the Bureau of Survey and Mapping.¹⁷¹ The bureau maintains a repository of all the records, surveys, plats, maps, field notes, and patents and all other evidence touching the title and description of the public domain.¹⁷²

The Board of Trustees received all of the tract books, plats, and such records and papers kept in the United States Land Office at Gainesville, Alachua County.¹⁷³

Annually, the Board of Trustees must prepare an inventory of all publicly owned lands within the state using tax roll data provided by the Department of Revenue (DOR).¹⁷⁴ The inventory must include all lands owned by any unit of state government or local government; by the federal government, to the greatest extent possible; and by any other public entity.¹⁷⁵ The inventory must include a legal description or proper reference, the number of acres or square feet within the boundaries, and the assessed value of all publicly owned uplands.¹⁷⁶ By November 30 each year, the Board of Trustees

¹⁶⁶ Section 259.105(9), F.S.

¹⁶⁷ Section 259.105(10), F.S.

¹⁶⁸ Id.

¹⁶⁹ See chapter 18-24, F.A.C., *effective date*, <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=18-24> (last visited November 1, 2015).

¹⁷⁰ Section 253.031(1), F.S.

¹⁷¹ DEP, *Survey & Mapping*, <http://www.dep.state.fl.us/lands/survey.htm> (last visited October 29, 2015).

¹⁷² Section 253.031(2), F.S.

¹⁷³ Section 253.031(7), F.S.

¹⁷⁴ Section 253.03(8)(a), F.S.

¹⁷⁵ Id.

¹⁷⁶ Section 253.03(8)(b), F.S.

must provide the inventory to each state agency and local government and any other public entity that holds title to real property.¹⁷⁷

Further, through a partnership with the Department of Management Services (DMS), DEP maintains a comprehensive system for all state lands and real property leased, owned, rented, and otherwise occupied or maintained by any state agency, by the judicial branch, and by any WMD.¹⁷⁸ This system is called the Florida State Owned Lands and Records Information System (FL-SOLARIS). FL-SOLARIS allows the Board of Trustees to perform its statutory responsibilities and DSL to conduct strategic analyses and prepare annual valuation and disposition analyses and recommendations for all state real property assets.¹⁷⁹ DEP is the statewide custodian of real property information and is responsible for its accuracy.¹⁸⁰ FL-SOLARIS must:

- Eliminate the need for redundant state real property information collection processes and state agency information systems;
- Reduce the need to lease or acquire additional real property as a result of an annual surplus valuation, utilization, and disposition analysis;
- Enable regional planning as a tool for cost-effective buy, sell, and lease decisions;
- Increase state revenues and maximize operational efficiencies by annually identifying those state-owned real properties that are the best candidates for surplus or disposition;
- Ensure all state real property is identified by collaborating and integrating with the DOR data as submitted by the county property appraisers; and
- Implement required functionality and processes for state agencies to electronically submit all applicable real property information using a web browser application.¹⁸¹

Effect of the Bill

The bill amends s. 253.031(2), F.S., to require DEP to maintain state lands records. The bill also repeals s. 253.031(7), F.S., which is obsolete because the state previously received the state lands records kept by the United States Land Office in Alachua County.

The bill creates s. 253.87, F.S., to:

- Require DEP to add to FL-SOLARIS by July 1, 2018, and update every five years, the following:
 - Federally owned conservation lands in the state;
 - Lands on which the federal government holds a permanent conservation easement in the state; and
 - All lands on which the state holds a permanent conservation easement;
- Require each county and city to submit to DEP, by July 1, 2018, a list of all conservation lands owned by the local government and lands on which the entity holds a permanent conservation easement. Financially disadvantaged small communities have until July 1, 2019, to submit the same information. Within 6 months after receiving a list from a local government, DEP must add the listed lands to the database; and
- Direct DEP to complete a study by January 1, 2018, regarding the technical and economic feasibility of including the following lands in FL-SOLARIS or a public lands inventory:
 - All lands where local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limits the amount of development to one unit per 40 acres or greater;
 - Publically and privately owned lands where development rights have been transferred;
 - Privately owned lands under a permanent conservation easement;
 - Conservation lands owned by nonprofit or nongovernmental organization; and
 - Lands that are part of a mitigation bank.

¹⁷⁷ Section 253.03(8)(c), F.S.

¹⁷⁸ Section 216.0153(1), F.S.; DEP, *Florida State Owned Lands and Records Information System (FL-SOLARIS)*, www.dep.state.fl.us/lands/fl_solaris.htm (last visited January 13, 2016).

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ Section 216.0153(2), F.S.

Surplus of Water Management District Lands

Present Situation

A water management district (WMD) may acquire real property for flood control; water storage; water management; conservation and protection of water resources; aquifer recharge; water resource and water supply development; and preservation of wetlands, streams, and lakes.¹⁸² Further, a WMD may accept real property from state and local governments when it is in the public interest and for public convenience and welfare, for the public benefit, necessary for carrying out the works or improvement of any WMD for the protection of property and the inhabitants in the WMD against the effects of water, and for assisting the WMD to acquire land at least public expense.¹⁸³ Unlike most state lands, these lands are held and conveyed in the name of the WMD, not the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees).¹⁸⁴

The five WMDs own approximately 2,441,013 acres of land.¹⁸⁵ Approximately 1,710,894 acres are held in fee simple, while 730,260 acres are held in conservation easements.¹⁸⁶ In addition to the purposes described above, WMDs manage their lands for recreation, camping, trial use, hunting, and revenue generation.¹⁸⁷ Lands held by a WMD are not subject to taxes or special assessments so long as the title or rights remain held by the WMD.¹⁸⁸

Sale of WMD Lands

WMD lands determined by the governing board to be surplus may be sold at any time by the WMD.¹⁸⁹ If a WMD decides to sell its real property, or interest therein, it must follow the procedures in s. 373.056 or 373.089, F.S.¹⁹⁰ These lands must be sold at the highest price obtainable, but not less than the appraised value of the land determined by a certified appraiser 120 days before the sale.¹⁹¹ Such sales must be in cash and on the terms set by the governing board of the WMD.¹⁹² The WMD must publish notice of its intent to sell the land in a newspaper in the county where the land is located.¹⁹³ The notice of intent must be published three times for three successive weeks at least 30 days, and not more than 45 days, before any sale.¹⁹⁴ The notice of intent must describe the land to be sold or the interest or rights to be sold.¹⁹⁵

Public and private entities may request that WMD lands which are not essential or necessary to meet conservation purposes be made available for purchase when:

- The land is located in a county with a population of 75,000 or fewer or within a county with a population of 100,000 or fewer that is a contiguous to a county with a population of 75,000 or fewer; and

¹⁸² Section 373.139(2), F.S.

¹⁸³ Section 373.056(1)(a), F.S. State and local governments may require WMDs to return the land if the WMD ceases to use the land for the purposes described above. Section 373.056(2), F.S.

¹⁸⁴ Section 373.099, F.S.

¹⁸⁵ DEP and WMD Presentation on Management of State-Owned Lands, Agriculture and Natural Resources Subcommittee, October 21, 2015, available at:

<http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2852&Session=2016&DocumentType=Meeting%20Packets&FileName=anrs%2010-21-15.pdf>.

¹⁸⁶ Id.

¹⁸⁷ Id.

¹⁸⁸ Section 373.056(5) and (6), F.S.

¹⁸⁹ Section 373.089(1), F.S.

¹⁹⁰ Section 373.139(6), F.S.

¹⁹¹ Section 373.089(1), F.S.

¹⁹² Section 373.089(2), F.S.

¹⁹³ Section 373.089(3), F.S.

¹⁹⁴ Id.

¹⁹⁵ Id.

- More than 50 percent of the lands within the county boundary are federal lands and lands titled in the name of the state, a state agency, a WMD, or a local government.¹⁹⁶

When such a request is made, and the lands are determined to be surplus, priority consideration must be given to public or private buyers who are willing to return the property to productive use so long as the property can be reentered onto the county ad valorem tax roll.¹⁹⁷

When deciding whether to sell lands designated as acquired for conservation purposes, the governing board of the WMD must determine by a two-thirds vote that the land is no longer needed for conservation purposes.¹⁹⁸ For all other lands, the governing board of the WMD must determine by a majority vote that the land is no longer needed.¹⁹⁹

Prior to selling land, a WMD must first offer title to lands acquired in whole or in part with Florida Forever fund to the Board of Trustees unless:

- The land will be used for linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances;
- The WMD will sell the fee interest in the land and retain a conservation easement to fulfill the conservation objectives for which the land was acquired;
- The land will be exchanged for other lands that meet or exceed the conservation objectives for which the original land was acquired; or
- The land will be used by a governmental entity for a public purpose.²⁰⁰

If the Board of Trustees declines to accept title to the land, the land may be disposed of by the WMD.²⁰¹

Effect of the Bill

The bill makes several changes to the surplus procedures for WMDs, specifically the bill:

- Extends the time a WMD may use appraisals to determine the lowest acceptable sale price for surplus lands from 120 to 360 days from the effective date of the contract for sale, by amending s. 373.089(1), F.S.;
- Extends the time a WMD must publish notice of its intent to sell surplus land from no more than 45 days to no more than 360 days before the sale of the surplus land by amending s. 373.089(3), F.S. Notice must still be published 3 times in a newspaper and at least 30 days before the sale;
- Authorizes a WMD to sell lands acquired with Florida Forever funds without first offering the land to the Board of Trustees if the portion of an overall purchase was determined to be surplus at the time of acquisition by creating s. 373.089(7)(e), F.S.; and
- Authorizes a WMD to sell property valued at \$25,000 or less through an expedited process by creating s. 373.089(8), F.S. Specifically the bill authorizes a WMD to:
 - Only publish notice of intent once in a newspaper (rather than three times), post notice of intent on the WMD's website, and provide notice to the neighboring property owners by certified mail;
 - Sell to neighboring property owners 14 days after publication of notice. If two or more neighboring owners exist, the WMD may accept sealed bids and sell to the highest bidder. This gives property owners who neighbor surplus WMD lands valued at \$25,000 or less the opportunity to purchase the property before the rest of the public; and
 - Accept sealed bids and sell the property to the highest bidder 30 days after publication of notice.

¹⁹⁶ Section 373.089(5), F.S.

¹⁹⁷ Id.

¹⁹⁸ Section 373.089(6)(a), F.S.

¹⁹⁹ Section 373.089(6)(b), F.S.

²⁰⁰ Section 373.089(7), F.S.

²⁰¹ Id.

Protection Zones for Springs

Present Situation

Springs provide a major source of stream flow in a number of rivers such as the Rainbow, Chassahowitzka, Homosassa, and Ichetucknee.²⁰² Springs form when groundwater forces its way out through natural openings in the ground.²⁰³ An estimated 900 springs exist in Florida.²⁰⁴ Florida's springs occur primarily in the northern two-thirds of the peninsula and the central panhandle.²⁰⁵ Thirty-nine of Florida's 67 counties either contain springs or include land areas that contribute water to springs.²⁰⁶ Spring discharges, primarily from the Floridan aquifer, 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.²⁰⁷

Motorboat activity has the potential to harm aquatic ecosystems through impacts such as sediment resuspension and shoreline erosion. Propeller-induced turbulence can cause disturbance of sediments.²⁰⁸ The amount of resuspension varies with water depth and sediment type. As depth and sediment particle size decrease, resuspension increases.²⁰⁹ Shoreline erosion occurs when soil particles located along a bank or shore become detached and transported by water currents or wave energy.²¹⁰ Boats produce wake, which may in turn create waves that propagate outward until hitting the shoreline.²¹¹ Physical impacts due to wake and the consequent wave action depend on various factors such as boat size, boating speed, hull design, water depth, and local shoreline characteristics.²¹² Shallow-water near-shore areas often exhibit the impacts of boats on aquatic ecosystems. No wake-zones can reduce such impacts and protect these areas.²¹³

Regulation of Motorboat Speeds in Florida: Boating Restricted Areas

FWC may establish restrictions on vessel speeds and vessel traffic on the waters of this state for any purpose necessary to protect the safety of the public, if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards.²¹⁴ FWC must adopt boating-restricted areas by rule.²¹⁵

FWC must develop each boating-restricted area in consultation and coordination with the governing body of the county or municipality in which the boating-restricted area is located.²¹⁶ When FWC

²⁰² Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-1 (Feb. 2008), available at <http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf> (last visited March 10, 2016).

²⁰³ *Id.* at 3-1 through 3-2.

²⁰⁴ DEP, *Florida Springs*, <http://www.dep.state.fl.us/springs/> (last visited March 11, 2016).

²⁰⁵ *Id.*; *Florida Springs Initiative Program Summary and Recommendations, 2007*, available at: http://www.dep.state.fl.us/springs/reports/files/2007springs_report.pdf

²⁰⁶ *Florida Springs Initiative Program Summary and Recommendations, 2007*, available at: http://www.dep.state.fl.us/springs/reports/files/2007springs_report.pdf

²⁰⁷ Florida Geological Survey, *Springs of Florida Bulletin No. 66*, available at <http://www.dep.state.fl.us/geology/geologictopics/springs/bulletin66.htm> (last visited March 10, 2016).

²⁰⁸ Richard Klein, Community & Environmental Defense Services, *The Effects of Marinas & Boating Activity upon Tidal Waterways*, pg. 6 (July 2007), available at <http://www.ceds.org/pdfdocs/Marinas.pdf> (last visited March 10, 2016).

²⁰⁹ *Id.*

²¹⁰ Timothy R. Asplund, Wisconsin Department of Natural Resources, Bureau of Integrated Science Services and University of Wisconsin - Madison, Water Chemistry Program, *The Effects of Motorized Watercraft on Aquatic Ecosystems*, pg. 7 (Mar. 17, 2000), available at <http://roundthelake.com/PIER%20WI%20DNR/lakes.pdf> (last visited March 10, 2016).

²¹¹ *Id.*

²¹² Klein at 9.

²¹³ Asplund at 18.

²¹⁴ Section 327.46(1), F.S.

²¹⁵ Section 327.46(1)(a), F.S.; Chapter 68D-24, F.A.C., provides the commission established boating restricted areas by county.

²¹⁶ Section 327.46(2), F.S.

proposes a boating-restricted area on the navigable waters of the United States, it must consult and coordinate with the United States Coast Guard and the United States Army Corps of Engineers.²¹⁷

Local governments may establish boating-restricted areas by ordinance within certain parameters.²¹⁸ FWC must review such ordinances and it must determine the ordinance is necessary to protect public safety based upon substantial competent evidence.²¹⁹ The following types of restrictions may be established:

- An ordinance establishing an idle speed, no wake²²⁰ boating-restricted area, if the area is:
 - Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width;
 - Within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width;
 - Within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width;
 - Within 300 feet of the fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width; or
 - Inside or within 300 feet of any lock structure.²²¹
- An ordinance establishing a slow speed, minimum wake²²² boating-restricted area if the area is:
 - Within 300 feet of any bridge fender system;
 - Within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet;
 - On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline; or
 - On a lake or pond of less than 10 acres in total surface area.²²³
- An ordinance establishing a vessel-exclusion zone if the area is:
 - Designated as a public bathing beach or swim area or
 - Within 300 feet of a dam, spillway, or flood control structure.²²⁴

The penalty for operating a vessel in a prohibited manner within a boating-restricted area that has been clearly marked by regulatory markers is a noncriminal infraction, punishable by a civil penalty of \$50.²²⁵

Regulation of Motorboat Speeds in Florida: Manatee Protection Zones

Collision with boats account for twenty five percent of all documented manatee deaths. Slower boat speeds provide boat operators with more time to see manatees and take avoidance actions. Blunt force injuries that do occur at slower boat speeds are less severe, and less likely lethal.²²⁶ The Florida Manatee Sanctuary Act requires FWC to regulate the operation and speed of motorboat traffic where manatee sightings are frequent. FWC must use the best available scientific information, as well as other available, relevant, and reliable information to establish these areas. This information may

²¹⁷ Id.

²¹⁸ Section 327.46(1)(b), F.S.

²¹⁹ Id.

²²⁰ An “Idle Speed No Wake” is an area where a vessel cannot proceed at a speed greater than necessary to maintain steerageway. Rule 68D-24.002, F.A.C.

²²¹ Section 327.46(1)(b), F.S.

²²² “Slow Speed Minimum Wake” means that a vessel must be fully off plane and completely settled in the water and it may not proceed greater than that speed which is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under existing circumstances. Rule 68D-24.002, F.A.C.

²²³ Section 327.46(1)(b), F.S.

²²⁴ Id.

²²⁵ Sections 327.46(3) and 327.73(1)(k)1., F.S.

²²⁶ C. Scott Calleson & R. Kipp Frohlich, *Slower Boat Speeds Reduce Risks to Manatees*, Vol. 3 ENDANG. SPECIES RES. 295 304, 302 (2007), available at <http://www.int-res.com/articles/esr2007/3/n003p295.pdf>, (last visited March 10, 2016).

include, but is not limited to, manatee surveys, observations, available studies of food sources, water depths, and data that supports the conclusions that manatees inhabit these areas on a regular basis.²²⁷

Local governments may regulate (by ordinance) motorboat speed and operation on waters within their jurisdiction that manatees inhabit on a regular basis, except in the marked navigation channel of the Florida Intracoastal Waterway and the area within 100 feet of such channel. The best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, must support the conclusion that manatees inhabit these areas on a regular basis.²²⁸ Such ordinances may not take effect until FWC reviews and approves them.²²⁹ If local and state regulations are established for the same area, the more restrictive regulation prevails.²³⁰

The penalty for operating a vessel in excess of a posted speed limit is a noncriminal infraction, punishable by a civil penalty of \$50.²³¹

Regulation of Motorboat Speeds in Florida: Uniform Waterway Markers

FWC has established a uniform system of regulatory markers compatible with the system of regulatory markers prescribed by the United States Coast Guard in the United States Aids to Navigation System.²³² The Division of Law Enforcement's Boating Waterways Section, within FWC, permits and regulates the placement of markers in, on, and over the waters and shores of Florida.²³³

A person or municipality, county, or other governmental entity may not place any uniform waterway marker in, on, or over the waters or shores of the state without a permit.²³⁴ FWC will not issue any permit authorizing placement of regulatory markers implementing municipal or county ordinances that:

- Violate s. 327.60, F.S., relating to limitations on local regulations;
- Establish boating-restricted areas until such ordinances have been reviewed and approved by the Boating and Waterways Section; or
- Regulate vessel speed or operation for manatee protection purposes, until such ordinances have been reviewed and approved by the FWC, coordinated through the Imperiled Species Management Section, and provided that such ordinances do not apply within the marked navigation channel of the Florida Intracoastal Waterway nor to the waters within 100 feet of said channel.²³⁵

Effect of the Bill

The bill creates s. 373.469, F.S., to authorize FWC to establish, by rule, protection zones restricting the speed and operation of vessels to protect and prevent harm to Florida's springs. The bill specifies that harm includes negative impacts to water quality, water quantity, hydrology, wetlands, and aquatic and wetland-dependent species.

When developing a protection zone, FWC must consult and coordinate with the water management district, DEP, and the governing bodies of the county and municipality, if applicable, where the zone is located. If the zone includes navigable waters of the United States, FWC must also coordinate with the United States Coast Guard and the United States Army Corps of Engineers. The bill defines "navigable waters of the United States" to mean "the waters of the United States, including the territorial seas, as

²²⁷ Section 379.2431(2)(g), F.S.

²²⁸ Section 379.2431(2)(p), F.S.

²²⁹ Id.

²³⁰ Id.

²³¹ Section 327.73(1)(k)2., F.S.

²³² Section 327.41, F.S.

²³³ Rule 68D-23.102, F.A.C.

²³⁴ Section 327.40, F.S.

²³⁵ Rule 68D-23.101, F.A.C.

referenced in the Clean Water Act, 33 U.S.C. ss. 1251 et seq., and the federal rules and regulations promulgated thereunder.”

A violation relating to protection zones for springs is a noncriminal infraction. An individual who operates a vessel in violation of a spring protection zone rule will be charged with a uniform boating citation and is subject to the following penalties:

- For a first offense, \$50;
- For a second offense occurring within 12 months after a prior conviction, \$250;
- For a third offense occurring within 36 months after a prior conviction, \$500; and
- For a fourth or subsequent offense occurring within 72 months after a prior conviction, \$1,000.

The bill provides that restrictions in a protection zone do not apply:

- To law enforcement, firefighting, or rescue personnel operating a vessel in the course of performing their official duties; or
- In emergency situations, provided the emergency operation of a vessel is a reasonable response given the circumstances.

The bill provides that FWC is responsible for the posting and maintenance of regulatory markers identifying protection zones.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Surplus of Water Management District Lands

The bill may have an indeterminate positive fiscal impact on WMDs by allowing more time for potential purchasers to perform due diligence on surplus WMD property. Thus, potential purchasers may increase their purchase price because there will likely be less unknown issues about the property at the time of purchase.

Protection Zones for Springs

The bill allows law enforcement to impose and collect fines for violation of the springs protection zones. The amount that will be collected is unknown.

2. Expenditures:

Acquisition of State Lands

The bill may have an indeterminate positive fiscal impact on DEP by allowing it to conduct its own appraisals on all lands valued at \$100,000 or less, not just conservation lands.

The bill may have an indeterminate negative fiscal impact on agencies acquiring land through the Board of Trustees because the bill requires the agencies to pay costs associated with appraisals for all lands, not just conservation lands. However, since DEP will no longer have to pay these costs, the net impact to the state should be neutral.

Management and Use of State Lands

The bill may have an indeterminate negative fiscal impact on agencies who manage state-owned land when they do not meet their short-term management goals. The Board of Trustees may require these agencies to release their interest in the land or require DEP to surplus the land. However, state agencies that are not able to meet their short-term goals because of funding constraints, may see an indeterminate positive fiscal impact by releasing their interest in state-owned land or requiring DEP to surplus the land.

Disposition of State Lands

The bill will have a significant negative fiscal impact on DEP by requiring it to review whether land managers have met their short-term and long-term goals for nonconservation lands. DEP estimates that it will require two additional full-time employees at a cost of \$123,020 in recurring costs. Further, DEP estimates that it must update its Integrated Land Management System and Land Information Tracking System to implement the requirements at a cost of \$7,764 in nonrecurring costs. See chart below:²³⁶

Staffing Costs for Sections 5				
Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	2.0	\$110,000	-	\$110,000
Expenses		\$12,332	\$7,764	\$20,096
Transfer to DMS-HR Services-Statewide Contract		\$688	-	\$688
Total	2.0	\$123,020	\$7,764	\$130,784

FL-SOLARIS

The bill has a significant negative fiscal impact on DEP by requiring the department to include all federally owned conservation lands, lands on which the federal government holds a conservation easement, and all lands on which the state holds a conservation easement into FL-SOLARIS. DEP predicts it will require:

- For the federal conservation lands, federal conservation easements, and state conservation easements:
 - One FTE to produce the initial data, establish federal contacts to acquire data, and to maintain the system and data;
 - A recurring task order with the Florida Natural Areas Inventory to use its conservation managed land data; and
 - A new FL-SOLARIS Conservation Lands Module for the federal and state data to be designed, tested, and implemented before the data can be loaded.
- For the county and municipality conservation lands and easements:
 - Completion of a new FL-SOLARIS Conservation Lands Module; and
 - One FTE to act as liaison to counties and municipalities to assure compliance, quality control, and maintain the county and municipal conservation data in FL-SOLARIS.²³⁷

DEP estimates this cost to be \$1,135,784. See chart below:²³⁸

Division of State Lands/Office of Operations

²³⁶ DEP, Agency Analysis of 2016 House Bill 1075, p. 8 (January 12, 2016).

²³⁷ Id.

²³⁸ Id.

Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	2.0	\$145,000	-	\$145,000
Expenses		\$12,332	\$7,764	\$20,096
Contracted Services/System Development and Maintenance		\$95,000	\$855,000	\$950,000
Division of State Lands/Office of Operations				
Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Contracted Services/FNAI Data		\$20,000	-	\$20,000
Transfer to DMS-HR Services-Statewide Contract		\$688	-	\$688
Total	2.0	\$273,020	\$862,764	\$1,135,784

The bill has a significant negative fiscal impact on DEP by requiring the department to conduct a study and submit a report on the technical and economic feasibility of including lands with various criteria in the FL-SOLARIS database. DEP estimates this cost to be \$500,000.²³⁹

Rulemaking

The bill appears to have an insignificant negative fiscal impact on DEP and FWC because the department and commission will likely need to revise their rules as a result of the statutory changes in the bill, which can be accomplished within existing resources.

Surplus of Water Management District Lands

The bill may have an indeterminate positive fiscal impact on WMDs by allowing them to use older appraisals to establish the lowest acceptable sale price for surplus lands rather than requiring WMDs to acquire new appraisals after 120 days.

The bill may have an indeterminate positive fiscal impact on WMDs by allowing them to publish notice of their intent to sell surplus lands no more than 360 days in advance as opposed to no more than 45 days in advance. Thus, WMDs will not have to publish a new notice of intent and extend the date of closing if closing extends beyond 45 days from the date of publication.

The bill may have an indeterminate positive fiscal impact on WMDs selling surplus lands valued at \$25,000 or less by only requiring them to publish notice of intent once, rather than three times, in the newspaper.

Protection Zones for Springs

If FWC established a protection zone, FWC may incur costs associated with posting and maintenance of the regulatory markers for identifying the protection zone.

²³⁹ Id.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Surplus of Water Management District Lands

Lands owned by a WMD are exempt from taxes and special assessments. The bill may have an indeterminate positive fiscal impact in local governments if WMDs are able to more efficiently sell their surplus property to owners who may be taxed by local governments.

2. Expenditures:

Management and Use of State Lands

The bill may have an indeterminate negative fiscal impact on local governments who manage state-owned land when they do not meet their short-term management goals. The Board of Trustees may require these local governments to release their interest in the land or require DEP to surplus the land. However, local governments that are not able to meet their short-term goals because of funding constraints, may see an indeterminate positive fiscal impact by releasing their interest in state-owned land or requiring DEP to surplus the land.

Disposition of State Lands

The bill may have an indeterminate negative fiscal impact on local governments because the bill removes provisions from law that provided priority consideration to local governments when buying surplus lands.

FL-SOLARIS

The bill may have an indeterminate negative fiscal impact on each county and municipalities by requiring them to submit to DEP a list of all conservation lands owned by the entity and lands on which the entity holds a permanent conservation easement. Counties and municipalities will need to devote employee time and effort to collect and transmit the data to DEP.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Surplus of Water Management District Lands

The bill may have an indeterminate positive fiscal impact on property owners neighboring surplus WMD lands valued at \$25,000 or less by providing them with the first opportunity to buy the property before the general public has an opportunity to competitively bid for the land.

D. FISCAL COMMENTS:

The bill provides 4 full-time equivalent positions and appropriates \$396,040 in recurring funds and \$1,370,528 in nonrecurring funds from the General Revenue Fund to implement the amendments made by this act to ss. 253.034 and 253.0341, F.S., and the provisions of s. 253.87, F.S., as created by this act.