

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

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

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Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

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BILL: SB 1168

INTRODUCER: Senator Negron and others

SUBJECT: Implementation of the Water and Land Conservation Constitutional Amendment

DATE: February 8, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	<b>Pre-meeting</b>
2.			AGG	
3.			AP	

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**I. Summary:**

SB 1168 requires a minimum of the lesser of 25 percent of the funds remaining in the Land Acquisition Trust Fund after the payment of debt service with respect to Florida Forever and Everglades restoration bonds or \$200 million to be appropriated annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan, the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program.

**II. Present Situation:**

**Documentary Stamp Tax Revenues**

Chapter 201, F.S., levies a tax on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at 35 cents per \$100.<sup>1</sup> Revenue from the excise tax on documents, collectively known as documentary stamp tax revenues, is divided between the General Revenue Fund and various trust funds.

In 2014, Florida voters approved a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, for 20 years, 33 percent of net revenues derived from the existing excise tax on documents be deposited into the Land Acquisition Trust Fund (LATF).

The amendment required that funds in the LATF be expended only, as provided by law, to finance or refinance the following:

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

- The acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat;
- Wildlife management areas;
- Lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems;
- Lands in the Everglades Agricultural Area and the Everglades Protection Area;
- Beaches and shores;
- Outdoor recreation lands, including recreational trails, parks, and urban open space;
- Rural landscapes;
- Working farms and ranches;
- Historic or geologic sites; and
- Together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.<sup>2</sup>

The amendment was approved by 75 percent of the electors voting on the issue and created Art. X, section 28 of the Florida Constitution. To comply with the constitutional requirements, the Legislature in the 2015 Special Session A passed chapter 2015-229 Laws of Florida.<sup>3</sup>

As part of chapter 2015-229, Laws of Florida, s. 201.15, F.S., was amended to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from the existing excise tax on documents.<sup>4</sup> Section 201.15, F.S., requires documentary stamp tax revenues be pledged and first made available to make payments on Florida Forever and Everglades restoration bonds and that no less than 33 percent of documentary stamp tax net revenues be deposited into the LATF.<sup>5</sup>

As part of chapter 2015-229, Laws of Florida, s. 375.041, F.S., was amended to designate the LATF within the Department of Environmental Protection as the trust fund that serves as the depository for the constitutionally required funds.<sup>6</sup> The revenue deposited into the LATF is required to be utilized in the following order:

- Obligations relating to debt service, specifically:
  - First to payments relating to Florida Forever Bonds and Everglades restoration bonds; and
  - Then, to payments relating to bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- A distribution of \$32 million each fiscal year to the South Florida Water Management District for the Long-Term Plan; and
- Then any remaining moneys are authorized to be appropriated from time to time for the purposes set forth in Art. X, section 28 of the Florida Constitution.<sup>7</sup>

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

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

<sup>4</sup> Ch. 2015-229, s. 9, Laws of Fla.

<sup>5</sup> Section 201.15, F.S.

<sup>6</sup> Ch. 2015-229, s. 50, Laws of Fla.

<sup>7</sup> Section 375.041, F.S.

## **Everglades Restoration Projects**

The Florida Water Resources Act, ch. 373, F.S., directs the roles and responsibilities of the Department of Environmental Protection (DEP) and the South Florida Water Management District (SFWMD) for plans authorized through the Everglades Forever Act, the Comprehensive Everglades Restoration Plan, and the Northern Everglades and Estuaries Protection Program.<sup>8</sup>

### ***Everglades Forever Act***

In 1994, the Legislature passed the Everglades Forever Act (EFA), which outlines the state's commitment to restore the Everglades by improving water quality and quantity.<sup>9</sup> The primary goals of the EFA are to improve water quality by reducing phosphorus levels, restore the hydrology of the ecosystem, and restore and protect native plant and animal species.<sup>10</sup> In 2003, the EFA was amended to implement the "Everglades Protection Area Tributary Basins Conceptual Plan for Achieving Long-term Water Quality Goals," also known as the Long-Term Plan.<sup>11</sup>

The Long-Term Plan identifies the best available phosphorous reduction technology to be used in combination with Best Management Practices (BMPs) to achieve the phosphorus criterion in the Everglades Protection Area.<sup>12</sup> The Long-Term Plan is to be implemented in two phases: the initial phase from 2003 to 2016, followed by an additional 10-year phase.<sup>13</sup> In 2013, the EFA was amended to include the "Restoration Strategies Regional Water Quality Plan," the second phase of the Long-Term Plan."<sup>14</sup> The Plan includes additional stormwater treatment areas and storage reservoirs at a cost of \$880 million to be jointly funded over a 13-year period by the state and the SFWMD.<sup>15</sup> In 2013, the Legislature appropriated \$32 million on a recurring basis to support the implementation of the plan.<sup>16</sup>

### ***Comprehensive Everglades Restoration Plan***

The Comprehensive Everglades Restoration Plan (CERP) is a state-federal partnership that was created to restore the Everglades. The plan works in conjunction with other state and federal efforts to revitalize wetlands, lakes, bays, and estuaries across South Florida, for the purpose of improving the Everglades and ensuring that the area's water supply can meet future needs. The DEP, the U.S. Corps of Army Engineers, and the SFWMD work jointly to review each program proposal. CERP serves as the framework and guide for the restoration, protection, and preservation of the South Florida ecosystem, including providing for the water-related needs of

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<sup>8</sup> DEP, *Everglades, Overview of restoration programs*, <http://www.dep.state.fl.us/everglades/default.htm> (last visited Feb. 4, 2016).

<sup>9</sup> Chapter 1994-115, Laws of Fla.

<sup>10</sup> Section 373.4592, F.S.

<sup>11</sup> Chapter 2003-12, Laws of Fla.

<sup>12</sup> Section 373.4592, F.S.

<sup>13</sup> SFWMD, *Long-Term Plan for Achieving Water Quality Goals, Questions and Answers*, [http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/q\\_and\\_a\\_long\\_term\\_plan.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/q_and_a_long_term_plan.pdf) (last visited Feb. 4, 2016).

<sup>14</sup> Chapter 2013-59, s. 1, Laws of Fla.

<sup>15</sup> DEP, *Everglades Water Quality Improvements, Questions & Answers*, [http://www.dep.state.fl.us/secretary/news/2012/06/everglades\\_wq\\_improvements.pdf](http://www.dep.state.fl.us/secretary/news/2012/06/everglades_wq_improvements.pdf) (last visited Feb. 4, 2016).

<sup>16</sup> Ch. 2013-59, s. 2, Laws of Fla.

the region, such as water supply and flood protection.<sup>17</sup> The plan encompasses 16 counties over an 18,000-square-mile area.<sup>18</sup> The goal of CERP is to capture fresh water that now flows unused to the ocean and redirect it to areas that need it most.<sup>19</sup>

CERP includes the Central Everglades Planning Project (CEPP), which incorporates updated science and technical information gained over the last decade to identify a recommended plan and prepare a Project Implementation Report (PIR) for congressional authorization. CEPP will develop the next set of project components that focus on restoring more natural water flow, depth, and duration into and within the Central Everglades.<sup>20</sup> The draft PIR was completed in August 2013.<sup>21</sup> The U.S. Army Corps signed the Record of Decision for CEPP in August 2015, signifying the completion of the final administrative review for the ecosystem restoration project's report.<sup>22</sup> The report will be transmitted to Congress for authorization.<sup>23</sup>

### ***Northern Everglades and Estuaries Protection Program***

The Northern Everglades and Estuaries Protection Program (NEEPP) was established to promote a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie River watersheds. It includes the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie River Watershed Protection Program.<sup>24</sup> NEEPP led to the creation of the Phase II Technical Plan which provided the measures of quality, quantity, timing, and distribution of water in the northern Everglades ecosystem necessary for restoration.<sup>25</sup> The St. Lucie River and Caloosahatchee River Watershed Protection plans were developed under NEEPP. The plans include a construction project, pollution control program, and research and water quality monitoring programs, and build upon existing and planned programs and projects to consolidate previous restoration efforts.<sup>26</sup>

The 2016 Legislature enacted legislation, chapter 2016-1, Laws of Florida, which updates and restructures the NEEPP to reflect and build upon the DEP's implementation of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary. The BMAP will include the construction of water projects, water monitoring programs, and the implementation, verification, and enforcement of BMPs within these watersheds. The BMAPs will now be required to include 5-, 10-, and 15-year

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<sup>17</sup> SFWMD, *South Florida Environmental Report 2015, Executive Summary*, Glossary (Mar. 1, 2015) available at [http://www.sfwmd.gov/portal/page/portal/pg\\_grp\\_sfwmd\\_sfer/portlet\\_prevreport/2015\\_sfer\\_final/2015\\_sfer\\_executive\\_summary\\_final.pdf](http://www.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2015_sfer_final/2015_sfer_executive_summary_final.pdf).

<sup>18</sup> DEP, *Projects and Goals*, <http://www.dep.state.fl.us/evergladesforever/restoration/projects.htm> (last visited Feb. 4, 2016).

<sup>19</sup> *Id.*

<sup>20</sup> U.S. Army Corps of Engineers, *Central Everglades Planning Project (CEPP), Facts & Information*, (Sept. 2013) [http://www.evergladesrestoration.gov/content/cepp/documents/CEPP\\_FS\\_September2013\\_508.pdf](http://www.evergladesrestoration.gov/content/cepp/documents/CEPP_FS_September2013_508.pdf) (last visited Feb. 4, 2016).

<sup>21</sup> *Id.*

<sup>22</sup> U.S. Army Corps of Engineers, *Record of Decision signed for Central Everglades Planning Project*, <http://www.saj.usace.army.mil/DesktopModules/ArticleCS/Print.aspx?PortalId=44&ModuleId=16629&Article=615490> (last visited Feb 4, 2016).

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

<sup>24</sup> Section 373.4595, F.S.

<sup>25</sup> DEP, *Everglades, Northern Everglades and Estuaries Protection Program (NEEPP)*, <http://www.dep.state.fl.us/everglades/nepp.htm> (last visited Feb. 4, 2016).

<sup>26</sup> Section 373.4595, F.S.

milestones towards achieving the total maximum daily loads for those water basins within 20-years.<sup>27</sup>

### III. Effect of Proposed Changes:

The bill amends s. 375.041, F.S., to require a minimum distribution from the Land Acquisition Trust Fund to be used to fund Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program (NEEPP).

After the required distributions are applied relating to payments on debt service for Florida Forever bonds and Everglades restoration bonds, the bill requires the Legislature to appropriate a minimum of the lesser of 25 percent of the remaining funds or \$200 million for Everglades projects in the following manner:

- \$32 million to the South Florida Water Management District for the Long-Term Plan each fiscal year through the 2023-2024 fiscal year;
- Then, after deducting the \$32 million, a minimum of the lesser of 76.5 percent of the funds remaining or \$100 million for the planning, design, engineering, and construction of the CERP, including, subject to congressional authorization, the Central Everglades Planning Project, each fiscal year through the 2025-2026 fiscal year;
- Then, funds remaining are to be available generally for distribution to CERP or NEEPP.

The bill requires the Department of Environmental Protection and the South Florida Water Management District to give preference to Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

The bill deletes language that is set to expire July 1, 2016, relating to the payment of debt service on bonds issued before February 1, 2009, by the South Florida Water Management District.

The bill takes effect July 1, 2016.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>27</sup> Chapter 2016-1, Laws of Fla.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires specified distributions from the Land Acquisition Trust Fund (LATF) as follows:

<b><u>Estimated Documentary Stamp Tax Revenue:</u></b>			\$2,506,250,000*		As estimated for FY 2016-2017
	<b>LATF distribution (33% of estimated tax revenue):</b>		\$823,830,000*		As required under Art. X, s. 28 of the Florida Constitution.
	<b>Payment on debt service:</b>		\$175,706,545*		As required under Art. X, s. 28 of the Florida Constitution.
		<b>X</b>	\$648,123,455*		LATF-debt service payment
			<b><u>% Amount</u></b>	<b><u>Set Amount</u></b>	
<b><u>Allocation for Everglades Projects:</u></b>	A minimum of the lesser of 25% or \$200 million	25% of X	\$162,030,863.75	\$200 million	As required under SB 1168.
<b><u>Distribution:</u></b>	Long-Term Plan		N/A	\$32 million	As required under s. 375.041, F.S.
<b><u>Distribution:</u></b>	A minimum of the lesser of 76.5% or \$100 million	76.5% of (X - \$32 million)	\$99,473,610.77	\$100 million	For the planning, design, engineering, and construction of CERP projects as required under SB 1168.
<b><u>Balance:</u></b>			\$30,557,252.98	\$68 million	Available for Everglades projects as required under SB 1168.
<b><u>Balance of LATF:</u></b>			\$486,092,519.25	\$448,123,455	Available for appropriation for the purposes set forth in Art. X, s. 28 of the Florida Constitution.

\*Based on estimates for the FY 2016-2017 as provided by the Senate Appropriations Committee staff

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 375.041 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.