

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 234 (544906)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on the Environment and Natural Resources); Environmental Preservation and Conservation Committee; and Senator Bradley and others

SUBJECT: Land Acquisition Trust Fund

DATE: April 4, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Istler	Rogers	EP	Fav/CS
2. Reagan	Betta	AEN	Recommend: Fav/CS
3. Reagan	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 234 requires \$45 million to be appropriated from the Land Acquisition Trust Fund annually to the St. Johns River Water Management District for projects dedicated to the restoration of the St. Johns River and its tributaries or the Keystone Heights Lake Region.

II. Present Situation:

Land Acquisition Trust Fund

Documentary stamp tax revenues are collected under ch. 201, F.S., which requires an excise tax to be levied on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at 35 cents per \$100.¹

In 2014, Florida voters approved Amendment One, a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues derived from the documentary stamp taxes be deposited into the Land Acquisition Trust

¹ See ss. 201.02 and 201.08, F.S.

Fund (LATF). Article X, s. 28 of the State Constitution requires that funds in the LATF be expended only for the following purposes:

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

To implement Art. X, s. 28 of the State Constitution, the Legislature in the 2015 Special Session A passed ch. 2015-229 Laws of Florida.³ This act, in part, amended the following sections of law:

- Section 201.15, F.S., to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from documentary stamp taxes; and
- Section 375.041, F.S., to designate the LATF within the Department of Environmental Protection as the trust fund to serve as the constitutionally mandated depository for a percentage of the tax revenues.⁴

In 2016, the Legislature passed ch. 2016-201, Laws of Florida, referred to as “Legacy Florida.”⁵ Legacy Florida amended s. 375.041, F.S., to require specified minimum distributions from the LATF. Under s. 375.041, F.S., funds deposited into the LATF must be distributed in the following order and amounts:

- First, obligations relating to debt service, specifically:
 - First to payments relating to debt service on Florida Forever Bonds and Everglades restoration bonds; and
 - Then, to payments relating to debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- Then, before funds are authorized to be appropriated for other uses:
 - A minimum of the lesser of 25 percent of the funds remaining after the payment of debt service or \$200 million annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan,⁶ or the

² FLA. CONST. art. X, s. 28.

³ Ch. 2015-229, Laws of Fla.

⁴ Ch. 2015-229, s. 9, s. 50, Laws of Fla.

⁵ Ch. 2016-201, Laws of Fla.

⁶ Note that the “Long-Term Plan” includes the Restoration Strategies Regional Water Quality Plan.

Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. The following specified distributions are required from these funds:

- \$32 million through the 2023-2024 Fiscal Year for the Long-Term Plan;
 - After deducting the \$32 million, the minimum of the lesser of 76.5 percent of the remainder or \$100 million through the 2025-2026 Fiscal Year for the CERP; and
 - Any remaining funds for Everglades projects under the CERP, the Long-Term Plan, or the NEEPP.
- A minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million annually for springs restoration, protection, and management projects; and
 - Five million annually to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka.⁷
- Then any remaining moneys are authorized to be appropriated for the purposes set forth in Art. X, s. 28 of the State Constitution.⁸

The General Revenue Estimating Conference in December of 2016 estimated that for the 2017-2018 Fiscal Year a total of \$2.48 billion would be collected in documentary stamp taxes. Thirty-three percent of the net revenues collected or approximately \$814.1 million must be deposited into the LATF in accordance with Art. X, s. 28 of the State Constitution.⁹

St. Johns River Water Management District

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

St. Johns River

The St. Johns River is the longest river that is entirely within the state.¹⁰ The St. Johns River is divided into three watersheds: the Lower St. Johns River Basin, the Middle St. Johns River Basin, and the Upper St. Johns River Basin. Because the river flows north, the upper basin is the area that forms in Indian River and Brevard counties, south of the middle and lower basins.¹¹ Major tributaries that flow into the St. Johns River include the Wekiva River, the Econlockhatchee River, and the Ocklawaha River.¹²

Storm water runoff from urban areas, treated domestic and industrial wastewater, and agricultural runoff from farming areas affect the water quality of the St. Johns River.¹³ The

⁷ Section 375.041, F.S.

⁸ *Id.*

⁹ Office of Economic and Demographic Research, Revenue Estimating Conference, *Documentary Stamp Tax, Executive Summary* (Dec. 12, 2016) available at <http://www.edr.state.fl.us/Content/conferences/docstamp/docstampexecsummary.pdf> (last visited Jan. 23, 2017).

¹⁰ SJRMD, *The St. Johns River*, <http://www.sjrwmd.com/stjohnsriver/> (last visited Jan. 23, 2017).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

largest contributor of pollution in the lower basin is treated wastewater with additional significant sources of nutrient pollution coming from agricultural areas.¹⁴ The upper basin was drained and diked and now the floodwaters from the basin are drained to the Indian River Lagoon to the east, which diminishes the water quality in the lagoon and degrades the upper basin's remaining marshes.¹⁵

Keystone Heights Area Lakes

The Keystone Heights area lakes are located in southwestern Clay County.¹⁶ The lakes were created when a layer of limestone collapsed creating sinkholes that connect to the Upper Floridan Aquifer.¹⁷ The natural geologic features of this karst terrain result in lake level fluctuations that have occurred over many decades.¹⁸

The district has been working to protect and maintain the water levels in the lakes in the Keystone Heights region and has undertaken numerous projects and studies regarding the region to better understand the dramatic fluctuations in lake water levels and to help meet current and long-term water supply needs for the region.¹⁹ The district has focused on projects that will lead to improved water levels in the lakes and the underlying Floridan aquifer. The district is reevaluating the minimum flows and levels for certain lakes to include the implementation of updated methods, development of a hydrologic model, and an analysis of additional long-term hydrologic data to ensure that the minimum flows and levels are based on the most up-to-date methods and criteria.²⁰ The district has also focused on projects that benefit the Floridan aquifer by increasing recharge or by reducing water withdrawals in the region.²¹

III. Effect of Proposed Changes:

This bill amends s. 375.041, F.S., to require that \$45 million be appropriated to the St. Johns River Water Management District for projects dedicated to the restoration of the St. Johns River and its tributaries or the Keystone Heights Lake Region.

The bill authorizes such funds to be used for land management and land acquisition and for increasing recreational opportunities associated with, and improving public access to, the St. Johns River and its tributaries or the Keystone Heights Lake Region.

The bill requires the distribution to be reduced by an amount equal to the debt service paid on bonds issued for such restoration purposes after July 1, 2017.

The bill takes effect July 1, 2017.

¹⁴ SJRWMD, *Lower St. Johns River Basin*, <http://www.sjrwmd.com/lowerstjohnsriver/> (last visited Jan. 23, 2017).

¹⁵ SJRWMD, *Upper St. Johns River Basin*, <http://www.sjrwmd.com/upperstjohnsriver/> (last visited Jan. 23, 2017).

¹⁶ SJRWMD, *Keystone Heights area lakes*, <http://www.sjrwmd.com/keystoneheights/> (last visited Jan. 23, 2017).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ SJRWMD, *Status of Keystone Heights lakes projects*, <http://www.sjrwmd.com/keystoneheights/projectsstatus.html> (last visited Jan. 23, 2017).

²⁰ SJRWMD, *Senate Bill 234: Land Acquisition Trust Fund Bill Analysis* (Feb. 3, 2017) (on file with the Senate Environmental Preservation and Conservation Committee).

²¹ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Constitutional Issues:

Article X, s. 28 of the State Constitution requires that 33 percent of net revenues derived from documentary stamp taxes be deposited into the LATF to be used for the acquisition and improvement of land, water areas, and related property interests, together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands. The bill requires that \$35 million of the money deposited into the LATF be used to fund projects for the restoration of the St. Johns River and the Keystone Heights Lakes region. The bill authorizes the funds to be used for land management and acquisition and for recreational opportunity and public access improvements to those areas. These authorized uses appear to be consistent with the constitutional requirements.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/CS/SB 234 requires \$45 million to be appropriated annually from the Land Acquisition Trust Fund to the St. Johns River Water Management District for projects dedicated to the restoration of the St. Johns River and its tributaries or the Keystone Heights Lake Region. This distribution may affect other programs that are funded through the trust fund. The bill also requires the distribution to be reduced by an amount equal to the debt service paid on bonds issued for such restoration purposes after July 1, 2017.

VI. Technical Deficiencies:

If the intent of this legislation is to establish a continuing appropriation of \$45 million annually, without further legislative action in subsequent fiscal years, the language “shall be appropriated annually” should be clarified to read, “is appropriated annually.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 375.041 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on the Environment and Natural Resources on March 8, 2017:

The committee substitute amended the appropriation amount from \$35 million to \$45 million from the Land Acquisition Trust Fund.

CS by Environmental Preservation and Conservation on February 21, 2017:

The CS/SB 234 amended the relating to clause to the “Land Acquisition Trust Fund.”

- B. **Amendments:**

None.