

<b>Tab 1</b>	<b>SB 1168</b> by <b>Negron (CO-INTRODUCERS) Benacquisto, Soto, Flores, Simpson, Altman;</b> (Identical to H 0989) Implementation of the Water and Land Conservation Constitutional Amendment					
214434	A	S	RCS	EP, Dean	Delete L.27 - 49:	02/09 03:21 PM
<b>Tab 2</b>	<b>SB 1470</b> by <b>Latvala;</b> (Compare to CS/H 1227) Crustaceans					
954882	D	S	RCS	EP, Evers	Delete everything after	02/09 03:21 PM
<b>Tab 3</b>	<b>SB 1192</b> by <b>Hays;</b> (Identical to H 1387) Waste Management					
755340	D	S	RCS	EP, Hays	Delete everything after	02/09 03:21 PM
<b>Tab 4</b>	<b>SB 1290</b> by <b>Simpson;</b> (Similar to CS/H 1075) State Lands					
<del>294294</del>	A	S	WD	EP, Soto	Delete L.2121 - 2122:	02/09 03:21 PM
<b>Tab 5</b>	<b>SB 1454</b> by <b>Hutson;</b> (Compare to CS/H 0703) Vessels					
588856	D	S	RCS	EP, Hutson	Delete everything after	02/09 03:21 PM
<b>Tab 6</b>	<b>CS/SB 1318</b> by <b>AG, Dean;</b> (Similar to CS/H 0489) Shellfish Harvesting					
371114	A	S	RCS	EP, Dean	Delete L.70 - 101:	02/09 03:21 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**ENVIRONMENTAL PRESERVATION AND CONSERVATION**  
**Senator Dean, Chair**  
**Senator Simpson, Vice Chair**

**MEETING DATE:** Tuesday, February 9, 2016  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** *Mallory Horne Committee Room, 37 Senate Office Building*

**MEMBERS:** Senator Dean, Chair; Senator Simpson, Vice Chair; Senators Altman, Evers, Hays, Hutson, Simmons, Smith, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 1168</b> Negron (Identical H 989)	Implementation of the Water and Land Conservation Constitutional Amendment; Requiring a minimum specified percentage of funds within the Land Acquisition Trust Fund to be appropriated for Everglades restoration projects; providing a preference in the use of funds to certain projects that reduce harmful discharges to the St. Lucie Estuary and the Caloosahatchee Estuary, etc.  EP     02/09/2016 Fav/CS AGG AP	Fav/CS Yeas 8 Nays 0
2	<b>SB 1470</b> Latvala (Compare CS/H 1227)	Crustaceans; Specifying that for violations related to stone crab traps which involve fewer than 100 traps, each untagged trap may be charged as a separate count; specifying that for violations related to undersized spiny lobsters in which fewer than 100 lobsters are involved, each undersized lobster may be charged as a separate count, etc.  EP     02/09/2016 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
3	<b>SB 1192</b> Hays (Identical H 1387)	Waste Management; Providing that the weight limits for certain solid waste or recyclable collection vehicles are suspended under certain circumstances; requiring local governments providing certain solid waste collection, disposal, or recycling services outside their jurisdiction to remit certain fees and taxes to the Solid Waste Management Trust Fund; requiring local governments to file a report by a specified date with the Division of Waste Management in the Department of Environmental Protection, subject to certain requirements, etc.  EP     02/09/2016 Fav/CS AGG FP	Fav/CS Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**Environmental Preservation and Conservation  
Tuesday, February 9, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1290</b> Simpson (Similar CS/H 1075)	State Lands; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain requirements and rules and substitute procedures relating to the acquisition of state lands under certain conditions; providing for public agencies and nonprofit organizations to enter into written agreements with the Department of Environmental Protection rather than the Division of State Lands to purchase and hold property for subsequent resale to the board rather than the division; providing for the use of alternatives to fee simple acquisition by public land acquisition agencies, etc.  EP 02/09/2016 Favorable AGG AP	Favorable Yeas 8 Nays 0
5	<b>SB 1454</b> Hutson (Compare CS/H 703)	Vessels; Revising provisions relating to reckless or careless operation of a vessel; deleting provisions authorizing law enforcement officers to inspect vessels; revising provisions relating to the authority of law enforcement officers to conduct certain investigations, etc.  EP 02/09/2016 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
6	<b>CS/SB 1318</b> Agriculture / Dean (Similar CS/H 489, Compare S 1564)	Shellfish Harvesting; Revising provisions directing the Department of Agriculture and Consumer Services, in cooperation with the Fish and Wildlife Conservation Commission and the Department of Environmental Protection, to protect specified shellfish beds, grounds, and reefs; providing for the Board of Trustees of the Internal Improvement Trust Fund to authorize the use of dredges or mechanical harvesting devices as special lease conditions of sovereign submerged land leases; authorizing the department, rather than requiring, to designate areas for the taking of oysters and clams to be planted on public lands, etc.  AG 02/01/2016 Fav/CS EP 02/09/2016 Fav/CS FP	Fav/CS Yeas 8 Nays 0

Other Related Meeting Documents

**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: CS/SB 1168

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Negron and others

SUBJECT: Implementation of the Water and Land Conservation Constitutional Amendment

DATE: February 10, 2016      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Fav/CS
2.			AGG	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1168 requires specified minimum distributions from the Land Acquisition Trust Fund to fund Everglades projects that implement the Comprehensive Everglades Restoration Plan, the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program and to fund spring restoration, protection, and management projects.

**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

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

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:

- 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.<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;

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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.

- 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>

### **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 through the 2023-2024 fiscal year to support the implementation of the plan.<sup>16</sup>

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

<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.

### ***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 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,

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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).

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 best management practices (BMPs) within these watersheds. The BMAPs will now be required to include 5-, 10-, and 15-year milestones towards achieving the total maximum daily loads for those water basins within 20-years.<sup>27</sup>

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

Springs form when groundwater is forced out through natural openings in the ground. Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. 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.

Excessive nutrient levels, particularly nitrate, are the primary water quality threat to springs.<sup>28</sup> High nitrate levels result from urban and agricultural stormwater runoff and leaching, and inadequately treated wastewater.<sup>29</sup> Spring system water quality is regularly assessed to determine whether it is meeting Florida's standards. When a spring system is not meeting the standard, the system is formally identified as impaired, and the DEP is required to adopt a Total Maximum Daily Load (TMDL).<sup>30</sup> A TMDL is a scientific determination of the maximum amount of a given pollutant that a surface water can absorb and still meet the water quality standards that protect human health and aquatic life.<sup>31</sup> To achieve a TMDL, the DEP works with local stakeholders to adopt and implement comprehensive BMAPs.<sup>32</sup> BMAPs represent a comprehensive set of strategies, including permit limits on wastewater facilities, urban and agricultural best management practices, conservation programs, financial assistance and revenue generating activities, designed to implement the pollutant reductions established by the TMDL.<sup>33</sup>

Water quantity or spring flows are affected by drought and other long-term climate conditions and may be affected by excessive water withdrawals.<sup>34</sup> The water management districts (WMDs)

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

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

<sup>28</sup> DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 2 (Nov. 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

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

<sup>30</sup> Section 403.067, F.S.

<sup>31</sup> DEP, *Total Maximum Daily Loads*, <http://www.dep.state.fl.us/water/tmdl/index.htm> (last visited Feb. 10, 2016).

<sup>32</sup> Section 403.067, F.S.

<sup>33</sup> DEP, *Total Maximum Daily Loads*, <http://www.dep.state.fl.us/water/tmdl/index.htm> (last visited Feb. 10, 2016).

<sup>34</sup> DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 3 (Nov. 2015).



or the DEP are required to establish minimum flows and levels (MFLs) for surface and ground waters. The “minimum flow” is the limit at which further withdrawals from a watercourse would significantly harm water resources or ecology; the “minimum level” is the level of a groundwater or surface water body at which further withdrawals would significantly harm water resources.<sup>35</sup> If the flow or level is currently below or within 20 years will fall below an applicable MFL, the water management district (WMD) is required to implement a recovery or prevention strategy.<sup>36</sup>

BMPs are established to conserve water and minimize nutrient loss to the environment, particularly through fertilizer application and land and animal management.<sup>37</sup> In coordination with the DEP, the WMDs, and other stakeholders, the Department of Agriculture and Consumer Service’s Office of Agriculture Water Policy works to identify and prioritize restoration efforts in springs, including ways to manage more effectively water and nutrient applications in springs protection areas.<sup>38</sup>

Spring restoration, protection, and management projects may be used to achieve TMDLs through a BMAP, address MFLs through a recovery or prevention strategy, or implement BMPs. Examples of such projects include, but are not limited to, investments to wastewater treatment facilities; water quality improvement projects; aquifer recharge projects; reclaimed water projects; purchase of conservation lands for water quality protection; stormwater improvement; water quality sampling or monitoring; meter implementation; or irrigation system efficiency upgrades.

### III. Effect of Proposed Changes:

CS/SB 1168 amends s. 375.041, F.S., to require specified minimum distributions from the Land Acquisition Trust Fund (LATF) to be used to fund Everglades restoration projects and spring restoration, protection, and management projects.

#### **Everglades restoration projects**

The bill requires an appropriation of funds to be used for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program (NEEPP).

The bill requires an annual appropriation of a minimum of the lesser of 25 percent of the funds remaining in the LATF after the payment of debt service 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;

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<sup>35</sup> Section 373.042, F.S.

<sup>36</sup> Section 373.0421, F.S.

<sup>37</sup> DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 3 (Nov. 2015).

<sup>38</sup> DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, Attachment 3 (Nov. 2015).

- 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.

#### **Spring restoration, protection, and management projects**

The bill requires an annual appropriation of a minimum of the lesser of 7.6 percent of the funds remaining in the LATF after the payment of debt service or \$75 million for spring restoration, protection, and management projects.

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.

#### **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	
	LATF distribution (33% of estimated tax revenue):		\$823,830,000*	As required under Art. X, s. 28 of the Florida Constitution.	
	Payment on debt service:		\$175,706,545*	As required under Art. X, s. 28 of the Florida Constitution.	
	Remainder of LATF after subtracting debt service	<b>X</b>	\$648,123,455*		
			<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 = Y	\$162,030,863.75	\$200 million	As required under CS/SB 1168.
<u>Distribution:</u>	Long-Term Plan		N/A	\$32 million	As required under s. 375.041, F.S.
<u>Distribution:</u>	A minimum of the lesser of 76.5% or \$100 million	76.5% of (Y - \$32 million)	\$99,473,610.77	\$100 million	For the planning, design, engineering, and construction of CERP projects as required under CS/SB 1168.
<u>Balance:</u>			\$30,557,252.98	\$68 million	Available for Everglades projects as required under CS/SB 1168.
<b><u>Allocation for Springs projects:</u></b>	A minimum of the lesser of 7.6% or \$75 million	7.6% of X	\$49,257,382	\$75 million	Available for spring restoration, protection, and management projects as required under CS/SB 1168
<b><u>Balance of LATF:</u></b>			\$436,835,137.25	\$373,123,455	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 Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environmental Preservation and Conservation on February 9, 2016:**

The CS adds a specified minimum distribution from the Land Acquisition Trust Fund to fund spring restoration, protection, and management projects.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
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The Committee on Environmental Preservation and Conservation  
(Dean) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 27 - 49  
and insert:  
dedicated for other uses:

1. A minimum of the lesser of 25 percent or \$200 million shall be appropriated annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning Project subject to congressional authorization; the Long-Term



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11 Plan as defined in s. 373.4592(2); and the Northern Everglades  
12 and Estuaries Protection Program as set forth in s. 373.4595.  
13 From these funds, \$32 million shall be distributed each fiscal  
14 year through the 2023-2024 fiscal year to the South Florida  
15 Water Management District for the Long-Term Plan as defined in  
16 s. 373.4592(2). After deducting the \$32 million distributed  
17 under this subparagraph, from the funds remaining, a minimum of  
18 the lesser of 76.5 percent or \$100 million shall be appropriated  
19 each fiscal year through the 2025-2026 fiscal year for the  
20 planning, design, engineering, and construction of the  
21 Comprehensive Everglades Restoration Plan as set forth in s.  
22 373.470, including the Central Everglades Planning Project  
23 subject to congressional authorization. The Department of  
24 Environmental Protection and the South Florida Water Management  
25 District shall give preference to those Everglades restoration  
26 projects that reduce harmful discharges of water from Lake  
27 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a  
28 timely manner.

29 2. A minimum of the lesser of 7.6 percent or \$75 million  
30 shall be appropriated annually for spring restoration,  
31 protection, and management projects ~~Then, to pay the debt~~  
32 ~~service on~~

34 ===== T I T L E A M E N D M E N T =====

35 And the title is amended as follows:

36 Between lines 9 and 10

37 insert:

38 requiring a minimum specified percentage of funds  
39 within the Land Acquisition Trust Fund to be



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40           appropriated for certain spring restoration,  
41           protection, and management projects;

By Senators Negrón and Benacquisto

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1                   A bill to be entitled  
2           An act relating to implementation of the water and  
3           land conservation constitutional amendment; amending  
4           s. 375.041, F.S.; requiring a minimum specified  
5           percentage of funds within the Land Acquisition Trust  
6           Fund to be appropriated for Everglades restoration  
7           projects; providing a preference in the use of funds  
8           to certain projects that reduce harmful discharges to  
9           the St. Lucie Estuary and the Caloosahatchee Estuary;  
10          providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Subsection (3) of section 375.041, Florida  
15           Statutes, is amended to read:

16           375.041 Land Acquisition Trust Fund.—

17           (3) Funds distributed into the Land Acquisition Trust Fund  
18           pursuant to s. 201.15 shall be applied:

19           (a) First, to pay debt service or to fund debt service  
20           reserve funds, rebate obligations, or other amounts payable with  
21           respect to Florida Forever bonds issued under s. 215.618; and  
22           pay debt service, provide reserves, and pay rebate obligations  
23           and other amounts due with respect to Everglades restoration  
24           bonds issued under s. 215.619; and

25           (b) Of the funds remaining after the payments required  
26           under paragraph (a) but before funds may be appropriated or  
27           dedicated for other uses, a minimum of the lesser of 25 percent  
28           or \$200 million shall be appropriated annually for Everglades  
29           projects that implement the Comprehensive Everglades Restoration  
30           Plan as set forth in s. 373.470, including the Central  
31           Everglades Planning Project subject to congressional  
32           authorization; the Long-Term Plan as defined in s. 373.4592(2);



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33 and the Northern Everglades and Estuaries Protection Program as  
34 set forth in s. 373.4595. From these funds, \$32 million shall be  
35 distributed each fiscal year through the 2023-2024 fiscal year  
36 to the South Florida Water Management District for the Long-Term  
37 Plan as defined in s. 373.4592(2). After deducting the \$32  
38 million distributed under this paragraph, from the funds  
39 remaining, a minimum of the lesser of 76.5 percent or \$100  
40 million shall be appropriated each fiscal year through the 2025-  
41 2026 fiscal year for the planning, design, engineering, and  
42 construction of the Comprehensive Everglades Restoration Plan as  
43 set forth in s. 373.470, including the Central Everglades  
44 Planning Project subject to congressional authorization. The  
45 Department of Environmental Protection and the South Florida  
46 Water Management District shall give preference to those  
47 Everglades restoration projects that reduce harmful discharges  
48 of water from Lake Okeechobee to the St. Lucie or Caloosahatchee  
49 estuaries in a timely manner ~~Then, to pay the debt service on~~  
50 ~~bonds issued before February 1, 2009, by the South Florida Water~~  
51 ~~Management District and the St. Johns River Water Management~~  
52 ~~District, which are secured by revenues provided pursuant to~~  
53 ~~former s. 373.59, Florida Statutes 2014, or which are necessary~~  
54 ~~to fund debt service reserve funds, rebate obligations, or other~~  
55 ~~amounts payable with respect to such bonds. This paragraph~~  
56 ~~expires July 1, 2016; and~~

57 ~~(c) Then, to distribute \$32 million each fiscal year to the~~  
58 ~~South Florida Water Management District for the Long-Term Plan~~  
59 ~~as defined in s. 373.4592(2). This paragraph expires July 1,~~  
60 ~~2024.~~

61 Section 2. This act shall take effect July 1, 2016.

**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: CS/SB 1470

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Latvala

SUBJECT: Crustaceans

DATE: February 10, 2016      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Rogers	EP	Fav/CS
2.			ACJ	
3.			FP	

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1470 revises penalties for violations of rules concerning spiny lobster traps and provides penalties for possession of undersized spiny lobsters by recreational or commercial harvesters.

The bill is effective October 1, 2016.

**II. Present Situation:**

**Commercial Fishing Licenses**

In order to commercially harvest spiny lobster or stone crab in Florida, a person must possess:

- A valid Saltwater Products License (SPL), which is Florida’s commercial fishing license,
- A restricted species (RS) endorsement, and
- Either a commercial spiny lobster endorsement (“C#” endorsement)<sup>1</sup> or a stone crab endorsement (“X” endorsement).<sup>2</sup>

An SPL is required to do any of the following:

- Sell, barter, or exchange for merchandise any saltwater products;

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<sup>1</sup> FWC, *Commercial Regulations for Spiny Lobster (Crawfish)*, available at <http://myfwc.com/fishing/saltwater/commercial/spiny-lobster/> (last visited Jan. 26, 2016).

<sup>2</sup> FWC, *Stone Crab*, available at <http://myfwc.com/fishing/saltwater/commercial/stone-crab/> (last visited Jan. 26, 2016).

- Harvest over 100 pounds or 2 saltwater fish per person per day (whichever is greater) for species that do not have an established bag limit; or
- Use certain gear or equipment as specified by law.<sup>3</sup>

Florida offers three types of SPLs:

- An “Individual SPL” authorizes a person to engage in commercial fishing activities from shore or any commercially registered vessel.<sup>4</sup>
- A “Crew SPL” is also issued in an individual’s name and it authorizes commercial fishing by the person and anyone with them on a commercial vessel. The Crew SPL also allows the individual to fish commercially from shore or any commercially registered vessel.<sup>5</sup>
- A “Vessel SPL” is issued to a vessel registered for commercial use and authorizes each person aboard that registered vessel to engage in commercial fishing. This license differs from the two other SPLs in that it is not issued in an individual’s name, but is rather tied to a specific vessel.<sup>6</sup>

Saltwater Products Licenses	Cost
Individual Resident	\$50.00
Individual Nonresident	\$200.00
Individual Alien	\$300.00
Crew Resident	\$150.00
Crew Nonresident	\$600.00
Crew Alien	\$900.00
Vessel Resident	\$100.00
Vessel Nonresident	\$400.00
Vessel Alien	\$600.00 <sup>7</sup>

A restricted species (RS) endorsement on an SPL is required to sell to a licensed wholesale dealer species which the state, by law or rule, has designated as “restricted species.”<sup>8</sup> The FWC

<sup>3</sup> FWC, *Commercial Saltwater Products - Fishing & Dealers Licenses*, available at <http://myfwc.com/license/saltwater/commercial-fishing/#spl> (last visited Jan. 27, 2016).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

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

<sup>7</sup> FWC, *Commercial Saltwater Products License Fees*, available at <http://myfwc.com/license/saltwater/commercial-fishing/csl-fees/> (last visited Jan. 27, 2016).

<sup>8</sup> Fla. Admin. Code R. 68B-2.006; see also s. 379.101, F.S., defining “restricted species” as “any species of saltwater products which the state by law, or the Fish and Wildlife Conservation Commission by rule, has found it necessary to so designate. The term includes a species of saltwater products designated by the commission as restricted within a geographical area or during a particular time period of each year. Designation as a restricted species does not confer the authority to sell a species pursuant to s. 379.361, F.S., if the law or rule prohibits the sale of the species.”

has listed spiny lobster<sup>9</sup> and stone crabs<sup>10</sup> as restricted species. An RS may be issued to a person who is at least 16 years of age, or to a firm certifying that over 25 percent of its income or \$5,000 of its income, whichever is less, is attributable to the sale of saltwater products pursuant to an SPL.<sup>11</sup>

### **Stone Crab and Spiny Lobster Traps**

Section 379.365(2)(a), F.S., makes it unlawful to commit the following acts relating to stone crab traps:

- Violate FWC rules regulating stone crab trap certificates and trap tags;
- Use an expired tag;
- Use a tag not issued by the commission; or
- Possess or use a stone crab trap without having a trap tag attached.

Section 379.3671(2)(c), F.S., makes it unlawful to commit the following acts relating to spiny lobster traps:

- Possess or use a spiny lobster trap without having a trap tag attached;
- Possess or use any other gear or device designed to attract and enclose or otherwise aid in the taking of spiny lobster by trapping that is not a “trap” as defined by commission rule.

### ***Recreational Harvesters***

FWC rules only require recreational harvesters of stone crabs to have traps that:

- Have a legible “R”, at least two inches high, permanently affixed to its buoy; and
- Have the harvester's name and address permanently affixed to the trap in legible letter.<sup>12</sup>

Recreational harvesters may not use traps to harvest spiny lobster.<sup>13</sup>

### ***Commercial Harvesters***

For commercial stone crab traps, each holder of a stone crab trap endorsement must have a certificate on record for each stone crab trap used or possessed in or on the water. In addition, each trap requires a tag, issued annually by the FWC, which corresponds to a valid certificate. Similarly, each holder of an SPL who uses traps for taking or attempting to take spiny lobsters is required to have a certificate on record for each trap possessed or used.<sup>14</sup> Each trap used to take or attempt to take spiny lobsters must also have a trap tag attached.<sup>15</sup>

The FWC provides specifications for construction of lobster traps and stone crab traps. These specifications apply to various aspects of trap design including:

- Trap material;

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<sup>9</sup> Fla. Admin. Code R. 68B-24.001.

<sup>10</sup> Fla. Admin. Code R. 68B-13.005.

<sup>11</sup> Fla. Admin Code R. 68B-2.006.

<sup>12</sup> Fla. Admin. Code R. 68B-13.009.

<sup>13</sup> Fla. Admin. Code R. 68B-24.005.

<sup>14</sup> Section 379.3671(2)(a), F.S.

<sup>15</sup> Section 379.3671(2)(b), F.S.

- Specific trap dimensions for wood and plastic traps;
- The allowable gauge of wire mesh used to reinforce a wood trap;
- Minimum slat width;
- Maximum spacing between slats; and
- Location of entrances.<sup>16</sup>

**Spiny Lobster Size Requirements**

By FWC rule, individuals may only harvest spiny lobsters whose carapace is at least 3 inches long, if the tail is separated from the body, or whose tails are a least 5 ½ inches long.<sup>17</sup>

**Penalties Relating to Violation of Stone Crab and Spiny Lobster Trap Requirements**

The following violations constitute Level Two Violations under s. 379.401(2)(a), F.S.:

- the possession or use of stone crab traps without trap tags and theft of trap contents or gear;
- the possession or use of spiny lobster traps without trap tags or certificates and theft of trap contents or trap gear;
- violating rules or orders of the FWC establishing bag, possession, or size limits or restricting methods of taking wildlife, freshwater fish, or saltwater fish.

Level Two Violations are punishable as follows:

Level 2 Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1 <sup>st</sup> offense	2 <sup>nd</sup> Degree Misdemeanor <sup>18</sup>	Max. \$500 or Max. 60 days	None
2 <sup>nd</sup> offense within 3 years of previous Level 2 violation (or higher)	1 <sup>st</sup> Degree Misdemeanor <sup>19</sup>	Min. \$250; Max. \$1000 or Max. 1 year	None
3 <sup>rd</sup> offense within 5 years of two previous Level 2 violations (or higher)	1 <sup>st</sup> Degree Misdemeanor <sup>20</sup>	Min. \$500; Max. \$1000 or Max. 1 year	Max. suspension of recreational license for 1 year
4 <sup>th</sup> offense within 10 years of three previous Level 2 violations (or higher)	1 <sup>st</sup> Degree Misdemeanor <sup>21</sup>	Min. \$750; Max. \$1000 or Max. 1 year	Max. suspension of recreational license for 3 years

Additionally, s. 379.407, F.S., sets out the following base penalties for violations related to stone crab and spiny lobster restrictions:

- For a first conviction, imprisonment for not more than 60 days or by a fine of no less than \$100 and no more than \$500, or by both.<sup>22</sup>

<sup>16</sup> See Fla. Admin. Code R. 68B-24.006 and 68B-13.008, related to lobster traps and stone crab traps respectively.

<sup>17</sup> Fla. Admin. Code R. 68B-24.003(1).

<sup>18</sup> Section 379.401(2)(b)1., F.S.

<sup>19</sup> Section 379.401(2)(b)2., F.S.

<sup>20</sup> Section 379.401(2)(b)3., F.S.

<sup>21</sup> Section 379.401(2)(b)4., F.S.

<sup>22</sup> Section 379.407(1)(a), F.S.

- For a second or subsequent conviction within 12 months, imprisonment for not more than 6 months or by a fine of not less than \$250 and no more than \$1,000, or by both.<sup>23</sup>

Note that current law is ambiguous regarding whether commercial harvesters are subject to both the misdemeanor offenses (the Level Two Violations) set forth in s. 379.401, F.S., and the criminal penalties in s. 379.407, F.S.<sup>24</sup>

For commercial harvesters, a violation involving more than 100 illegal spiny lobster or stone crabs is a “major violation” and results in an additional penalty of \$10 for each illegal stone crab or spiny lobster.

A “major violation” also means:

- any single violation involving possession of more than 25 stone crabs during the closed season or possession of 25 or more whole-bodied or egg-bearing spiny lobsters or stone crabs or possession of more than 25 wring spiny lobster tails;
- any violation for trap molestation, trap robbing, or pulling traps at night;
- or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal stone crabs or spiny lobster in the aggregate are involved.<sup>25</sup>

Upon the arrest and conviction for a major violation involving stone crabs or spiny lobster, the licenseholder must show just cause why his or her license should not be suspended or revoked.<sup>26</sup>

In addition to the penalties in s. 379.407, F.S., s. 379.365, F.S., also provides the following administrative penalties for violations concerning FWC rules regulating stone crab trap certificates and trap tags for commercial harvesters:

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<sup>23</sup> Section 379.407(1)(b), F.S.

<sup>24</sup> Section 379.401(2)(a)16. & 17. F.S., both cite the entire section of law related to commercial and noncommercial violations of trap tag restrictions ss. 379.365(2)(a) (stone crab tags) and 379.3671(2)(c) (spiny lobster tags) and label those Level Two Violations (misdemeanors). However, s. 379.365(2)(a), F.S., specifies administrative penalties in addition to the provisions of s. 379.407, F.S., for commercial harvesters and then states “any other person” who violates the tag requirements commits a Level Two Violation, which would seem to indicate that only noncommercial harvesters are subject to Level Two Violations. A comparable provision exists for spiny lobster tags in s. 379.3671(2)(c)10., F.S. Furthermore, s. 379.407(1), F.S., which sets out the base criminal penalties for violations of ch. 379, F.S., does not limit those penalties to commercial harvesters (while s. 379.407(2), F.S., does specify that it only applies to commercial harvesters). The base criminal penalties read as if they would apply to both commercial and noncommercial harvesters. However, for stone crab tags and for spiny lobster tags, s. 379.407, F.S., is only directly cited when adding additional penalties for commercial harvesters.

<sup>25</sup> Section 379.407, F.S.(2)(i) and (j), F.S.

<sup>26</sup> *Id.*

Violation	Type of Infraction	FWC Penalty	Endorsement Restrictions
1 <sup>st</sup> offense	Noncriminal	Max. \$1,000	None
2 <sup>nd</sup> offense within 24 months of previous violation	Noncriminal	Max. \$2,000	12 month suspension
3 <sup>rd</sup> offense within 36 months of two previous violations	Noncriminal	Max. \$5,000	24 month suspension
4 <sup>th</sup> offense within 48 months of three previous violations	Noncriminal	No specific penalty	Permanent revocation of all the violator's saltwater fishing privileges.

In addition to the penalties in s. 379.407, F.S., s. 379.3671, F.S., also provides the following administrative penalties for violations concerning spiny lobster trap certificates and trap tags for commercial harvesters:

Violation	Type of Infraction	FWC Penalty	Restrictions
1 <sup>st</sup> offense	Noncriminal	Max. \$1,000	None
2 <sup>nd</sup> offense within 24 months of previous violation	Noncriminal	Max. \$2,000	Suspended for the remainder of the current license year
3 <sup>rd</sup> or subsequent offense within 36 months of two previous violations	Noncriminal	Max. \$5,000	24 month suspension or complete revocation

**III. Effect of Proposed Changes:**

**Section 1** amends s. 379.365, F.S., to clarify existing law concerning violations of FWC rules regulating stone crab trap certificates and trap tags.

**Section 2** amends s. 379.3671, F.S., to revise penalties for violations related to spiny lobster traps.

For violation of provisions concerning the possession or use of a spiny lobster trap without an attached trap tag; possession or use of any gear other than a trap as defined by FWC; and possession or use of spiny lobster trap tags without having the necessary number of certificates on record:

- For a second violation, the bill changes the amount of time a spiny lobster endorsement may be suspended from the remainder of the current license year to 12 months.
- For a third violation:
  - The bill removes “or subsequent” so that the sub-subparagraph applies only to a third violation within 36 months of any two previous violations;
  - The bill removes a reference to a prohibition on willfully molesting, taking possession of, or removing the contents of another harvester’s spiny lobster trap, so that the provision only applies to violations of the provisions stated above;
  - The bill provides for the suspension of a violator’s spiny lobster endorsement for 24 months, rather than up to 24 months; and
  - The bill removes authorization to revoke a violator’s spiny lobster endorsement and SPL.

The bill creates penalties for a fourth violation of s. 379.3671, F.S., or of FWC rules relating to spiny lobster traps that occurs within 48 months after any three previous violations. A fourth violation will result in the permanent revocation of all the violator’s saltwater fishing privileges, including having FWC proceed against the endorsement holder’s SPL.

**Section 3** amends s. 379.407, F.S., to provide that it is a major violation for a recreational or commercial harvester to be in possession of an undersized spiny lobster, unless authorized to do so by FWC rule.

The bill provides that for violations involving fewer than 100 lobsters, each undersized spiny lobster may be charged as a separate misdemeanor count under the first two penalties on the following chart. However, the total misdemeanor penalty for any one scheme or course of conduct may not exceed four years imprisonment and a civil fine of \$4,000 under both penalties.

Any person who violates this provision is subject to the following penalties:

Violation	Type of Infraction	FWC Penalty	Civil Penalty or Jail Time	Restrictions
1 <sup>st</sup> offense	2 <sup>nd</sup> degree misdemeanor	None	Max. \$500 or Max. 60 days	None
2 <sup>nd</sup> or subsequent offense	1 <sup>st</sup> degree misdemeanor	None	Min. \$250; Max. \$1000 or Max. 1 year	None
A violation involving 100 or more spiny lobsters	3 <sup>rd</sup> degree felony	Max. \$2,000	Min. \$500; Max. \$5000 or Max. 5 years	Suspension of all license privileges under ch. 379, F.S. for up to 12 months.

**Section 4** amends s. 921.0022, F.S., to make the following changes to the Offense Severity Ranking Chart:

Statute	Felony Degree	Description
379.365(2)(c)1. This provision is added	3 <sup>rd</sup>	Violation of rules relating to stone crab traps, trap tags, trap certificates, and engaging in the commercial harvest of stone crabs while a license is suspended or revoked
379.3671(2)(c)3. This provision is removed	3 <sup>rd</sup>	Molestation, possession, or removal of a commercial harvester’s trap contents or trap gear
379.407(5)(b)3. This provision is added	3 <sup>rd</sup>	Possession of more than 100 undersized spiny lobsters

**Section 5** provides an effective date of October 1, 2016.



**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Revised penalties provided for in the bill will have a negative, indeterminate impact on persons found guilty of violations amended or created in the bill.

## C. Government Sector Impact:

The Marine Resources Conservation Trust Fund will see a positive impact as a result of the additional administrative penalties provided for in the bill. The clerks of the court would likely see a positive indeterminate impact as a result of the addition of criminal fines.

The Criminal Justice Impact Conference determined that the original bill language, containing language similar to the CS, is likely to result in a positive indeterminate impact on the prison beds in the state, which would likely have a negative fiscal impact on the state and local governments.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 379.365, 379.3671, 379.407, 921.0022.

**IX. Additional Information:**

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

**CS by Environmental Preservation and Conservation on February 9, 2016:**

Provisions concerning stone crab trap regulation, proposed language concerning criminal penalties are removed.

Concerning spiny lobster trap regulation, the CS:

- Removes proposed language concerning criminal penalties;
- Provides that a spiny lobster endorsement may be suspended for 12 months for a second violation of specified provisions;
- Provides that a spiny lobster endorsement may be suspended for 24 months for a third or subsequent violation of specified provisions. The following is removed from this provision:
  - suspension may be up to 24 months;
  - FWC may revoke the spiny lobster endorsement; and
  - FWC may also proceed against the violator's SPL;
- Provides penalties for a fourth violation within 48 months:
  - Results in a permanent revocation of all the violator's saltwater fishing privileges; and
  - FWC may proceed against the violator's SPL.

Concerning possession of undersized spiny lobsters, the CS:

- Changes "second violation" to "second or subsequent violation;" and
- Changes a provision concerning violations involving "more than 100" undersized spiny lobsters to "100 or more."

The amendment changes several items on the offense severity chart.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

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The Committee on Environmental Preservation and Conservation  
(Evers) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (a) of subsection (2) of section  
379.365, Florida Statutes, is amended to read:

379.365 Stone crab; regulation.—

(2) PENALTIES.—For purposes of this subsection, conviction  
is any disposition other than acquittal or dismissal, regardless  
of whether the violation was adjudicated under any state or



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11 federal law.

12 (a) It is unlawful to violate commission rules regulating  
13 stone crab trap certificates and trap tags. A ~~No~~ person may not  
14 use an expired tag or a stone crab trap tag not issued by the  
15 commission or possess or use a stone crab trap in or on state  
16 waters or adjacent federal waters without having a trap tag  
17 required by the commission firmly attached thereto.

18 1. In addition to any other penalties provided in s.  
19 379.407, for a ~~any~~ commercial harvester who violates this  
20 paragraph, the following administrative penalties apply:—

21 a. For a first violation, the commission shall assess an  
22 additional administrative penalty of up to \$1,000.

23 b. For a second violation that occurs within 24 months  
24 after ~~of~~ any previous such violation, the commission shall  
25 assess an additional administrative penalty of up to \$2,000, and  
26 the stone crab endorsement under which the violation was  
27 committed may be suspended for 12 ~~calendar~~ months.

28 c. For a third violation that occurs within 36 months after  
29 ~~of~~ any two previous ~~two~~ such violations, the commission shall  
30 assess an additional administrative penalty of up to \$5,000, and  
31 the stone crab endorsement under which the violation was  
32 committed may be suspended for 24 ~~calendar~~ months.

33 d. A fourth violation that occurs within 48 months after ~~of~~  
34 any three previous such violations, shall result in permanent  
35 revocation of all of the violator's saltwater fishing  
36 privileges, including having the commission proceed against the  
37 endorsement holder's saltwater products license in accordance  
38 with s. 379.407.

39 2. Any other person who violates ~~the provisions of~~ this



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40 paragraph commits a Level Two violation under s. 379.401.

41

42 A ~~Any~~ commercial harvester assessed an administrative penalty  
43 under this paragraph shall, within 30 ~~calendar~~ days after  
44 notification, pay the administrative penalty to the commission,  
45 or request an administrative hearing under ss. 120.569 and  
46 120.57. The proceeds of all administrative penalties collected  
47 under this paragraph shall be deposited in the Marine Resources  
48 Conservation Trust Fund.

49 Section 2. Paragraph (c) of subsection (2) of section  
50 379.3671, Florida Statutes, is amended to read:

51 379.3671 Spiny lobster trap certificate program.—

52 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;  
53 PENALTIES.—The Fish and Wildlife Conservation Commission shall  
54 establish a trap certificate program for the spiny lobster  
55 fishery of this state and shall be responsible for its  
56 administration and enforcement as follows:

57 (c) *Prohibitions; penalties.*—

58 1. ~~It is unlawful for~~ A person may not ~~to~~ possess or use a  
59 spiny lobster trap in or on state waters or adjacent federal  
60 waters without having affixed thereto the trap tag required by  
61 this section. ~~It is unlawful for~~ A person may not ~~to~~ possess or  
62 use any other gear or device designed to attract and enclose or  
63 otherwise aid in the taking of spiny lobster by trapping that is  
64 not a trap as defined by commission rule.

65 2. ~~It is unlawful for~~ A person may not ~~to~~ possess or use  
66 spiny lobster trap tags without having the necessary number of  
67 certificates on record as required by this section.

68 3. A ~~It is unlawful for any person may not~~ ~~to~~ willfully



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69 molest, take possession of, or remove the contents of another  
70 harvester's spiny lobster trap without the express written  
71 consent of the trap owner available for immediate inspection.  
72 Unauthorized possession of another harvester's ~~another's~~ trap  
73 gear or removal of another harvester's trap contents constitutes  
74 theft.

75 a. A commercial harvester who violates this subparagraph  
76 shall be punished under ss. 379.367 and 379.407. A ~~Any~~  
77 commercial harvester receiving a judicial disposition other than  
78 dismissal or acquittal on a charge of theft of or from a trap  
79 pursuant to this subparagraph or s. 379.402 shall, in addition  
80 to the penalties specified in ss. 379.367 and 379.407 and ~~the~~  
81 ~~provisions of~~ this section, permanently lose all of his or her  
82 saltwater fishing privileges, including his or her saltwater  
83 products license, spiny lobster endorsement, and all trap  
84 certificates allotted to him or her through this program. In  
85 such cases, trap certificates and endorsements are  
86 nontransferable.

87 b. A ~~Any~~ commercial harvester receiving a judicial  
88 disposition other than dismissal or acquittal on a charge of  
89 willful molestation of a trap, in addition to the penalties  
90 specified in ss. 379.367 and 379.407, shall lose all of his or  
91 her saltwater fishing privileges for a period of 24 ~~calendar~~  
92 months.

93 c. In addition to any other penalties specified in this  
94 subparagraph, a ~~any~~ commercial harvester charged with violating  
95 this subparagraph and receiving a judicial disposition other  
96 than dismissal or acquittal for violating this subparagraph or  
97 s. 379.402 shall also be assessed an administrative penalty of



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98 up to \$5,000.

99

100 Immediately upon receiving a citation for a violation involving  
101 theft of or from a trap, or molestation of a trap, and until  
102 adjudicated for such a violation or, upon receipt of a judicial  
103 disposition other than dismissal or acquittal of such a  
104 violation, the commercial harvester committing the violation is  
105 prohibited from transferring any of his or her spiny lobster  
106 trap certificates and endorsements.

107 4. In addition to any other penalties provided in s.  
108 379.407, a commercial harvester who violates ~~the provisions of~~  
109 this section or commission rules relating to spiny lobster traps  
110 shall be punished as follows:

111 a. If the first violation is for a violation of  
112 subparagraph 1. or subparagraph 2., the commission shall assess  
113 an additional administrative penalty of up to \$1,000. For all  
114 other first violations, the commission shall assess an  
115 additional administrative penalty of up to \$500.

116 b. For a second violation of subparagraph 1. or  
117 subparagraph 2. that ~~which~~ occurs within 24 months after ~~of~~ any  
118 previous such violation, the commission shall assess an  
119 additional administrative penalty of up to \$2,000, and the spiny  
120 lobster endorsement issued under s. 379.367(2) or (6) may be  
121 suspended for 12 months ~~the remainder of the current license~~  
122 ~~year~~.

123 c. For a third ~~or subsequent~~ violation of subparagraph 1.  
124 ~~or~~ subparagraph 2. that, ~~or subparagraph 3. which~~ occurs within  
125 36 months after ~~of~~ any two previous ~~two~~ such violations, the  
126 commission shall assess an additional administrative penalty of



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127 up to \$5,000, and ~~may suspend~~ the spiny lobster endorsement  
128 issued under s. 379.367(2) or (6) may be suspended for a period  
129 ~~of up to 24 months or may revoke the spiny lobster endorsement~~  
130 ~~and, if revoking the spiny lobster endorsement, may also proceed~~  
131 ~~against the licenseholder's saltwater products license in~~  
132 ~~accordance with the provisions of s. 379.407(2)(h).~~

133 d. A fourth violation that occurs within 48 months after  
134 any three previous such violations shall result in permanent  
135 revocation of all of the violator's saltwater fishing  
136 privileges, including having the commission proceed against the  
137 endorsement holder's saltwater products license in accordance  
138 with s. 379.407.

139 ~~e.d.~~ Within 30 days after notification, a Any person  
140 assessed an additional administrative penalty pursuant to this  
141 section shall ~~within 30 calendar days after notification:~~

142 (I) Pay the administrative penalty to the commission; or

143 (II) Request an administrative hearing pursuant to ~~the~~  
144 ~~provisions of ss. 120.569 and 120.57.~~

145 ~~f.e.~~ The commission shall suspend the spiny lobster  
146 endorsement issued under s. 379.367(2) or (6) if a ~~for any~~  
147 person fails ~~failing~~ to comply with ~~the provisions of sub-~~  
148 subparagraph e. d.

149 5.a. A ~~It is unlawful for any person~~ may not ~~to~~ make,  
150 alter, forge, counterfeit, or reproduce a spiny lobster trap tag  
151 or certificate.

152 b. A ~~It is unlawful for any person~~ may not ~~to~~ knowingly  
153 have in his or her possession a forged, counterfeit, or  
154 imitation spiny lobster trap tag or certificate.

155 c. A ~~It is unlawful for any person~~ may not ~~to~~ barter,





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156 trade, sell, supply, agree to supply, aid in supplying, or give  
157 away a spiny lobster trap tag or certificate or ~~to~~ conspire to  
158 barter, trade, sell, supply, aid in supplying, or give away a  
159 spiny lobster trap tag or certificate unless such action is ~~duly~~  
160 authorized by the commission as provided in this chapter or in  
161 the rules of the commission.

162 6.a. A ~~Any~~ commercial harvester who violates ~~the provisions~~  
163 ~~of~~ subparagraph 5., or a ~~any~~ commercial harvester who engages in  
164 the commercial harvest, trapping, or possession of spiny lobster  
165 without a spiny lobster endorsement as required by s. 379.367(2)  
166 or (6) or during any period while such spiny lobster endorsement  
167 is under suspension or revocation, commits a felony of the third  
168 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
169 775.084.

170 b. In addition to any penalty imposed pursuant to sub-  
171 subparagraph a., the commission shall assess ~~levy~~ a fine of up  
172 to twice the amount of the appropriate surcharge to be paid on  
173 the fair market value of the transferred certificates, as  
174 provided in subparagraph (a)1., on a ~~any~~ commercial harvester  
175 who violates ~~the provisions of~~ sub-subparagraph 5.c.

176 c. In addition to any penalty imposed pursuant to sub-  
177 subparagraph a., a ~~any~~ commercial harvester receiving any  
178 judicial disposition other than acquittal or dismissal for a  
179 violation of subparagraph 5. shall be assessed an administrative  
180 penalty of up to \$5,000, and the spiny lobster endorsement under  
181 which the violation was committed may be suspended for up to 24  
182 ~~calendar~~ months. Immediately upon issuance of a citation  
183 involving a violation of subparagraph 5. and until adjudication  
184 of such a violation, and after receipt of any judicial



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185 disposition other than acquittal or dismissal for such a  
186 violation, the commercial harvester holding the spiny lobster  
187 endorsement listed on the citation is prohibited from  
188 transferring any spiny lobster trap certificates.

189 d. ~~A Any other~~ person who violates ~~the provisions of~~  
190 subparagraph 5. commits a Level Four violation under s. 379.401.

191 7. ~~Before~~ ~~Prior to~~ the 2010-2011 license year, any  
192 certificates for which the annual certificate fee is not paid  
193 for a period of 3 years shall be considered abandoned and shall  
194 revert to the commission. Beginning with the 2010-2011 license  
195 year, any certificate for which the annual certificate fee is  
196 not paid for a period of 2 consecutive years shall be considered  
197 abandoned and shall revert to the commission. During any period  
198 of trap reduction, any certificates reverting to the commission  
199 shall become permanently unavailable and be considered in that  
200 amount to be reduced during the next license-year period.  
201 Otherwise, any certificates that revert to the commission are to  
202 be reallocated in such manner as provided by the commission.

203 8. The proceeds of all administrative penalties collected  
204 pursuant to subparagraph 4. and all fines collected pursuant to  
205 sub-subparagraph 6.b. shall be deposited into the Marine  
206 Resources Conservation Trust Fund.

207 9. All traps shall be removed from the water during any  
208 period of suspension or revocation.

209 10. Except as otherwise provided, a any person who violates  
210 this paragraph commits a Level Two violation under s. 379.401.

211 Section 3. Subsection (5) of section 379.407, Florida  
212 Statutes, is amended to read:

213 379.407 Administration; rules, publications, records;



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214 penalties; injunctions.-

215 (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED  
216 SEASON AND WRUNG TAILS.-

217 (a) It is a major violation under this section for any  
218 person, firm, or corporation to be in possession of spiny  
219 lobster during the closed season or, while on the water, to be  
220 in possession of spiny lobster tails that have been wrung or  
221 separated from the body, unless such possession is allowed by  
222 commission rule. A ~~Any~~ person, firm, or corporation that  
223 violates this paragraph subsection is subject to the following  
224 penalties ~~as follows~~:

225 1.~~(a)~~ A first violation is a misdemeanor of the second  
226 degree, punishable as provided in s. 775.082 or s. 775.083. If  
227 the violation involves 25 or more lobster, the violation is a  
228 misdemeanor of the first degree, punishable as provided in s.  
229 775.082 or s. 775.083.

230 2.~~(b)~~ A second violation is a misdemeanor of the first  
231 degree, punishable as provided in s. 775.082 or s. 775.083, and  
232 such person is subject to a suspension of his or her ~~all~~ license  
233 privileges under this chapter for a period not to exceed 90  
234 days.

235 3.~~(c)~~ A third violation is a misdemeanor of the first  
236 degree, punishable as provided in s. 775.082 or s. 775.083, with  
237 a mandatory minimum term of imprisonment of 6 months, and such  
238 person may be assessed a civil penalty of up to \$2,500 and is  
239 subject to a suspension of all license privileges under this  
240 chapter for a period not to exceed 6 months.

241 4.~~(d)~~ A third violation within 1 year after a second  
242 violation is a felony of the third degree, punishable as



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243 provided in s. 775.082 or s. 775.083, with a mandatory minimum  
244 term of imprisonment of 1 year, and such person shall be  
245 assessed a civil penalty of \$5,000 and all license privileges  
246 under this chapter shall be permanently revoked.

247 5.(e) A fourth or subsequent violation is a felony of the  
248 third degree, punishable as provided in s. 775.082 or s.  
249 775.083, with a mandatory minimum term of imprisonment of 1  
250 year, and such person shall be assessed a civil penalty of  
251 \$5,000 and all license privileges under this chapter shall be  
252 permanently revoked.

253 (b) It is a major violation under this section for a  
254 recreational or commercial harvester to possess an undersized  
255 spiny lobster, unless authorized by commission rule. For  
256 violations of this paragraph involving fewer than 100 undersized  
257 spiny lobsters, each undersized spiny lobster may be charged as  
258 a separate offense under subparagraphs 1. and 2. However, the  
259 total penalties assessed under subparagraphs 1. and 2. for any  
260 one scheme or course of conduct may not exceed 4 years'  
261 imprisonment and a fine of \$4,000 under such subparagraphs. A  
262 person who violates this paragraph is subject to the following  
263 penalties:

264 1. A first violation is a misdemeanor of the second degree,  
265 punishable as provided in s. 775.082 or s. 775.083.

266 2. A second or subsequent violation is a misdemeanor of the  
267 first degree, punishable as provided in s. 775.082 or s.  
268 775.083.

269 3. If a violation involves 100 or more undersized spiny  
270 lobsters, the violation is a felony of the third degree,  
271 punishable as provided in s. 775.082, s. 775.083, or s. 775.084



272 and a mandatory civil fine of at least \$500. In addition, the  
273 commission shall assess the violator with an administrative  
274 penalty of up to \$2,000 and may suspend the violator's license  
275 privileges under this chapter for a period of up to 12 months.

276 Section 4. Paragraph (e) of subsection (3) of section  
277 921.0022, Florida Statutes, is amended to read:

278 921.0022 Criminal Punishment Code; offense severity ranking  
279 chart.—

280 (3) OFFENSE SEVERITY RANKING CHART

281 (e) LEVEL 5

282

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

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287

327.30 (5)

3rd

Vessel accidents  
involving personal  
injury; leaving scene.

379.365 (2) (c) 1.

3rd

Violation of rules  
relating to: willful  
molestation of stone crab  
traps, lines, or buoys;  
illegal bartering,  
trading, or sale,  
conspiring or aiding in  
such barter, trade, or  
sale, or supplying,  
agreeing to supply,  
aiding in supplying, or  
giving away stone crab  
trap tags or  
certificates; making,  
altering, forging,  
counterfeiting, or  
reproducing stone crab  
trap tags; possession of  
forged, counterfeit, or  
imitation stone crab trap  
tags; and engaging in the  
commercial harvest of  
stone crabs while license  
is suspended or revoked.

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289	379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
290	<del>379.3671(2)(c)3.</del>	<del>3rd</del>	<del>Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.</del>
291	<u>379.407 (5) (b) 3.</u>	<u>3rd</u>	<u>Possession of 100 or more undersized spiny lobsters.</u>
292	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
293	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
294	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.



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295	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
296	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
297	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
298	790.01 (2)	3rd	Carrying a concealed firearm.
299	790.162	2nd	Threat to throw or discharge destructive device.
300	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
	790.221 (1)	2nd	Possession of short-





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301			barreled shotgun or machine gun.
	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
302			
	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
303			
	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
304			
	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
305			
	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
306			
	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
307			



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308	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
309	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
310	812.131 (2) (b)	3rd	Robbery by sudden snatching.
311	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
312	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
313	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
314	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.



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817.568 (2) (b) 2nd Fraudulent use of  
personal identification  
information; value of  
benefit, services  
received, payment  
avoided, or amount of  
injury or fraud, \$5,000  
or more or use of  
personal identification  
information of 10 or more  
persons.

315

817.625 (2) (b) 2nd Second or subsequent  
fraudulent use of  
scanning device or  
reencoder.

316

825.1025 (4) 3rd Lewd or lascivious  
exhibition in the  
presence of an elderly  
person or disabled adult.

317

827.071 (4) 2nd Possess with intent to  
promote any photographic  
material, motion picture,  
etc., which includes  
sexual conduct by a  
child.

318



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319	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
320	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
321	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
322	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
323	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a



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324

874.05 (1) (b)

2nd

minor by electronic device or equipment.

Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

325

874.05 (2) (a)

2nd

Encouraging or recruiting person under 13 years of age to join a criminal gang.

326

893.13 (1) (a) 1.

2nd

Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).

327

893.13 (1) (c) 2.

2nd

Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or



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state, county, or  
municipal park or  
publicly owned  
recreational facility or  
community center.

328

893.13(1)(d)1.

1st

Sell, manufacture, or  
deliver cocaine (or other  
s. 893.03(1)(a), (1)(b),  
(1)(d), (2)(a), (2)(b),  
or (2)(c)4. drugs) within  
1,000 feet of university.

329

893.13(1)(e)2.

2nd

Sell, manufacture, or  
deliver cannabis or other  
drug prohibited under s.  
893.03(1)(c), (2)(c)1.,  
(2)(c)2., (2)(c)3.,  
(2)(c)5., (2)(c)6.,  
(2)(c)7., (2)(c)8.,  
(2)(c)9., (3), or (4)  
within 1,000 feet of  
property used for  
religious services or a  
specified business site.

330

893.13(1)(f)1.

1st

Sell, manufacture, or  
deliver cocaine (or other  
s. 893.03(1)(a), (1)(b),



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(1) (d), or (2) (a),  
(2) (b), or (2) (c) 4.  
drugs) within 1,000 feet  
of public housing  
facility.

331

893.13(4) (b)	2nd	Deliver to minor cannabis (or other s. 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
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332

893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
-------------	-----	---

333

334

335 Section 5. This act shall take effect October 1, 2016.

336

337 ===== T I T L E A M E N D M E N T =====

338 And the title is amended as follows:

339 Delete everything before the enacting clause  
340 and insert:

341 A bill to be entitled

342 An act relating to crustaceans; amending s. 379.365,



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343 F.S.; revising the administrative penalties for  
344 violations related to stone crab traps; amending s.  
345 379.3671, F.S.; revising the administrative penalties  
346 for violations related to spiny lobster traps;  
347 amending s. 379.407, F.S.; prohibiting the possession  
348 of undersized spiny lobsters by certain persons;  
349 specifying that each undersized spiny lobster may be  
350 charged as a separate offense of certain violations;  
351 specifying maximum penalties for such violations;  
352 specifying the criminal and administrative penalties  
353 for violations related to undersized spiny lobsters;  
354 amending s. 921.0022, F.S.; revising the offense  
355 severity ranking chart to include certain violations  
356 related to stone crabs and spiny lobsters; providing  
357 an effective date.



By Senator Latvala

20-00795-16

20161470\_\_

1                   A bill to be entitled  
2           An act relating to crustaceans; amending s. 379.365,  
3           F.S.; specifying that for violations related to stone  
4           crab traps which involve fewer than 100 traps, each  
5           untagged trap may be charged as a separate count;  
6           specifying maximum penalties for such violations;  
7           revising the criminal and administrative penalties for  
8           violations related to stone crab traps; amending s.  
9           379.3671, F.S.; specifying that for violations related  
10          to spiny lobster traps involving fewer than 100 traps,  
11          each untagged trap or unlawful trap tag may be charged  
12          as a separate count; specifying maximum penalties for  
13          such violations; revising the criminal and  
14          administrative penalties for violations related to  
15          spiny lobster traps; amending s. 379.407, F.S.;  
16          prohibiting certain persons from being in the  
17          possession of undersized spiny lobsters; specifying  
18          that for violations related to undersized spiny  
19          lobsters in which fewer than 100 lobsters are  
20          involved, each undersized lobster may be charged as a  
21          separate count; specifying maximum penalties for such  
22          violations; specifying the criminal and administrative  
23          penalties for violations related to undersized spiny  
24          lobsters; amending s. 921.0022, F.S.; revising the  
25          offense severity ranking chart to include certain  
26          violations related to stone crabs and spiny lobsters;  
27          providing an effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:

30  
31           Section 1. Paragraph (a) of subsection (2) of section  
32   379.365, Florida Statutes, is amended to read:

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33 379.365 Stone crab; regulation.—

34 (2) PENALTIES.—For purposes of this subsection, conviction  
35 is any disposition other than acquittal or dismissal, regardless  
36 of whether the violation was adjudicated under any state or  
37 federal law.

38 (a) It is unlawful to violate commission rules regulating  
39 stone crab trap certificates and trap tags. No person may use an  
40 expired tag or a stone crab trap tag not issued by the  
41 commission or possess or use a stone crab trap in or on state  
42 waters or adjacent federal waters without having a trap tag  
43 required by the commission firmly attached thereto. For  
44 violations involving fewer than 100 stone crab traps, each  
45 untagged trap may be charged as a separate misdemeanor count  
46 under sub-subparagraphs 1.a.-1.d. However, the total misdemeanor  
47 penalty for any one scheme or course of conduct may not exceed 4  
48 years' imprisonment and a civil fine of \$4,000 under such  
49 subparagraphs.

50 1. In addition to any other penalties provided in s.  
51 379.407, for any commercial harvester who violates this  
52 paragraph, the following ~~administrative~~ penalties apply:—

53 a. ~~For~~ A first violation is a misdemeanor of the second  
54 degree, punishable as provided in s. 775.082 or s. 775.083. In  
55 addition, the commission shall impose ~~,the commission shall~~  
56 ~~assess~~ an administrative penalty of up to \$1,000 on the  
57 violator.

58 b. ~~For~~ A second violation is a misdemeanor of the first  
59 degree, punishable as provided in s. 775.082 or s. 775.083. In  
60 addition, the commission shall impose ~~that occurs within 24~~  
61 ~~months of any previous such violation, the commission shall~~

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62 ~~assess~~ an administrative penalty of up to \$2,000 on the violator  
63 and shall suspend all of the violator's license privileges under  
64 this chapter and the stone crab endorsement under which the  
65 ~~violation was committed~~ may be suspended for a period of up to  
66 12 calendar months.

67 c. ~~For~~ A third or subsequent violation is a misdemeanor of  
68 the first degree, punishable as provided in s. 775.082 or s.  
69 775.083. In addition, the commission shall impose that occurs  
70 ~~within 36 months of any previous two such violations, the~~  
71 ~~commission shall assess~~ an administrative penalty of up to  
72 \$5,000 on the violator and shall suspend all of the violator's  
73 license privileges under this chapter and the stone crab  
74 ~~endorsement under which the violation was committed~~ may be  
75 suspended for a period of up to 24 calendar months.

76 d. A fourth violation that occurs within 48 months of any  
77 three previous such violations, shall be punished by shall  
78 ~~result in~~ permanent revocation of all of the violator's license  
79 privileges under this chapter saltwater fishing privileges,  
80 ~~including having the commission proceed against the endorsement~~  
81 ~~holder's saltwater products license in accordance with s.~~  
82 ~~379.407.~~

83 e. Any violation involving 100 or more untagged stone crab  
84 traps is a felony of the third degree, punishable as provided in  
85 s. 775.082, s. 775.083, or s. 775.084 and a mandatory civil fine  
86 of at least \$500. In addition, the commission shall impose an  
87 administrative penalty of up to \$2,000 against the violator and  
88 may suspend the violator's license privileges under this chapter  
89 for a period of up to 12 months. The administrative penalty and  
90 suspension may be assessed in addition to the penalties

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91 specified in sub-subparagraphs a.-d.

92 2. Any other person who violates ~~the provisions~~ of this  
93 paragraph commits a Level Two violation under s. 379.401.

94  
95 Within 30 days after notification, a ~~Any~~ commercial harvester  
96 assessed an administrative penalty under this paragraph shall,  
97 ~~within 30 calendar days after notification,~~ pay the

98 administrative penalty to the commission, or request an  
99 administrative hearing under ss. 120.569 and 120.57. The  
100 proceeds of ~~all~~ administrative penalties collected under this  
101 paragraph shall be deposited in the Marine Resources  
102 Conservation Trust Fund.

103 Section 2. Paragraph (c) of subsection (2) of section  
104 379.3671, Florida Statutes, is amended to read:

105 379.3671 Spiny lobster trap certificate program.—

106 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;  
107 PENALTIES.—The Fish and Wildlife Conservation Commission shall  
108 establish a trap certificate program for the spiny lobster  
109 fishery of this state and shall be responsible for its  
110 administration and enforcement as follows:

111 (c) *Prohibitions; penalties.*—

112 1. It is unlawful for a person to possess or use a spiny  
113 lobster trap in or on state waters or adjacent federal waters  
114 without having affixed thereto the trap tag required by this  
115 section. It is unlawful for a person to possess or use any other  
116 gear or device designed to attract and enclose or otherwise aid  
117 in the taking of spiny lobster by trapping that is not a trap as  
118 defined by commission rule. For violations involving fewer than  
119 100 spiny lobster traps, each untagged trap may be charged as a

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120 separate misdemeanor count. However the total misdemeanor  
121 penalty for any one scheme or course of conduct may not exceed 4  
122 years' imprisonment and a civil fine of \$4,000.

123 2. It is unlawful for a person to possess or use spiny  
124 lobster trap tags without having the necessary number of  
125 certificates on record as required by this section. For  
126 violations involving fewer than 100 spiny lobster trap tags,  
127 each unlawful trap tag may be charged as a separate misdemeanor  
128 count. However, the total misdemeanor penalty for any one scheme  
129 or course of conduct may not exceed 4 years' imprisonment and a  
130 civil fine of \$4,000.

131 3. It is unlawful for any person to willfully molest, take  
132 possession of, or remove the contents of another harvester's  
133 spiny lobster trap without the express written consent of the  
134 trap owner available for immediate inspection. Unauthorized  
135 possession of another's trap gear or removal of trap contents  
136 constitutes theft.

137 a. A commercial harvester who violates this subparagraph  
138 shall be punished under ss. 379.367 and 379.407. Any commercial  
139 harvester receiving a judicial disposition other than dismissal  
140 or acquittal on a charge of theft of or from a trap pursuant to  
141 this subparagraph or s. 379.402 shall, in addition to the  
142 penalties specified in ss. 379.367 and 379.407 and the  
143 provisions of this section, permanently lose all his or her  
144 saltwater fishing privileges, including his or her saltwater  
145 products license, spiny lobster endorsement, and all trap  
146 certificates allotted to him or her through this program. In  
147 such cases, trap certificates and endorsements are  
148 nontransferable.

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149           b. Any commercial harvester receiving a judicial  
150 disposition other than dismissal or acquittal on a charge of  
151 willful molestation of a trap, in addition to the penalties  
152 specified in ss. 379.367 and 379.407, shall lose all saltwater  
153 fishing privileges for a period of 24 ~~calendar~~ months.

154           c. In addition, any commercial harvester charged with  
155 violating this subparagraph and receiving a judicial disposition  
156 other than dismissal or acquittal for violating this  
157 subparagraph or s. 379.402 shall also be assessed an  
158 administrative penalty of up to \$5,000.

159  
160 Immediately upon receiving a citation for a violation involving  
161 theft of or from a trap, or molestation of a trap, and until  
162 adjudicated for such a violation or, upon receipt of a judicial  
163 disposition other than dismissal or acquittal of such a  
164 violation, the commercial harvester committing the violation is  
165 prohibited from transferring any spiny lobster trap certificates  
166 and endorsements.

167           4. In addition to any other penalties provided in s.  
168 379.407, a commercial harvester who violates the provisions of  
169 this section or commission rules relating to spiny lobster traps  
170 shall be punished as follows:

171           a. A ~~If the~~ first violation is a misdemeanor of the second  
172 degree, punishable as provided in s. 775.082 or s. 775.083. In  
173 addition, the commission shall impose an ~~is for violation of~~  
174 ~~subparagraph 1. or subparagraph 2., the commission shall assess~~  
175 ~~an additional~~ administrative penalty of up to \$1,000 on the  
176 violator. ~~For all other first violations, the commission shall~~  
177 ~~assess an additional administrative penalty of up to \$500.~~

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178           b. ~~For~~ A second violation is a misdemeanor of the first  
179 degree, punishable as provided in s. 775.082 or s. 775.083. In  
180 addition, the commission shall impose an ~~of~~ subparagraph 1. ~~or~~  
181 subparagraph 2. which occurs within 24 months of any previous  
182 such violation, the commission shall assess an additional  
183 administrative penalty of up to \$2,000 on the violator and shall  
184 suspend the violator's license privileges under this chapter for  
185 a period of up to 12 months and the spiny lobster endorsement  
186 issued under s. 379.367(2) or (6) may be suspended for the  
187 remainder of the current license year.

188           c. ~~For~~ A third or subsequent violation is a misdemeanor of  
189 the first degree, punishable as provided in s. 775.082 or s.  
190 775.083. In addition, the commission shall impose an ~~of~~  
191 subparagraph 1., subparagraph 2., or subparagraph 3. which  
192 occurs within 36 months of any previous two such violations, the  
193 commission shall assess an additional administrative penalty of  
194 up to \$5,000 on the violator and shall suspend the violator's  
195 license privileges under this chapter and may suspend the spiny  
196 lobster endorsement issued under s. 379.367(2) or (6) for a  
197 period of up to 24 months or may revoke the spiny lobster  
198 endorsement issued under s. 379.367(2) or (6) and, if revoking  
199 the spiny lobster endorsement, may also proceed against the  
200 licenseholder's saltwater products license in accordance with  
201 the provisions of s. 379.407(2)(h).

202           d. A violation that involves 100 or more untagged spiny  
203 lobster traps or unlawful trap tags is a felony of the third  
204 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
205 775.084 and by a mandatory civil fine of at least \$500. In  
206 addition, the commission shall impose an administrative penalty

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207 of up to \$2,000 on the violator and may suspend the violator's  
208 license privileges under this chapter for an additional period  
209 of up to 12 months.

210 e.d. Within 30 days after notification, a ~~Any~~ person  
211 assessed an additional administrative penalty pursuant to this  
212 section shall ~~within 30 calendar days after notification:~~

213 (I) Pay the administrative penalty to the commission; or

214 (II) Request an administrative hearing pursuant to the  
215 provisions of ss. 120.569 and 120.57.

216 f.e. The commission shall suspend the spiny lobster  
217 endorsement issued under s. 379.367(2) or (6) of ~~for~~ any person  
218 failing to comply with ~~the provisions of~~ sub-subparagraph e. d.

219 5.a. It is unlawful for any person to make, alter, forge,  
220 counterfeit, or reproduce a spiny lobster trap tag or  
221 certificate.

222 b. It is unlawful for any person to knowingly have in his  
223 or her possession a forged, counterfeit, or imitation spiny  
224 lobster trap tag or certificate.

225 c. It is unlawful for any person to barter, trade, sell,  
226 supply, agree to supply, aid in supplying, or give away a spiny  
227 lobster trap tag or certificate or to conspire to barter, trade,  
228 sell, supply, aid in supplying, or give away a spiny lobster  
229 trap tag or certificate unless such action is duly authorized by  
230 the commission as provided in this chapter or in the rules of  
231 the commission.

232 6.a. Any commercial harvester who violates the provisions  
233 of subparagraph 5., or any commercial harvester who engages in  
234 the commercial harvest, trapping, or possession of spiny lobster  
235 without a spiny lobster endorsement as required by s. 379.367(2)



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236 or (6) or during any period while such spiny lobster endorsement  
237 is under suspension or revocation, commits a felony of the third  
238 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
239 775.084.

240 b. In addition to any penalty imposed pursuant to sub-  
241 subparagraph a., the commission shall levy a fine of up to twice  
242 the amount of the appropriate surcharge to be paid on the fair  
243 market value of the transferred certificates, as provided in  
244 subparagraph (a)1., on any commercial harvester who violates the  
245 provisions of sub-subparagraph 5.c.

246 c. In addition to any penalty imposed pursuant to sub-  
247 subparagraph a., any commercial harvester receiving any judicial  
248 disposition other than acquittal or dismissal for a violation of  
249 subparagraph 5. shall be assessed an administrative penalty of  
250 up to \$5,000, and the spiny lobster endorsement under which the  
251 violation was committed may be suspended for up to 24 ~~calendar~~  
252 months. Immediately upon issuance of a citation involving a  
253 violation of subparagraph 5. and until adjudication of such a  
254 violation, and after receipt of any judicial disposition other  
255 than acquittal or dismissal for such a violation, the commercial  
256 harvester holding the spiny lobster endorsement listed on the  
257 citation is prohibited from transferring any spiny lobster trap  
258 certificates.

259 d. Any other person who violates the provisions of  
260 subparagraph 5. commits a Level Four violation under s. 379.401.

261 7. Prior to the 2010-2011 license year, any certificates  
262 for which the annual certificate fee is not paid for a period of  
263 3 years shall be considered abandoned and shall revert to the  
264 commission. Beginning with the 2010-2011 license year, any

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265 certificate for which the annual certificate fee is not paid for  
266 a period of 2 consecutive years shall be considered abandoned  
267 and shall revert to the commission. During any period of trap  
268 reduction, any certificates reverting to the commission shall  
269 become permanently unavailable and be considered in that amount  
270 to be reduced during the next license-year period. Otherwise,  
271 any certificates that revert to the commission are to be  
272 reallocated in such manner as provided by the commission.

273 8. The proceeds of all administrative penalties collected  
274 pursuant to subparagraph 4. and all fines collected pursuant to  
275 sub-subparagraph 6.b. shall be deposited into the Marine  
276 Resources Conservation Trust Fund.

277 9. All traps shall be removed from the water during any  
278 period of suspension or revocation.

279 10. Except as otherwise provided, any person who violates  
280 this paragraph commits a Level Two violation under s. 379.401.

281 Section 3. Subsection (5) of section 379.407, Florida  
282 Statutes, is amended to read:

283 379.407 Administration; rules, publications, records;  
284 penalties; injunctions.—

285 (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED  
286 SEASON AND WRUNG TAILS.—

287 (a) It is a major violation under this section for any  
288 person, firm, or corporation to be in possession of spiny  
289 lobster during the closed season or, while on the water, to be  
290 in possession of spiny lobster tails that have been wrung or  
291 separated from the body, unless such possession is allowed by  
292 commission rule. Any person, firm, or corporation that violates  
293 this paragraph ~~subsection~~ is subject to penalties as follows:

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294       ~~1.(a)~~ A first violation is a misdemeanor of the second  
295 degree, punishable as provided in s. 775.082 or s. 775.083. If  
296 the violation involves 25 or more lobster, the violation is a  
297 misdemeanor of the first degree, punishable as provided in s.  
298 775.082 or s. 775.083.

299       ~~2.(b)~~ A second violation is a misdemeanor of the first  
300 degree, punishable as provided in s. 775.082 or s. 775.083, and  
301 such person is subject to a suspension of his or her ~~all~~ license  
302 privileges under this chapter for a period not to exceed 90  
303 days.

304       ~~3.(c)~~ A third violation is a misdemeanor of the first  
305 degree, punishable as provided in s. 775.082 or s. 775.083, with  
306 a mandatory minimum term of imprisonment of 6 months, and such  
307 person may be assessed a civil penalty of up to \$2,500 and is  
308 subject to a suspension of all license privileges under this  
309 chapter for a period not to exceed 6 months.

310       ~~4.(d)~~ A third violation within 1 year after a second  
311 violation is a felony of the third degree, punishable as  
312 provided in s. 775.082 or s. 775.083, with a mandatory minimum  
313 term of imprisonment of 1 year, and such person shall be  
314 assessed a civil penalty of \$5,000 and all license privileges  
315 under this chapter shall be permanently revoked.

316       ~~5.(e)~~ A fourth or subsequent violation is a felony of the  
317 third degree, punishable as provided in s. 775.082 or s.  
318 775.083, with a mandatory minimum term of imprisonment of 1  
319 year, and such person shall be assessed a civil penalty of  
320 \$5,000 and all license privileges under this chapter shall be  
321 permanently revoked.

322       (b) It is a major violation under this section for a

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323 recreational or commercial harvester to be in possession of an  
 324 undersized spiny lobster, unless authorized to do so by  
 325 commission rule. For violations of this paragraph involving  
 326 fewer than 100 lobsters, each undersized spiny lobster may be  
 327 charged as a separate misdemeanor count under subparagraphs 1.  
 328 and 2. However, the total misdemeanor penalty for any one scheme  
 329 or course of conduct may not exceed 4 years' imprisonment and a  
 330 civil fine of \$4,000 under such subparagraphs. Any person that  
 331 violates this paragraph is subject to the following penalties:

332 1. A first violation is a misdemeanor of the second degree,  
 333 punishable as provided in s. 775.082 or s. 775.083.

334 2. A second violation is a misdemeanor of the first degree,  
 335 punishable as provided in s. 775.082 or s. 775.083.

336 3. If a violation involves more than 100 spiny lobsters,  
 337 the violation is a felony of the third degree, punishable as  
 338 provided in s. 775.082, s. 775.083, or s. 775.084 and a  
 339 mandatory civil fine of at least \$500. In addition, the  
 340 commission shall assess the violator with an administrative  
 341 penalty of up to \$2,000 and may suspend the violator's license  
 342 privileges under this chapter for a period of up to 12 months.

343 Section 4. Paragraph (e) of subsection (3) of section  
 344 921.0022, Florida Statutes, is amended to read:

345 921.0022 Criminal Punishment Code; offense severity ranking  
 346 chart.—

347 (3) OFFENSE SEVERITY RANKING CHART

348 (e) LEVEL 5

349

Florida	Felony	
Statute	Degree	Description

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350  
351  
352  
353  
354  
355  
356

316.027 (2) (a)

3rd

Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.

316.1935 (4) (a)

2nd

Aggravated fleeing or eluding.

322.34 (6)

3rd

Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

327.30 (5)

3rd

Vessel accidents involving personal injury; leaving scene.

379.365  
(2) (a) 1.e.

3rd

Possession or use of more than 100 untagged stone crab traps.

379.365 (2) (b)

3rd

Possession or removal of the contents of another harvester's stone crab trap.

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379.365

3rd

Violation of rules relating to molestation of stone crab traps, lines, or buoys; or rules relating to stone crab trap tags.

(2) (c) 1.

357

379.367 (4)

3rd

Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

358

379.3671

3rd

Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.

(2) (c) 3.

359

379.3671

3rd

Possession or use of more than 100 untagged spiny lobster traps or unlawful trap tags.

(2) (c) 4.d.

360

379.407

3rd

Possession of more than 100 undersized spiny lobsters.

(5) (b) 3.

361

381.0041 (11) (b)

3rd

Donate blood, plasma, or

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organs knowing HIV  
positive.

362

440.10(1)(g)

2nd

Failure to obtain  
workers' compensation  
coverage.

363

440.105(5)

2nd

Unlawful solicitation  
for the purpose of  
making workers'  
compensation claims.

364

440.381(2)

2nd

Submission of false,  
misleading, or  
incomplete information  
with the purpose of  
avoiding or reducing  
workers' compensation  
premiums.

365

624.401(4)(b)2.

2nd

Transacting insurance  
without a certificate or  
authority; premium  
collected \$20,000 or  
more but less than  
\$100,000.

366

626.902(1)(c)

2nd

Representing an  
unauthorized insurer;

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repeat offender.

367

790.01 (2)

3rd

Carrying a concealed  
firearm.

368

790.162

2nd

Threat to throw or  
discharge destructive  
device.

369

790.163 (1)

2nd

False report of deadly  
explosive or weapon of  
mass destruction.

370

790.221 (1)

2nd

Possession of short-  
barreled shotgun or  
machine gun.

371

790.23

2nd

Felons in possession of  
firearms, ammunition, or  
electronic weapons or  
devices.

372

796.05 (1)

2nd

Live on earnings of a  
prostitute; 1st offense.

373

800.04 (6) (c)

3rd

Lewd or lascivious  
conduct; offender less  
than 18 years of age.

374



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375	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
376	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
377	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
378	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
379	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
380	812.131 (2) (b)	3rd	Robbery by sudden snatching.
381	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
	817.034 (4) (a) 2.	2nd	Communications fraud,

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value \$20,000 to  
\$50,000.

382

817.234 (11) (b)

2nd

Insurance fraud;  
property value \$20,000  
or more but less than  
\$100,000.

383

817.2341 (1),  
(2) (a) & (3) (a)

3rd

Filing false financial  
statements, making false  
entries of material fact  
or false statements  
regarding property  
values relating to the  
solvency of an insuring  
entity.

384

817.568 (2) (b)

2nd

Fraudulent use of  
personal identification  
information; value of  
benefit, services  
received, payment  
avoided, or amount of  
injury or fraud, \$5,000  
or more or use of  
personal identification  
information of 10 or  
more persons.

385

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386 817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device or reencoder.

387 825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

388 827.071 (4) 2nd Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

389 827.071 (5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

839.13 (2) (b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great

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bodily harm or death.

390

843.01

3rd

Resist officer with violence to person; resist arrest with violence.

391

847.0135 (5) (b)

2nd

Lewd or lascivious exhibition using computer; offender 18 years or older.

392

847.0137  
(2) & (3)

3rd

Transmission of pornography by electronic device or equipment.

393

847.0138  
(2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

394

874.05 (1) (b)

2nd

Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

395

874.05 (2) (a)

2nd

Encouraging or

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recruiting person under  
13 years of age to join  
a criminal gang.

396

893.13(1)(a)1.

2nd

Sell, manufacture, or  
deliver cocaine (or  
other s. 893.03(1)(a),  
(1)(b), (1)(d), (2)(a),  
(2)(b), or (2)(c)4.  
drugs).

397

893.13(1)(c)2.

2nd

Sell, manufacture, or  
deliver cannabis (or  
other s. 893.03(1)(c),  
(2)(c)1., (2)(c)2.,  
(2)(c)3., (2)(c)5.,  
(2)(c)6., (2)(c)7.,  
(2)(c)8., (2)(c)9., (3),  
or (4) drugs) within  
1,000 feet of a child  
care facility, school,  
or state, county, or  
municipal park or  
publicly owned  
recreational facility or  
community center.

398

893.13(1)(d)1.

1st

Sell, manufacture, or  
deliver cocaine (or

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other s. 893.03(1)(a),  
 (1)(b), (1)(d), (2)(a),  
 (2)(b), or (2)(c)4.  
 drugs) within 1,000 feet  
 of university.

399

893.13(1)(e)2.

2nd

Sell, manufacture, or  
 deliver cannabis or  
 other drug prohibited  
 under s. 893.03(1)(c),  
 (2)(c)1., (2)(c)2.,  
 (2)(c)3., (2)(c)5.,  
 (2)(c)6., (2)(c)7.,  
 (2)(c)8., (2)(c)9., (3),  
 or (4) within 1,000 feet  
 of property used for  
 religious services or a  
 specified business site.

400

893.13(1)(f)1.

1st

Sell, manufacture, or  
 deliver cocaine (or  
 other s. 893.03(1)(a),  
 (1)(b), (1)(d), or  
 (2)(a), (2)(b), or  
 (2)(c)4. drugs) within  
 1,000 feet of public  
 housing facility.

401

893.13(4)(b)

2nd

Deliver to minor

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cannabis (or other s.  
893.03(1)(c), (2)(c)1.,  
(2)(c)2., (2)(c)3.,  
(2)(c)5., (2)(c)6.,  
(2)(c)7., (2)(c)8.,  
(2)(c)9., (3), or (4)  
drugs).

402

893.1351(1)

3rd

Ownership, lease, or  
rental for trafficking  
in or manufacturing of  
controlled substance.

403

404

405

Section 5. This act shall take effect October 1, 2016.

**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: CS/SB 1192

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Hays

SUBJECT: Waste Management

DATE: February 10, 2016      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Rogers	EP	<b>Fav/CS</b>
2.			AGG	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1192:

- Precludes a local government from preventing a private company from listing separately on the company's invoice for solids waste collection, disposal, or recycling any governmental taxes or fees;
- Amends provisions regulating local government competition with solid waste collection companies to include disposal and recycling;
- Authorizes private entities to sue for an injunction against the State of Florida if the State is in competition with private companies providing solid waste collection, disposal, or recycling services.
- Amends the definitions of "displacement," "in competition," and "in direct competition" to include disposal and recycling services when used in relation to provisions regulating local government competition with solid waste collection, disposal, and recycling companies;
- Creates the crime of theft of recyclable property:
  - Defines "recyclable property";
  - Defines "theft" as it relates to recyclable property;
  - Provides for punishment of theft of recyclable property;
  - Provides for civil penalties for violations, provides a standard of proof, and provides for minimum damages.

The bill is effective July 1, 2016.



## II. Present Situation:

### Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.<sup>1</sup> Those counties operating under a county charter have all powers of self-government not inconsistent with general law, or special law approved by the vote of the electors.<sup>2</sup> Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.<sup>3</sup>

The Florida Constitution preempts all forms of taxation, except for ad valorem taxes on real estate and tangible personal property, to the state unless otherwise provided by general law.<sup>4</sup> Local governments may levy special assessments or fees under their home rule authority. Many governments levy franchise fees on waste collection companies in exchange for the right to be the sole provider to a specific service area.<sup>5</sup> Others may levy special assessments on the property owner to ensure service for that area.<sup>6</sup>

Current law enumerates the powers and duties of all county governments, unless preempted on a particular subject by general or special law.<sup>7</sup> Those powers include the provision of fire protection, ambulance services, parks and recreation, libraries, museums and other cultural facilities, waste and sewage collection and disposal, and water and alternative water supplies. Municipalities are afforded broad home rule powers except: annexation, merger, exercise of extraterritorial power, and subjects prohibited by the federal, state, or county constitutions or law.<sup>8</sup>

### Solid Waste

Counties are granted the power to provide and regulate waste and sewage collection and disposal.<sup>9</sup> Counties are also allowed to require that any person within the county demonstrate the existence of some arrangement or contract by which such person will dispose of solid waste in a manner consistent with county ordinance or state or federal law.<sup>10</sup> Counties have the power and authority to adopt ordinances governing the disposal of solid waste generated outside the county

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<sup>1</sup> FLA. CONST. art VIII, s. 1(f).

<sup>2</sup> FLA. CONST. art VIII, s. 1(g).

<sup>3</sup> FLA. CONST. art VIII, s. 2(b). *See also* s. 166.021(1), F.S.

<sup>4</sup> FLA. CONST. art VII, s. 1(a).

<sup>5</sup> *See, e.g.*, City of Tampa, Resolution No. 2012-309.

<sup>6</sup> *See, e.g.*, Orange County Code of Ordinances, Article IV, s. 32-157 (providing that all property entitled to full waste collection services shall be subject to special assessments).

<sup>7</sup> Section 125.01, F.S.

<sup>8</sup> Section 166.021, F.S.

<sup>9</sup> Section 125.01(1)(k)1., F.S.

<sup>10</sup> Section 125.01(1)(k)2., F.S.

at the county's solid waste disposal facility.<sup>11</sup> Counties and municipalities are expressly prohibited from discriminating against privately owned solid waste management facilities.<sup>12</sup>

The DEP is responsible for implementing and enforcing the solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.<sup>13</sup> The program is required to include procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.<sup>14</sup>

Counties are responsible for operating solid waste disposal facilities, which are permitted through the DEP, in order to meet the needs of the incorporated and unincorporated areas of the county.<sup>15</sup> Each county must ensure that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means.<sup>16</sup> In providing services or programs for solid waste management, local governments and state agencies are encouraged to use the most cost-effective means for providing services and are encouraged to contract with private entities for any or all such services or programs to assure that those services are provided on the most cost-effective basis.<sup>17</sup>

### ***Recycled and Recovered Materials***

Economically recovering material and energy resources from solid waste can eliminate unnecessary waste and slow the depletion of natural resources.<sup>18</sup> The Legislature has declared that the maximum recycling and reuse of resources are considered high-priority goals of the state.<sup>19</sup> In 2014, 12,684,860 tons of municipal solid waste was recycled in Florida.<sup>20</sup> Section 403.7032(2), F.S. provides that by the year 2020, the long-term goal for the recycling efforts of state and local governmental entities, private companies and organizations, and the general public is to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in waste management facilities, landfills, or incineration facilities.

### **Competition with Private Companies**

Section 403.70605, F.S., was created in 2000<sup>21</sup> to require local governments that provide solid waste management services to be subject to the same requirements as private industry and to

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<sup>11</sup> Section 403.706(1), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> *See s.* 403.705, F.S.

<sup>14</sup> Section 403.705(2)(a), F.S.

<sup>15</sup> Section 403.706(1), F.S.

<sup>16</sup> Section 403.706(3), F.S.

<sup>17</sup> Section 403.7063, F.S.

<sup>18</sup> Section 403.7032, F.S.

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

<sup>20</sup> DEP, *Solid Waste Management in Florida 2014 Annual Report: Florida Municipal Solid Waste Collected and Recycled (2014)*, available at [ftp://ftp.dep.state.fl.us/pub/reports/Recycling/Reports/2014AnnualReport/MSW-Composition\\_2014.pdf](ftp://ftp.dep.state.fl.us/pub/reports/Recycling/Reports/2014AnnualReport/MSW-Composition_2014.pdf) (last visited Feb. 1, 2016).

<sup>21</sup> Ch. 00-304, s. 1, Laws of Fla.

impose requirements on local governments providing services out of their jurisdictions.<sup>22</sup> In 2000, a concern of private waste management companies involved cities and counties that allowed government solid waste departments to compete with private sector companies for specific contracts. Private companies were concerned that in instances where the companies were competing for services, public entities were able to subsidize their costs with funds from other city operations, allowing them to unfairly compete for contracts.<sup>23</sup>

Section 403.70605(1)(a), F.S., states that a local government that provides specific solid waste collection services in direct competition with a private company:

- Shall comply with the provisions of local environmental, health, and safety standards that also are applicable to a private company providing such collection services in competition with the local government; and
- Shall not enact or enforce any license, permit, registration procedure, or associated fee that:
  - Does not apply to the local government and for which there is not a substantially similar requirement that applies to the local government; and
  - Provides the local government with a material advantage in its ability to compete with a private company in terms of cost or ability to promptly or efficiently provide such collection services. This does not apply to any zoning, land use, or comprehensive plan requirement.

Section 403.70605(1)(b), F.S., authorizes a private company with which a local government is in competition may bring an action to enjoin violations of these requirements against any local government. However, injunctive relief will not be granted if the official action that forms the basis of the suit forms a reasonable relationship to the health, safety, or welfare of the citizens of the local government unless the court finds that the actual or potential anticompetitive effects outweigh the public benefits of the challenged action. This paragraph also sets forth requirements for the complaining party to notify the local government of the violation prior to commencement of the suit.

## Theft

Section 812.014, F.S., defines and categorizes thefts into misdemeanor or felony criminal violations. Whether a theft is a misdemeanor or a felony generally depends upon the value of the property taken by the defendant, the defendant's history of theft convictions or, in some cases, the type of property taken. A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.<sup>24</sup>

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<sup>22</sup> CS/HB 1425 Staff Analysis, (May 12, 2000), available at <http://archive.flsenate.gov/data/session/2000/House/bills/analysis/pdf/HB1425S1Z.CA.pdf> (last visited Jan. 28, 2016).

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

<sup>24</sup> Section 812.014(1), F.S.

Second degree petit theft, a second degree misdemeanor,<sup>25</sup> is theft of property valued at less than \$100.<sup>26</sup> First degree petit theft, a first degree misdemeanor,<sup>27</sup> is theft of property valued at \$100 or more but less than \$300.<sup>28</sup> Petit theft incurs greater penalties if there is a prior theft conviction: a first degree misdemeanor if there is a prior conviction,<sup>29</sup> and a third degree felony<sup>30</sup> if there are two or more prior convictions.<sup>31</sup>

Third degree grand theft, a third degree felony, is: theft of property valued at \$300 or more but less than \$20,000; or theft of specified property (e.g., a firearm or fire extinguisher).<sup>32</sup> Theft of property from a dwelling or its unenclosed curtilage is third degree grand theft, a third degree felony, if the property is valued at \$100 or more, but less than \$300.<sup>33</sup>

Second degree grand theft, a second degree felony,<sup>34</sup> is theft of:

- Property valued at \$20,000 or more but less than \$100,000;
- Cargo valued at less than \$50,000 in specified circumstances; or
- Emergency medical equipment or law enforcement equipment valued at \$300 or more in specified circumstances.<sup>35</sup>

First degree grand theft, a first degree felony,<sup>36</sup> is:

- Theft of property valued at \$100,000 or more;
- Theft of a semitrailer deployed by a law enforcement officer;
- Theft of cargo valued at \$50,000 or more in specified circumstances; or
- Grand theft and, in the course of committing the offense, a motor vehicle is used as specified or the offender causes damage to the real or personal property of another in excess of \$1,000.<sup>37</sup>

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<sup>25</sup> A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

<sup>26</sup> Section 812.014(3)(a), F.S.

<sup>27</sup> A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>28</sup> Section 812.014(2)(e), F.S.

<sup>29</sup> Section 812.014(3)(b), F.S.

<sup>30</sup> A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S. However, if the third degree felony is not a forcible felony (excluding a third degree felony under ch. 810, F.S.) and total sentence points are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction unless the court makes written findings that a nonstate prison sanction could present a danger to the public. Section 775.082(10), F.S.

<sup>31</sup> Section 812.014(3)(c), F.S.

<sup>32</sup> Section 812.014(2)(c), F.S.

<sup>33</sup> Section 812.014(3)(d), F.S.

<sup>34</sup> A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

<sup>35</sup> Section 812.014(2)(b), F.S. However, this theft is reclassified from a second degree felony to a first degree felony if the theft occurs within a county subject to a state of emergency declared by the Governor, is committed after the declaration is made, and is facilitated by conditions arising from the emergency. *Id.*

<sup>36</sup> A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

<sup>37</sup> Section 812.014(2)(a), F.S.

### **Civil Remedy for Theft**

Section 772.11(1), F.S., provides that any person who proves by clear and convincing evidence that he or she has been injured in any fashion by reason of any violation of statutes concerning theft or exploitation of an elderly person or disabled adult is entitled to three times the actual damages sustained and, in any such action, is entitled to minimum damages of \$200 and reasonable attorney's fees and court costs in the trial and appellate courts.

Before a person may file an action for damages, the person claiming to be injured must make a written demand for \$200 or the treble damage amount of the person liable for the damages. If the person liable for damages complies with the demand within 30 days after the receipt of the demand, that person is released from further civil liability for the act of theft or exploitation by the person making the demand. The section provides that a defendant may recovery reasonable attorney's fees and court costs in the trial and appellate courts if the claim raised was without substantial fact or legal support.<sup>38</sup>

#### ***Clear and Convincing Standard***

The clear and convincing standard of evidence requires that the evidence must be found to be credible, the facts to which the witnesses testify must be distinctly remembered, the testimony must be precise and explicit, and the witnesses must be lacking in confusion as to the facts at issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.<sup>39</sup>

### **III. Effect of Proposed Changes:**

**Section 1** creates s. 403.70491, F.S., to preclude a local government from preventing a private company from listing separately on the company's invoice for solid waste collection, disposal, or recycling any governmental taxes or fees, including any franchise fees.

**Section 2** amends s. 403.70605, F.S., to expand the scope of the statute, which currently applies only to solid waste collection, to include solid waste disposal and recycling services.

The bill includes state agencies as entities that private companies may bring action against to enjoin a violation of provisions subjecting local governments providing solid waste, disposal, or recycling services to the same requirements as private industry.

The bill amends the terms "in competition" and "in direct competition" and "private company" as applied to s. 403.70605(1), F.S., to include disposal and recycling services.

The resulting definition of "in competition" or "in direct competition," as used in s. 403.70605(1), F.S., is, "the vying between a local government and a private company to provide substantially similar solid waste collection, disposal, or recycling services to the same customer."

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<sup>38</sup> Section 772.11, F.S.

<sup>39</sup> Florida Bar Journal, *Considerations before Implementing Florida's Civil Theft Statute*, 77-MAR Fla. B.J. 28 (Mar. 2003).

The resulting definition of “private company” as used in s. 403.70605(1), F.S., is, “an entity other than a local government which provides solid waste collection, disposal, or recycling services.”

**Section 3** creates s. 812.0141, F.S., to create the crime of theft of recyclable property.

For the purposes of the new section, the bill defines “recyclable property” to mean recovered materials, as defined in s. 403.703, F.S.,<sup>40</sup> in addition to wooden or plastic pallets.

The bill provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the recyclable property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to possess the recyclable property or of a benefit derived therefrom; or
- Appropriate the recyclable property for his or her own use or to the use of a person not entitled to the use of the recyclable property.

A first or second violation of this section is punished as a first degree misdemeanor, punishable by a term of imprisonment not to exceed 1 year and a fine not to exceed \$1,000. A third or subsequent violation within 3 years of a prior conviction is punishable as a third degree felony, which is punishable by a term of imprisonment not to exceed 5 years and a fine not to exceed \$5,000. Prosecution for violation of the provision does not preclude prosecution for theft pursuant to s. 812.014, F.S.

The bill provides that a person who proves by clear and convincing evidence that he or she has been injured in any manner by reason of a violation of the provisions of this section may pursue a civil remedy, however, the minimum damage award is \$5,000 in addition to reasonable attorney fees and costs in the trial and appellate courts.

**Section 4** provides an effective date of July 1, 2016.

#### **IV. Constitutional Issues:**

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

None.

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

None.

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<sup>40</sup> Section 403.703, F.S., defines “recovered materials” as metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

Individuals found to be guilty of theft of recyclable property would be subject to new penalties in addition to punishment for the crime of theft.

**C. Government Sector Impact:**

Expanding the applicability of s. 403.70605, F.S., could result in more litigation costs for local governments that are found to be in violation of the statute due to the addition of solid waste disposal and recycling services to the statute. Similarly, restricting the defenses available to local governments could also lead to increased costs of litigation.

**VI. Technical Deficiencies:**

It is unclear why “or state agency” was included on line 53 of the CS with respect to solid waste collection, disposal, or recycling services as the State of Florida does not provide those services.<sup>41</sup>

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 403.70605.

This bill creates the following section of the Florida Statutes: 403.70491 and 812.0141.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Environmental Preservation and Conservation on February 9, 2016:**

The committee substitute:

- Removes provision concerning conditions under which commercial vehicle weight limits may be suspended;

<sup>41</sup> E-mail from Ricky Moulton, Deputy Director of Legislative Affairs, Department of Management Services (Feb. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

- Removes requirement for certain information to be included on invoices for solid waste disposal, collection, and recycling services;
- Adds a provision prohibiting a local government from preventing a private company from listing certain information on a company's invoice for solid waste collection, disposal, or recycling;
- The bill limited the condition under which a local government may avoid being enjoined by a private company to actions related to the immediate health, safety, or welfare of its citizens. The amendment removes the word "immediate," leaving the original language;
- The amendment restores a provision that was struck in the bill that provided that a local government that exclusively provides solid waste collection services or pursuant to an exclusive franchise was not subject to the provisions of 403.70605(1), F.S., concerning competition with private companies over solid waste collection, disposal, or recycling services. The change in the bill made them subject to those provisions under those circumstances;
- Removes the following provisions from the bill related to solid waste collection services outside a local governments jurisdiction:
  - Local governments that compete with private companies must remit certain funds to the Solid Waste Management Trust Fund; and
  - A reporting requirement;
- Removes changes made by the bill to 403.70605(2) and (3), F.S., regarding Solid Waste Collection Services Outside Jurisdiction and Displacement of Private Waste Companies so that instead of applying to solid waste collection, disposal, or recycling services, the original language is retained so that both subsections apply solely to solid waste collection services; and
- The amendment makes conforming changes to the definitions of "'in competition' or 'in direct competition'" and "private company."

B. Amendments:

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
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The Committee on Environmental Preservation and Conservation  
(Hays) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 403.70491, Florida Statutes, is created  
to read:

403.70491 Invoices for solid waste collection, disposal, or  
recycling.—A local government may not prevent a private company  
from listing separately on the company's invoice for solid waste  
collection, disposal, or recycling any governmental taxes or



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11 fees, including, but not limited to, any franchise fee.

12 Section 2. Subsections (1) and (4) of section 403.70605,  
13 Florida Statutes, are amended to read:

14 403.70605 Solid waste collection, disposal, or recycling  
15 services in competition with private companies.-

16 (1) SOLID WASTE COLLECTION, DISPOSAL, OR RECYCLING SERVICES  
17 IN COMPETITION WITH PRIVATE COMPANIES.-

18 (a) A local government that provides specific solid waste  
19 collection, disposal, or recycling services in direct  
20 competition with a private company:

21 1. Shall comply with the provisions of local environmental,  
22 health, and safety standards that also are applicable to a  
23 private company providing such collection, disposal, or  
24 recycling services in competition with the local government.

25 2. May ~~shall~~ not enact or enforce any license, permit,  
26 registration procedure, or associated fee that:

27 a. Does not apply to the local government and for which  
28 there is not a substantially similar requirement that applies to  
29 the local government; and

30 b. Provides the local government with a material advantage  
31 in its ability to compete with a private company in terms of  
32 cost or ability to promptly or efficiently provide such  
33 collection, disposal, or recycling services. Nothing in this  
34 sub-subparagraph shall apply to any zoning, land use, or  
35 comprehensive plan requirement.

36 (b)1. A private company with which a local government is in  
37 competition may bring an action to enjoin a violation of  
38 paragraph (a) against any local government or state agency. No  
39 injunctive relief shall be granted if the official action that



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40 ~~which~~ forms the basis for the suit bears a reasonable  
41 relationship to the health, safety, or welfare of the citizens  
42 of the local government unless the court finds that the actual  
43 or potential anticompetitive effects outweigh the public  
44 benefits of the challenged action.

45       2. As a condition precedent to the institution of an action  
46 pursuant to this paragraph, the complaining party shall first  
47 file with the local government a notice referencing this  
48 paragraph and setting forth the specific facts upon which the  
49 complaint is based and the manner in which the complaining party  
50 is affected. The complaining party may provide evidence to  
51 substantiate the claims made in the complaint. Within 30 days  
52 after receipt of such a complaint, the local government shall  
53 respond in writing to the complaining party explaining the  
54 corrective action taken, if any. If no response is received  
55 within 30 days or if appropriate corrective action is not taken  
56 within a reasonable time, the complaining party may institute  
57 the judicial proceedings authorized in this paragraph. However,  
58 failure to comply with this subparagraph may ~~shall~~ not bar an  
59 action for a temporary restraining order to prevent immediate  
60 and irreparable harm from the conduct or activity complained of.

61       3. The court may, in its discretion, award to the  
62 prevailing party or parties costs and reasonable attorney  
63 ~~attorneys'~~ fees.

64       (c) This subsection does not apply when the local  
65 government is exclusively providing the specific solid waste  
66 collection, disposal, or recycling services itself or pursuant  
67 to an exclusive franchise.

68       (2) SOLID WASTE COLLECTION SERVICES OUTSIDE JURISDICTION.-



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69 (a) Notwithstanding s. 542.235, or any other provision of  
70 law, a local government that provides solid waste collection  
71 services outside its jurisdiction in direct competition with  
72 private companies is subject to the same prohibitions against  
73 predatory pricing applicable to private companies under ss.  
74 542.18 and 542.19.

75 (b) Any person injured by reason of violation of this  
76 subsection may sue therefor in the circuit courts of this state  
77 and shall be entitled to injunctive relief and to recover the  
78 damages and the costs of suit. The court may, in its discretion,  
79 award to the prevailing party or parties reasonable attorneys'  
80 fees. An action for damages under this subsection must be  
81 commenced within 4 years. No person may obtain injunctive relief  
82 or recover damages under this subsection for any injury that  
83 results from actions taken by a local government in direct  
84 response to a natural disaster or similar occurrence for which  
85 an emergency is declared by executive order or proclamation of  
86 the Governor pursuant to s. 252.36 or for which such a  
87 declaration might be reasonably anticipated within the area  
88 covered by such executive order or proclamation.

89 (c) As a condition precedent to the institution of an  
90 action pursuant to this subsection, the complaining party shall  
91 first file with the local government a notice referencing this  
92 subsection and setting forth the specific facts upon which the  
93 complaint is based and the manner in which the complaining party  
94 is affected. Within 30 days after receipt of such complaint, the  
95 local government shall respond in writing to the complaining  
96 party explaining the corrective action taken, if any. If the  
97 local government denies that it has engaged in conduct that is



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98 prohibited by this subsection, its response shall include an  
99 explanation showing why the conduct complained of does not  
100 constitute predatory pricing.

101 (d) For the purposes of this subsection, the jurisdiction  
102 of a county, special district, or solid waste authority shall  
103 include all incorporated and unincorporated areas within the  
104 county, special district, or solid waste authority.

105 (3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.—

106 (a) As used in this subsection, the term "displacement"  
107 means a local government's provision of a collection service  
108 which prohibits a private company from continuing to provide the  
109 same service that it was providing when the decision to displace  
110 was made. The term does not include:

111 1. Competition between the public sector and private  
112 companies for individual contracts;

113 2. Actions by which a local government, at the end of a  
114 contract with a private company, refuses to renew the contract  
115 and either awards the contract to another private company or  
116 decides for any reason to provide the collection service itself;

117 3. Actions taken against a private company because the  
118 company has acted in a manner threatening to the public health  
119 or safety or resulting in a substantial public nuisance;

120 4. Actions taken against a private company because the  
121 company has materially breached its contract with the local  
122 government;

123 5. Refusal by a private company to continue operations  
124 under the terms and conditions of its existing agreement during  
125 the 3-year notice period;

126 6. Entering into a contract with a private company to



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127 provide garbage, trash, or refuse collection which contract is  
128 not entered into under an ordinance that displaces or authorizes  
129 the displacement of another private company providing garbage,  
130 trash, or refuse collection;

131 7. Situations in which a majority of the property owners in  
132 the displacement area petition the governing body to take over  
133 the collection service;

134 8. Situations in which the private companies are licensed  
135 or permitted to do business within the local government for a  
136 limited time and such license or permit expires and is not  
137 renewed by the local government. This subparagraph does not  
138 apply to licensing or permitting processes enacted after May 1,  
139 1999, or to occupational licenses; or

140 9. Annexations, but only to the extent that the provisions  
141 of s. 171.062(4) apply.

142 (b) A local government or combination of local governments  
143 may not displace a private company that provides garbage, trash,  
144 or refuse collection service without first:

145 1. Holding at least one public hearing seeking comment on  
146 the advisability of the local government or combination of local  
147 governments providing the service.

148 2. Providing at least 45 days' written notice of the  
149 hearing, delivered by first-class mail to all private companies  
150 that provide the service within the jurisdiction.

151 3. Providing public notice of the hearing.

152 (c) Following the final public hearing held under paragraph  
153 (b), but not later than 1 year after the hearing, the local  
154 government may proceed to take those measures necessary to  
155 provide the service. A local government shall provide 3 years'



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156 notice to a private company before it engages in the actual  
157 provision of the service that displaces the company. As an  
158 alternative to delaying displacement 3 years, a local government  
159 may pay a displaced company an amount equal to the company's  
160 preceding 15 months' gross receipts for the displaced service in  
161 the displacement area. The 3-year notice period shall lapse as  
162 to any private company being displaced when the company ceases  
163 to provide service within the displacement area. Nothing in this  
164 paragraph prohibits the local government and the company from  
165 voluntarily negotiating a different notice period or amount of  
166 compensation.

167 (4) DEFINITIONS.—As used in this section, the term:

168 (a) "In competition" or "in direct competition" means the  
169 competition ~~vying~~ between a local government and a private  
170 company to provide substantially similar solid waste collection  
171 services to the same customer. For the purposes of subsection  
172 (1), the term also refers to the competition between private  
173 companies to provide disposal or recycling services to the same  
174 customer.

175 (b) "Private company" means an ~~any~~ entity other than a  
176 local government or other unit of government which ~~that~~ provides  
177 solid waste collection services. For the purposes of subsection  
178 (1), the term also includes entities other than a local  
179 government or other unit of government which provide disposal or  
180 recycling services.

181 Section 3. Section 812.0141, Florida Statutes, is created  
182 to read:

183 812.0141 Theft of recyclable property.—

184 (1) As used in this section, the term "recyclable property"



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185 means recovered materials, as defined in s. 403.703, in addition  
186 to wooden or plastic pallets.

187 (2) A person commits theft if he or she knowingly obtains  
188 or uses, or endeavors to obtain or to use, the recyclable  
189 property of another with intent to, either temporarily or  
190 permanently:

191 (a) Deprive the other person of a right to possess the  
192 recyclable property or of a benefit derived therefrom.

193 (b) Appropriate the recyclable property for his or her own  
194 use or to the use of a person not entitled to the use of the  
195 recyclable property.

196 (3) A person who violates this section is guilty of a  
197 misdemeanor of the first degree, punishable as provided in s.  
198 775.082 or s. 775.083. Prosecution for a violation of subsection  
199 (2) does not preclude prosecution for theft pursuant to s.  
200 812.014.

201 (4) A person who commits a third or subsequent violation of  
202 subsection (2) within 3 years after the date of a prior  
203 violation that resulted in a conviction for a violation of  
204 subsection (2) commits a felony of the third degree, punishable  
205 as provided in s. 775.082 or s. 775.083.

206 (5) A person who proves by clear and convincing evidence  
207 that he or she has been injured in any manner by reason of a  
208 violation of this section may pursue a civil remedy under s.  
209 772.11. However, notwithstanding s. 772.11, the minimum damage  
210 award under this subsection is \$5,000, plus reasonable attorney  
211 fees and costs in the trial and appellate courts.

212 Section 4. This act shall take effect July 1, 2016.

213 ===== T I T L E A M E N D M E N T =====





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214 And the title is amended as follows:

215 Delete everything before the enacting clause  
216 and insert:

217 A bill to be entitled

218 An act relating to waste management; creating s.  
219 403.70491, F.S.; prohibiting a local government from  
220 preventing a private company from listing separately  
221 on an invoice for solid waste collection, disposal, or  
222 recycling any governmental taxes and fees; amending s.  
223 403.70605, F.S.; revising provisions relating to solid  
224 waste collection services to include disposal and  
225 recycling services; providing that certain private  
226 companies may bring an action against a state agency  
227 for specified violations; revising definitions;  
228 creating s. 812.0141, F.S.; defining a term;  
229 establishing the crime of theft of recyclable  
230 property; providing penalties; providing for a civil  
231 remedy; providing for attorney fees and costs under  
232 certain conditions; providing an effective date.

By Senator Hays

11-01239-16

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1                   A bill to be entitled  
2           An act relating to waste management; amending s.  
3           316.535, F.S.; providing that the weight limits for  
4           certain solid waste or recyclable collection vehicles  
5           are suspended under certain circumstances; creating s.  
6           403.70491, F.S.; requiring invoices for solid waste  
7           collection to separately identify and list certain  
8           governmental taxes and fees; amending s. 403.70605,  
9           F.S.; revising provisions relating to solid waste  
10          collection services to include disposal and recycling  
11          services; providing that certain private companies may  
12          bring an action against a state agency for specified  
13          violations; deleting an exception for certain local  
14          government waste collection services; requiring local  
15          governments providing certain solid waste collection,  
16          disposal, or recycling services outside their  
17          jurisdiction to remit certain fees and taxes to the  
18          Solid Waste Management Trust Fund; providing for  
19          calculation of such fees and taxes; providing an  
20          exception; requiring local governments to file a  
21          report by a specified date with the Division of Waste  
22          Management in the Department of Environmental  
23          Protection, subject to certain requirements; creating  
24          s. 812.0141, F.S.; defining a term; establishing the  
25          crime of theft of recyclable property; providing  
26          penalties; providing for a civil remedy; providing for  
27          attorney fees and costs under certain conditions;  
28          providing an effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:

31  
32           Section 1. Subsection (6) of section 316.535, Florida

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33 Statutes, is amended to read:

34 316.535 Maximum weights.—

35 (6) (a) Dump trucks, concrete mixing trucks, trucks engaged  
36 in waste or recyclable collection and disposal, and fuel oil and  
37 gasoline trucks designed and constructed for special type work  
38 or use, when operated as a single unit, shall be subject to all  
39 safety and operational requirements of law, except that any such  
40 vehicle need not conform to the axle spacing requirements of  
41 this section provided that such vehicle shall be limited to a  
42 total gross load, including the weight of the vehicle, of 20,000  
43 pounds per axle plus scale tolerances and shall not exceed 550  
44 pounds per inch width tire surface plus scale tolerances. No  
45 vehicle operating pursuant to this section shall exceed a gross  
46 weight, including the weight of the vehicle and scale  
47 tolerances, of 70,000 pounds. Any vehicle violating the weight  
48 provisions of this section shall be penalized as provided in s.  
49 316.545.

50 (b) Notwithstanding paragraph (a), if measurable  
51 precipitation occurs and is recorded by the National Weather  
52 Service, or by a similar governmental meteorological agency, the  
53 weight limits for solid waste or recyclable collection vehicles  
54 are suspended for 36 hours after the termination of measurable  
55 precipitation in the county.

56 Section 2. Section 403.70491, Florida Statutes, is created  
57 to read:

58 403.70491 Invoices for solid waste collection.—Any invoice  
59 for solid waste collection, disposal, or recycling services must  
60 separately identify and list all governmental taxes and fees,  
61 including, but not limited to, any franchise fee.

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62 Section 3. Section 403.70605, Florida Statutes, is amended  
 63 to read:

64 403.70605 Solid waste collection, disposal, or recycling  
 65 services in competition with private companies.—

66 (1) SOLID WASTE COLLECTION, DISPOSAL, OR RECYCLING SERVICES  
 67 IN COMPETITION WITH PRIVATE COMPANIES.—

68 (a) A local government that provides specific solid waste  
 69 collection, disposal, or recycling services in direct  
 70 competition with a private company:

71 1. Shall comply with the provisions of local environmental,  
 72 health, and safety standards that also are applicable to a  
 73 private company providing such collection, disposal, or  
 74 recycling services in competition with the local government.

75 2. May ~~Shall~~ not enact or enforce any license, permit,  
 76 registration procedure, or associated fee that:

77 a. Does not apply to the local government and for which  
 78 there is not a substantially similar requirement that applies to  
 79 the local government; and

80 b. Provides the local government with a material advantage  
 81 in its ability to compete with a private company in terms of  
 82 cost or ability to promptly or efficiently provide such  
 83 collection, disposal, or recycling services. ~~Nothing in~~ This  
 84 sub-subparagraph does not ~~shall~~ apply to any zoning, land use,  
 85 or comprehensive plan requirement.

86 (b)1. A private company with which a local government is in  
 87 competition may bring an action to enjoin a violation of  
 88 paragraph (a) against any local government or state agency. ~~No~~  
 89 Injunctive relief may not ~~shall~~ be granted if the official  
 90 action that ~~which~~ forms the basis for the suit bears a

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91 reasonable relationship to the immediate health, safety, or  
92 welfare of the citizens of the local government unless the court  
93 finds that the actual or potential anticompetitive effects  
94 outweigh the public benefits of the challenged action.

95 2. As a condition precedent to the institution of an action  
96 pursuant to this paragraph, the complaining party shall first  
97 file with the local government a notice referencing this  
98 paragraph and setting forth the specific facts upon which the  
99 complaint is based and the manner in which the complaining party  
100 is affected. The complaining party may provide evidence to  
101 substantiate the claims made in the complaint. Within 30 days  
102 after receipt of such a complaint, the local government shall  
103 respond in writing to the complaining party explaining the  
104 corrective action taken, if any. If no response is received  
105 within 30 days or if appropriate corrective action is not taken  
106 within a reasonable time, the complaining party may institute  
107 the judicial proceedings authorized in this paragraph. However,  
108 failure to comply with this subparagraph may ~~shall~~ not bar an  
109 action for a temporary restraining order to prevent immediate  
110 and irreparable harm from the conduct or activity complained of.

111 3. The court may, in its discretion, award to the  
112 prevailing party or parties costs and reasonable attorney  
113 ~~attorneys'~~ fees.

114 ~~(c) This subsection does not apply when the local~~  
115 ~~government is exclusively providing the specific solid waste~~  
116 ~~collection services itself or pursuant to an exclusive~~  
117 ~~franchise.~~

118 (2) SOLID WASTE COLLECTION SERVICES OUTSIDE JURISDICTION.-

119 (a) A local government that provides solid waste

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120 collection, disposal, or recycling services to those outside its  
121 jurisdiction in direct competition with private companies must  
122 remit to the Solid Waste Management Trust Fund the applicable  
123 franchise fee and other applicable taxes or fees imposed by the  
124 local or state government in whose jurisdiction the competing  
125 local government is providing such services. For the purposes of  
126 this paragraph, a local government that generates revenues in  
127 excess of costs when providing collection, disposal, or  
128 recycling services to those outside its jurisdiction must apply  
129 the corporate income tax rate set forth in s. 220.11(2) to the  
130 local government's revenues in excess of costs resulting from  
131 providing collection, disposal, or recycling services to those  
132 outside its jurisdiction and remit the resulting moneys to the  
133 Solid Waste Management Trust Fund. This paragraph does not apply  
134 to noncommercial solid waste disposal or recycling services  
135 resulting from a single-family residence that is located outside  
136 a local government's jurisdiction and that brings, by  
137 noncommercial means, solid waste or recyclable materials to a  
138 solid waste collection, disposal, or recycling facility located  
139 within the local government's jurisdiction.

140 (b) A local government that provides solid waste  
141 collection, disposal, or recycling services outside its  
142 jurisdiction in direct competition with private companies must,  
143 by January 15 of each year, file a report with the Division of  
144 Waste Management which provides the following information:

145 1. Tons of solid waste collected from outside the local  
146 government's jurisdiction;

147 2. Tons of solid waste disposed of within the local  
148 government's jurisdiction which originated from outside its

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149 jurisdiction;

150 3. The average disposal fee charged for solid waste that  
151 originated from outside the local government's jurisdiction and  
152 how this average disposal fee compares with the average disposal  
153 fee charged for solid waste originating within the local  
154 government's jurisdiction;

155 4. Tons of recyclable material collected from outside the  
156 local government's jurisdiction;

157 5. Tons of recyclable material processed within the local  
158 government's jurisdiction which originated from outside its  
159 jurisdiction;

160 6. The average recycling fee charged for recyclable  
161 materials that originated from outside the local government's  
162 jurisdiction and how this average recycling fee compares with  
163 the average disposal fee charged for solid waste originating  
164 within the local government's jurisdiction; and

165 7. Audited financial statements for revenues in excess of  
166 costs resulting from the provision of collection, disposal, or  
167 recycling services to those persons outside its jurisdiction.

168 (c) Notwithstanding s. 542.235, or any other provision of  
169 law, a local government that provides solid waste collection,  
170 disposal, or recycling services outside its jurisdiction in  
171 direct competition with private companies is subject to the same  
172 prohibitions against predatory pricing applicable to private  
173 companies under ss. 542.18 and 542.19.

174 (d) ~~(b)~~ Any person injured by reason of violation of this  
175 subsection may sue therefor in the circuit courts of this state  
176 and shall be entitled to injunctive relief and to recover the  
177 damages and the costs of suit. The court may, in its discretion,

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178 award to the prevailing party or parties reasonable attorney  
179 ~~attorneys'~~ fees. An action for damages under this subsection  
180 must be commenced within 4 years. A ~~No~~ person may not obtain  
181 injunctive relief or recover damages under this subsection for  
182 any injury that results from actions taken by a local government  
183 in direct response to a natural disaster or similar occurrence  
184 for which an emergency is declared by executive order or  
185 proclamation of the Governor pursuant to s. 252.36 or for which  
186 such a declaration might be reasonably anticipated within the  
187 area covered by such executive order or proclamation.

188 (e) ~~(e)~~ As a condition precedent to the institution of an  
189 action pursuant to this subsection, the complaining party shall  
190 first file with the local government a notice referencing this  
191 subsection and setting forth the specific facts upon which the  
192 complaint is based and the manner in which the complaining party  
193 is affected. Within 30 days after receipt of such complaint, the  
194 local government shall respond in writing to the complaining  
195 party explaining the corrective action taken, if any. If the  
196 local government denies that it has engaged in conduct that is  
197 prohibited by this subsection, its response shall include an  
198 explanation showing why the conduct complained of does not  
199 constitute predatory pricing.

200 (f) ~~(d)~~ For the purposes of this subsection, the  
201 jurisdiction of a county, special district, or solid waste  
202 authority shall include all incorporated and unincorporated  
203 areas within the county, special district, or solid waste  
204 authority.

205 (3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.—

206 (a) As used in this subsection, the term "displacement"



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207 means a local government's provision of a collection, disposal,  
208 or recycling service which prohibits a private company from  
209 continuing to provide the same service that it was providing  
210 when the decision to displace was made. The term does not  
211 include:

212 1. Competition between the public sector and private  
213 companies for individual contracts;

214 2. Actions by which a local government, at the end of a  
215 contract with a private company, refuses to renew the contract  
216 and either awards the contract to another private company or  
217 decides for any reason to provide the collection service itself;

218 3. Actions taken against a private company because the  
219 company has acted in a manner threatening to the public health  
220 or safety or resulting in a substantial public nuisance;

221 4. Actions taken against a private company because the  
222 company has materially breached its contract with the local  
223 government;

224 5. Refusal by a private company to continue operations  
225 under the terms and conditions of its existing agreement during  
226 the 3-year notice period;

227 6. Entering into a contract with a private company to  
228 provide garbage, trash, or refuse collection which contract is  
229 not entered into under an ordinance that displaces or authorizes  
230 the displacement of another private company providing garbage,  
231 trash, or refuse collection;

232 7. Situations in which a majority of the property owners in  
233 the displacement area petition the governing body to take over  
234 the collection service;

235 8. Situations in which the private companies are licensed

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236 or permitted to do business within the local government for a  
237 limited time and such license or permit expires and is not  
238 renewed by the local government. This subparagraph does not  
239 apply to licensing or permitting processes enacted after May 1,  
240 1999, or to occupational licenses; or

241 9. Annexations, but only to the extent that the provisions  
242 of s. 171.062(4) apply.

243 (b) A local government or combination of local governments  
244 may not displace a private company that provides garbage, trash,  
245 or refuse collection service without first:

246 1. Holding at least one public hearing seeking comment on  
247 the advisability of the local government or combination of local  
248 governments providing the service.

249 2. Providing at least 45 days' written notice of the  
250 hearing, delivered by first-class mail to all private companies  
251 that provide the service within the jurisdiction.

252 3. Providing public notice of the hearing.

253 (c) Following the final public hearing held under paragraph  
254 (b), but not later than 1 year after the hearing, the local  
255 government may proceed to take those measures necessary to  
256 provide the service. A local government shall provide 3 years'  
257 notice to a private company before it engages in the actual  
258 provision of the service that displaces the company. As an  
259 alternative to delaying displacement 3 years, a local government  
260 may pay a displaced company an amount equal to the company's  
261 preceding 15 months' gross receipts for the displaced service in  
262 the displacement area. The 3-year notice period shall lapse as  
263 to any private company being displaced when the company ceases  
264 to provide service within the displacement area. Nothing in this

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265 paragraph prohibits the local government and the company from  
266 voluntarily negotiating a different notice period or amount of  
267 compensation.

268 (4) DEFINITIONS.—As used in this section:

269 (a) "In competition" or "in direct competition" means the  
270 vying between a local government and a private company to  
271 provide substantially similar solid waste collection, disposal,  
272 or recycling services to the same customer.

273 (b) "Private company" means any entity other than a local  
274 government or other unit of government that provides solid waste  
275 collection services.

276 Section 4. Section 812.0141, Florida Statutes, is created  
277 to read:

278 812.0141 Theft of recyclable property.—

279 (1) As used in this section, the term "recyclable property"  
280 means recovered materials, as defined in s. 403.703, in addition  
281 to wooden or plastic pallets.

282 (2) A person commits theft if he or she knowingly obtains  
283 or uses, or endeavors to obtain or to use, the recyclable  
284 property of another with intent to, either temporarily or  
285 permanently:

286 (a) Deprive the other person of a right to possess the  
287 recyclable property or of a benefit derived therefrom.

288 (b) Appropriate the recyclable property for his or her own  
289 use or to the use of a person not entitled to the use of the  
290 recyclable property.

291 (3) Any person who violates this section is guilty of a  
292 misdemeanor of the first degree, punishable as provided in s.  
293 775.082 or s. 775.083. Prosecution for a violation of subsection

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294 (2) does not preclude prosecution for theft pursuant to s.  
295 812.014.

296 (4) Any person who commits a third or subsequent violation  
297 of subsection (2) within 3 years after the date of a prior  
298 violation that resulted in a conviction for a violation of  
299 subsection (2) commits a felony of the third degree, punishable  
300 as provided in s. 775.082 or s. 775.083.

301 (5) Any person who proves by clear and convincing evidence  
302 that he or she has been injured in any manner by reason of a  
303 violation of this section may pursue a civil remedy under s.  
304 772.11. However, notwithstanding s. 772.11, the minimum damage  
305 award under this subsection is \$5,000 in addition to reasonable  
306 attorney fees and costs in the trial and appellate courts.

307 Section 5. This act shall take effect July 1, 2016.

**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 1290

INTRODUCER: Senator Simpson

SUBJECT: State Lands

DATE: February 8, 2016

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

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

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**I. Summary:**

SB 1290 consolidates the acquisition and surplus procedures currently located in chapter 253, F.S., for nonconservation lands and chapter 259, F.S., for conservation lands. Additionally, the bill:

- Requires conservation lands to be managed for conservation or recreation purposes, rather than for the purposes for which the lands were acquired;
- Authorizes the Department of Environmental Protection (department) to submit lands for which the managing or leasing entities are not meeting their short-term goals as required under the land management or land use plan to the Board of Trustees of the Internal Improvement Trust Fund (board) for consideration of whether to require the managing or leasing entities to release their interest in such lands or consider whether such lands should be surplus;
- Requires the Division of State Lands (division) to review all titled conservation or nonconservation lands every 10 years and provide a recommendation to the board whether the lands should be retained or disposed;
- Amends the definition of the term “water resource development project” to include the construction of treatment, transmission, or distribution facilities;
- Requires the board to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses related to water-dependent uses;
- Creates a process whereby a person who owns land contiguous to land titled to the board is authorized to submit a request to division to exchange all or a portion of the state-owned land, with the state retaining a permeant conservation easement, for a permeant conservation easement over all or a portion of the contiguous privately owned land;
- Requires the department to add 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 to the FL-SOLARIS database by July 1, 2018;

- Requires each local government to submit to the department a list of all conservation lands it owns or holds a permanent conservation easement on by July 1, 2018. Financially disadvantaged small communities have an additional year to submit the information;
- Directs the department to complete a study regarding the technical and economic feasibility of including privately owned conservation lands in a public lands inventory by July 1, 2018;
- Requires increased priority to be given to proposed projects that can be acquired in less than fee ownership; projects that contribute to improving the quality and quantity of surface water or groundwater; and projects that contribute to improving the water quality and flow of springs.
- Gives priority consideration to a municipality over a county, for parcels located within a municipality, in cases where both the county and municipality have proposed to acquire a parcel the board intends to sell.

## II. Present Situation:

### State Lands

The Board of Trustees of the Internal Improvement Trust Fund (board) consists of the Governor, as the chair, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture.<sup>1</sup> All lands held in title by the board are required to be held in trust for the use and benefit of the people of the state.<sup>2</sup> According to the department, the board has title to approximately 13 million acres of land: 3,146,040 acres of conservation lands; 123,210 acres of nonconservation lands; and approximately nine million acres of sovereign submerged lands.<sup>3</sup>

Chapter 253, F.S., relating to state lands, was the original authorizing statute for land acquisition and management by the state; it applied to both nonconservation and conservation lands.<sup>4</sup> Over the years, the Legislature created various conservation land acquisition programs and additional statutory authorization and requirements for land acquisition and management were included in chapter 259, F.S., relating to land acquisitions for conservation or recreation.<sup>5</sup> Currently, both chapters 253 and 259, F.S., are required to be referenced for a complete understanding of the land acquisition, management, and surplus processes for state-owned lands.<sup>6</sup>

### Acquisition of State Lands

When the state acquires land, the acquisition agency is required to follow the procedures in s. 253.025, F.S., and, additionally, when acquiring conservation lands the procedures in s. 259.041, F.S. Before any state agency initiates land acquisition, except purchases of property for transportation facilities and corridors or property for borrow pits for road building purposes, the agency is required to coordinate with the Division of State Lands (division) to determine the

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<sup>1</sup> FLA. CONST. art. IV, s. 4.

<sup>2</sup> Section 253.001, F.S.

<sup>3</sup> Email from Andrew Ketchel, Director, Office of Legislative Affairs, Florida Department of Environmental Protection (Feb. 5, 2016) (on file with the Senate Environmental Preservation and Conservation Committee).

<sup>4</sup> DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>5</sup> *Id.*

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

availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed.<sup>7</sup> Only if no existing suitable state-owned land exists, then the state agency may proceed with the acquisition of the land.<sup>8</sup>

The acquisition statutes require state agencies to follow specific acquisition requirements relating to:

- Marketability of title.
- Appraisal maps and surveys.
- Appraisal reports.
- Maximum offers.
- Negotiations.
- Purchase instruments.
- Closing.
- Joint acquisitions.<sup>9</sup>

When a state agency is acquiring conservation lands, the board is authorized to:

- By a majority vote of all its members, direct the department to exercise the power of eminent domain to acquire any properties on the acquisition list approved by the board if:
  - The state has 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:
    - It involves an endangered or natural resource and is in imminent danger of development.
    - It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.
    - The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.<sup>10</sup>
- By an affirmative vote of at least three of its members, direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of lands that:
  - 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.<sup>11</sup>

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<sup>7</sup> Section 253.025(2), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Sections 253.025 and 259.041, F.S.; Fla. Admin. Code Ch. 18-1.

<sup>10</sup> Section 259.041(14), F.S.

<sup>11</sup> Section 259.041(15), F.S.

Additionally, agreements to acquire real property for the purposes described in chapter 259, F.S., relating to land acquisitions for conservation or recreation, chapter 260, F.S., relating to the Florida Greenways and Trails Act, or chapter 375, F.S., relating to outdoor recreation and conservation lands, title to which will vest in the board, may not bind the state until the agreement is reviewed and approved by the department.<sup>12</sup> Additional approval by the board is required if:

- The purchase price agreed to by the seller exceeds the maximum value as authorized by law;
- The contract price agreed upon exceeds \$1 million;
- The acquisition is the initial purchase in a Florida Forever project; or
- The purchase involves other conditions established by the board.<sup>13</sup>

If such approval by the board is required then the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project.<sup>14</sup> Such review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with the program.<sup>15</sup>

If the contribution of the acquiring agency exceeds \$100 million in any one fiscal year, the agreement is required to be submitted to and approved by the Legislative Budget Commission.<sup>16</sup>

#### *Alternatives to fee simple acquisitions*

In recognition of the increasing pressures on the natural areas of the state and on open space suitable for recreational use, the Legislature has encouraged the state's conservation and recreational land acquisition agencies to develop creative techniques to maximize the use of acquisition and management funds to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques.<sup>17</sup> The Legislature has declared that the use of alternatives to fee simple acquisition techniques by public land acquisition agencies achieves the following public policy goals:

- Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.
- Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.
- Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, where appropriate.<sup>18</sup>

The term "alternatives to fee simple acquisition" includes, but is 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

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<sup>12</sup> Section 259.041(3), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Section 259.041(11)(a), F.S.

<sup>18</sup> Section 259.041(11)(a), F.S.



silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy goals.<sup>19</sup>

When developing the acquisition plan the Acquisition and Restoration Council (council) is authorized to give preference to those less than fee simple acquisitions that provide any public access.<sup>20</sup>

### **Management of State Lands**

The board is charged with the management, control, supervision, conservation, and protection of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions.<sup>21</sup> The board is authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess such lands for the benefit of the state.<sup>22</sup>

### ***Nonconservation Lands***

Each manager of nonconservation lands is required to submit to the division a land use plan at least every 10 years in a form and manner prescribed by rule by the board.<sup>23</sup> The division shall review each plan for compliance.<sup>24</sup> All land use plans, whether for single-use or multiple-use properties, shall include an analysis of the property to determine if any significant natural or cultural resources are located on the property.<sup>25</sup> Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.<sup>26</sup> If such resources occur on the property, the manager is required to consult with the division and other appropriate agencies to develop management strategies to protect such resources.<sup>27</sup>

Land use plans shall also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination.<sup>28</sup> Land use plans submitted by a manager must include reference to the appropriate statutory authority for such use or uses and conform to the appropriate policies and guidelines of the state land management plan.<sup>29</sup>

### ***Conservation Lands***

Article X, section 18 of the Florida Constitution requires that “the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes as

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<sup>19</sup> Section 259.041(11)(b), F.S.

<sup>20</sup> Section 259.041(11)(c), F.S.

<sup>21</sup> Section 253.03, F.S.

<sup>22</sup> Section 253.03(2), F.S.

<sup>23</sup> Section 253.034(5), F.S.

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

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

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

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

provided by general law shall be managed for the benefit of the citizens of this state...<sup>30</sup> Section 253.034, F.S., specifies that state lands acquired pursuant to chapter 259, F.S., are required to be managed to ensure the conservation of the state's plant and animal species and to ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future.<sup>31</sup> Additionally, all lands acquired and managed under chapter 259, F.S., are required to be managed in a manner that provides the greatest combination of benefits to the public and to the resources, for public outdoor recreation which is compatible with the conservation and protection of public lands, and for the purposes for which the lands were acquired.<sup>32</sup>

Each manager of conservation lands is required to submit a land management plan to the division at least every 10 years.<sup>33</sup> The land management plan must contain, at a minimum, all of the following elements:

- A physical description of the land.
- A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other significant land, cultural, or historical features.
- A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives.
- A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities.
- A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.<sup>34</sup> The summary budget is required to be prepared in such a manner that it facilitates computing an aggregate of land management costs for all state-managed lands using the following categories:
  - Resource management.
  - Administration.
  - Support.
  - Capital improvements.
  - Recreation visitor services.
  - Law enforcement activities.<sup>35</sup>

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<sup>30</sup> FLA. CONST. art. X, s. 18.

<sup>31</sup> Section 253.034(5)(a), F.S.

<sup>32</sup> Section 259.032(7), F.S.; s. 259.032(7)(b), F.S., provides that "such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities compatible with the purposes for which the lands were acquired."

<sup>33</sup> Section 253.034(5), F.S.

<sup>34</sup> Section 253.034(5)(c), F.S.

<sup>35</sup> Section 259.037(3), F.S.

Each land management plan is required to provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals.<sup>36</sup> Short-term goals are required to be achievable within a 2-year planning period, and long-term goals are required to be achievable within a 10-year planning period.<sup>37</sup> These short-term and long-term management goals are the basis for all subsequent land management activities.<sup>38</sup>

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.
- Imperiled species habitat maintenance, enhancement, restoration, or population restoration.<sup>39</sup>

Land management plans are required to be updated every 10 years on a rotating basis.<sup>40</sup> Each manager of conservation lands is required to update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within one year of the addition of significant new lands.<sup>41</sup>

Regional land management review teams are required to evaluate 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.<sup>42</sup>

If the land management review team determines that reviewed lands are not being managed for the purposes for which they were acquired or in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department is required to provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.<sup>43</sup> The manager of the land is required to consider the findings and recommendations of the land management review team in finalizing the 10-year update of the land management plan.<sup>44</sup>

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<sup>36</sup> Section 253.034(5)(a), F.S.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Section 253.034(5)(b), F.S.

<sup>40</sup> Section 253.034(5)(e), F.S.

<sup>41</sup> Section 253.034(5), F.S.

<sup>42</sup> Section 259.036(3), F.S.

<sup>43</sup> Section 253.036(5), F.S.

<sup>44</sup> Section 259.036(2), F.S.

By July 1 of each year, each governmental agency and each private entity designated to manage lands is required to report to the department on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.<sup>45</sup> The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board.<sup>46</sup>

### ***Sovereignty Submerged Lands***

Article X, section 11 of the Florida Constitution authorizes the private use of portions of sovereign lands, but only when not contrary to the public interest.<sup>47</sup> The board is required to encourage the use of sovereignty submerged lands for water-dependent uses and public access.<sup>48</sup> The term “water-dependent activity” is defined as “an activity which can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereignty submerged lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereignty submerged lands is an integral part of the activity.”<sup>49</sup>

Activities on sovereignty submerged lands are limited to water-dependent activities, unless the board determines that it is in the public interest on a case-by-case basis to authorize an exception.<sup>50</sup> Public projects which are primarily intended to provide access to and use of the waterfront may be permitted to contain minor uses which are not water dependent if:

- Located in areas along seawalls or other non-natural shorelines;
- Located outside of aquatic preserves or Class II waters,<sup>51</sup> and
- The use is incidental to the basic purpose of the project, and constitutes only minor nearshore encroachments on sovereign lands.<sup>52</sup>

<sup>45</sup> Section 259.032(8), F.S.

<sup>46</sup> Section 253.034(5)(h), F.S.

<sup>47</sup> Fla. Admin. Code R 18-21.003(51), defines the term “public interest” as a “demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action.”

<sup>48</sup> Section 253.03(15), F.S.; Fla. Admin. Code R. 18-21.003(61), defines the term “sovereignty submerged lands” to mean “those lands including but 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.”

<sup>49</sup> Fla. Admin. Code R. 18-21.003(71); Fla. Admin. Code R. 18-21.003(2), defines the term “activity” as “any use of sovereignty lands which requires board approval for consent of use, lease, easement, sale, or transfer of interest in such sovereignty lands or materials. Activity includes, but is not limited to, the construction of docks, piers, boat ramps, board walks, mooring pilings, dredging of channels, filling, removal of logs, sand, silt, clay, gravel, or shell, and the removal or planting of vegetation on sovereignty lands.”

<sup>50</sup> Fla. Admin. Code R. 18-21.004(1)(g).

<sup>51</sup> Generally, Class II waters are coastal waters where shellfish harvesting occurs.

<sup>52</sup> *Id.*

## Disposition of State Lands

### *Surplus*

The board determines which lands it holds title to may be surplus.<sup>53</sup> Since 2000, approximately 3,041 acres of conservation lands have been declared surplus and disposed, raising \$14,438,157 in revenue.<sup>54</sup> Conservation lands may only be surplus if the board, by an affirmative vote of at least three members, determines that the lands are no longer needed for conservation purposes.<sup>55</sup> The board may dispose of all other lands if the board, by an affirmative vote of at least three members, determines whether the lands are no longer needed.<sup>56</sup>

Requests for surplus may be made by any public or private entity or person.<sup>57</sup> All requests are required to be submitted to the lead managing agency for review and recommendation to the council.<sup>58</sup> Before any decision by the board to surplus lands, the Acquisition and Restoration Council (council) is required to review and make recommendations to the board concerning the request for surplus.<sup>59</sup> The council is required to determine whether the request is compatible with the resource values of and management objectives for such lands.<sup>60</sup>

County or local government requests for surplus lands are expedited throughout the surplus process.<sup>61</sup> A decision to surplus state-owned nonconservation lands to a county or local government may be made by the board without a review of, or recommendation on, the request from the council or the division.<sup>62</sup> The board is required to consider such requests within 60 days of the board's receipt of the request.<sup>63</sup> A decision to surplus state-owned conservation lands is subject to review of, and recommendation on, the request by the council.<sup>64</sup> The board is required to consider such requests within 120 days of the board's receipt of the request.<sup>65</sup> Additionally, local governments may request that state lands be specifically declared surplus lands for the purpose of providing alternative water supply and water resource development projects; public facilities such as schools, fire, and police facilities; and affordable housing.<sup>66</sup>

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<sup>53</sup> Section 253.034(6), F.S.

<sup>54</sup> DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>55</sup> FLA. CONST. art. X, s. 18.

<sup>56</sup> Section 253.034(6), F.S.

<sup>57</sup> Section 253.034(6)(j), F.S.

<sup>58</sup> *Id.*

<sup>59</sup> Section 253.034(6)(e), F.S.

<sup>60</sup> Section 253.034(6), F.S.

<sup>61</sup> Section 253.0341, F.S.

<sup>62</sup> Section 253.0341(1), F.S.

<sup>63</sup> *Id.*

<sup>64</sup> Section 253.0341(2), F.S.

<sup>65</sup> *Id.*

<sup>66</sup> Section 253.0341(3), F.S.; s. 373.019(24), F.S., defines the term "water resource development" as "the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities."

Before a building or a parcel of land is offered for sale to a local or federal unit of government or a private party, it must first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions.<sup>67</sup> The state university or college has 60 days after receipt of the offer to submit a plan for review and approval by the board regarding the intended use, including future use, of the parcel of land before approval of the lease. The board is required to compare the estimated value of the parcel to any submitted business plan to determine if the sale is in the best interest of the state.<sup>68</sup>

Additionally, the board may not sell any land to which it holds title unless and until it affords an opportunity to the county in which such land is situated.<sup>69</sup> The board is required to notify the applicable board of county commissioners that land is available in the county. The board of county commissioners has 45 days to submit a certified copy of a resolution providing the determination of whether or not it proposes to acquire the available land. If the board timely receives the resolution then the board is required to convey to the county the land at a price that is equal to its appraised market value, subject to terms and conditions as determined by the board. These notification requirements do not apply to any land exchanged by the board; the conveyance of lands located within the Everglades Agricultural Area; or lands managed pursuant to ss. 253.781-253.785, F.S., relating to state lands along the route of the former Cross Florida Barge Canal, the Cross Florida Greenways, or around Lake Rousseau.<sup>70</sup>

At least every 10 years, as a component of each land management plan or land use plan, each manager is required to evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased.<sup>71</sup> For conservation lands, the council is required to review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.<sup>72</sup> For nonconservation lands, the division is required to review the lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.<sup>73</sup> Lands that are owned by the board but which are not actively managed by any state agency or for which a land management plan has not been completed are required to be reviewed by the council for its recommendation as to whether such lands should be disposed of by the board.<sup>74</sup>

In reviewing lands owned by the board, the council is required to consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located and recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interest of the state and local government.<sup>75</sup> Such lands are required to be offered to the local government for a period of 45 days and the permitted uses for such lands include public schools; public libraries; fire or law

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<sup>67</sup> Section 253.034(6), F.S.

<sup>68</sup> Section 253.034(13), F.S.

<sup>69</sup> Section 253.111, F.S.

<sup>70</sup> Section 253.111(6), F.S.

<sup>71</sup> Section 253.034(6)(c), F.S.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> Section 253.034(6)(d), F.S.

<sup>75</sup> Section 253.034(6)(f), F.S.

enforcement substations; governmental, judicial, or recreational centers; and affordable housing.<sup>76</sup>

### ***Exchange***

Section 253.42, F.S., authorizes the board to exchange state lands owned by, vested in, or titled in the name of the board for other lands in the state owned by counties, local governments, individuals, or private or public corporations. The board is authorized to make and enter into contracts or agreements for the purposes of such exchanges and to fix the terms and conditions of any such exchange.<sup>77</sup> In the case of a land exchange involving the disposition of conservation lands, the board is required to determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit.<sup>78</sup> The board is required to select and agree upon the state lands to be exchanged and the lands to be conveyed to the state.<sup>79</sup>

### **Florida State-Owned Lands and Records Information System (FL-SOLARIS)**

In 2010, the Legislature directed the department to create, administer, operate, and maintain a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district.<sup>80</sup> In order to meet the requirement, the department in coordination with the Department of Management Services developed FL-SOLARIS to record and maintain inventory of real estate properties that are “owned, leased, or rented, or otherwise occupied” by any state government entity. The database includes all state-owned lands in which the state has a fee interest, including conservation easements acquired through a formal acquisition process for conservation.<sup>81</sup>

### **Florida Forever Program**

The Florida Forever program was created in 1999 as the successor program to the Preservation 2000 program. The stated goals of the Florida Forever program are to acquire lands and water areas to preserve natural resources and protect water supply, provide opportunities for agricultural activities on working lands, provide outdoor recreational opportunities, preserve the Everglades, prioritize land acquisition process based on science-based assessments of the natural resources, and enhance imperiled species management.<sup>82</sup>

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<sup>76</sup> Section 253.034(6)(f), F.S.

<sup>77</sup> Section 253.42, F.S.

<sup>78</sup> Section 253.034(6), F.S.; Fla. Admin. Code R. 18-2.017(38), defines the term “net positive benefit” to mean “any effective action or transaction which promotes the overall purposes for which the land was acquired. It is compensation over and above the required payment of market value for or replacement of the affected parcel to offset and request use or activity which would preclude or affect, in whole or in part, current or future uses of natural resource land that are managed primarily for the conservation and protection of natural, historical, or recreational resources. Net positive benefit shall not be solely monetary compensation, but shall include mitigation and other consideration related to environmental, historical, or recreational benefits, as applicable, to the affected management unit.”

<sup>79</sup> Section 253.42(3), F.S.

<sup>80</sup> Section 216.0153, F.S.

<sup>81</sup> DEP, *FL-SOLARIS, Background Information*, [http://www.dep.state.fl.us/lands/fl\\_solaris\\_background.htm](http://www.dep.state.fl.us/lands/fl_solaris_background.htm) (last visited Feb. 5, 2016).

<sup>82</sup> Section 259.105, F.S.

The Acquisition and Restoration Council (council) is responsible for evaluating, selecting, and ranking state land acquisition projects under the Florida Forever program.<sup>83</sup> The council is a 10-member group composed of:

- Four members appointed by the Governor, three from a scientific discipline related to land, water, or environmental science, and one with at least five years of experience in managing lands for both active and passive types of recreation;
- Four members as follows:
  - The secretary of the Department of Environmental Protection;
  - The director of the Florida Forest Service of the Department of Agriculture and Consumer Services;
  - The executive director of the Fish and Wildlife Conservation Commission;
  - The director of the Division of Historical Resources of the Department of State;
- One member appointed by the Fish and Wildlife Conservation Commission; and
- One member appointed by the Commissioner of Agriculture.<sup>84</sup>

Projects or acquisitions funded through Florida Forever are evaluated and reviewed by the council, which determines if a proposed project meets at least two of the following goals:

- Enhances the coordination and completion of land acquisition projects.
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels.
- Protects, restores, and maintains the quality and natural functions of land, water, and wetland systems of the state.
- Ensures that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
- Increases natural resource-based public recreational and educational opportunities.
- Preserves significant archaeological or historic sites.
- Increases the amount of forestland available for sustainable management of natural resources.
- Increases the amount of open space available in urban areas.<sup>85</sup>

The goals are evaluated in accordance with specific criteria and numeric performance measures developed by rule.<sup>86</sup> This criteria is used to competitively evaluate, select, and rank projects eligible for Florida Forever funds. The council is required to give weight to the following criteria:

- The project meets multiple goals.
- The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.

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<sup>83</sup> *Id.*

<sup>84</sup> Section 259.035, F.S.

<sup>85</sup> Section 259.105(4), F.S.

<sup>86</sup> Section 259.035(4)(a), F.S.; ch. 2015-229, s. 21, Laws. of Fla., requires the council to develop rules, by December 1, 2016, defining specific criteria and numeric performance measures needed for lands that are acquired under the Florida Forever program or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules are required to be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature is authorized to reject, modify, or take no action relative to the proposed rules. If no action is taken, the rules shall be implemented.



- 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 two 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.
- The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.<sup>87</sup>

To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, where compatible with the resource values of and management objectives for the lands, are appropriate under Florida Forever.<sup>88</sup> A water resource or water supply development project may only be allowed if:

- Minimum flows and levels have been established for those waters, if any, which may reasonably be expected to experience significant harm to water resources as a result of the project;
- The project complies with all applicable permitting requirements; and
- The project is consistent with the regional water supply plan, if any, of the water management district and with relevant recovery or prevention strategies that are required to be implemented if the existing flow or level in a water body is below, or is projected to fall within 20 years below, the applicable minimal flow or level.<sup>89</sup>

Each year the division prepares an annual work plan prioritizing projects on the Florida Forever list by category: a critical lands category; a partnerships or regional incentives category; a substantially complete category; a climate-change category; and a less-than-fee category.<sup>90</sup> After at least one public hearing, the council may adopt the work plan. A copy of the work plan is required to be provided to the board by October 1 of each year.<sup>91</sup>

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<sup>87</sup> Section 259.105(9), F.S.

<sup>88</sup> Section 259.105(2)(a)5., F.S.

<sup>89</sup> Section 259.105(5)(a), F.S.

<sup>90</sup> Section 259.105(17), F.S.

<sup>91</sup> *Id.*

Lands acquired for conservation and recreation purposes are to be used as state-designated parks, recreation areas, preserves, reserves, historic or archaeological sites, geologic or botanical sites, recreational trails, forests, wilderness areas, wildlife management areas, urban open space, or other state-designated recreation or conservation lands; or they shall qualify for such state designation and use if they are to be managed by other governmental agencies or non-state entities.<sup>92</sup> Additionally, conservation lands acquired pursuant to the Florida Forever program or other state-funded conservation land purchase programs are authorized, upon a finding by the board, for use as water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if:

- The proposed use is consistent with the management plan for such lands;
- The proposed use is compatible with the natural ecosystem and resource values of such lands;
- The proposed use is appropriately located on such lands and where due consideration is given to the use of other available lands;
- The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and
- The proposed use is consistent with the public interest.<sup>93</sup>

### **III. Effect of Proposed Changes:**

#### **Acquisition Procedures**

The bill amends s. 253.025, F.S., relating to the acquisition of state lands for purposes other than preservation, conservation, and recreation, and repeals s. 259.041, F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes, to consolidate the acquisition procedures for all state lands, whether or not they were acquired for conservation, preservation, or recreation purposes.

The following provisions applied only to conservation lands under s. 259.041, F.S., but were moved to s. 253.025, F.S., and will apply to all state lands under the bill:

- The authority to waive the acquisition requirements under statute or rule, except under specified circumstances, and substitute other reasonably prudent procedures if the public's interest is reasonably protected.
- The requirement that if the purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board or if the contract price agreed to by the seller and the acquiring agency exceeds \$1 million then the agreement must be submitted to and approved by the board. Additionally, if the board's approval is required then the acquiring agency must provide justification as to why it is in the public's interest to acquire the parcel.
- The authority to obtain a third appraisal if the first two appraisals exceed \$1 million and differ significantly.

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<sup>92</sup> Section 259.032(3), F.S.

<sup>93</sup> Section 253.034(10), F.S.

- The requirement that the agency proposing the acquisition must pay associated costs in addition to appraisal fees. Currently, acquiring agencies are not expressly required to pay associated costs when acquiring nonconservation lands.
- The authority to release an appraisal report for nonconservation lands when the acquiring agency has terminated negotiations.
- The prohibition against the maximum value of a parcel to be purchased by the board, as determined by the highest approved appraisal or pursuant to the rules of the board, increasing or decreasing as a result of a changing in zoning or permitted land uses, or changes in market forces or prices that occur within one year after the date the department or the board approves the contract to purchase the parcel.
- The authority of the secretary of the department or the director of the division to waive the appraisal requirements and to enter into an option agreement to buy a parcel of land before appraisal of the parcel of land.
- The authority to contract for additional real estate acquisition services including, surveying, mapping, environmental audits, title work, and legal and other professional assistance for reviewing acquisition agreements and other documents and to perform acquisition closings.

The following provisions were moved from s. 259.041, F.S., to s. 253.025, F.S., with no effect:

- The rulemaking authority of the board relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes.
- The eminent domain authority to acquire any conservation parcel identified on the Florida Forever acquisition list established by the council and approved by the board.
- The authority of the board, by an affirmative vote of at least three members, to direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of certain lands.
- The provision providing that title to lands that are to be jointly held by the board and a water management district when acquired by a water management district are deemed to meet the standards necessary for ownership by the board.

Additionally, the bill makes the following changes:

- Authorizes the division to use an appraisal prepared by the division to estimate the value of a parcel that is estimated to be worth \$100,000 or less, if the director of the division finds that the cost of an outside appraisal is not justified and provided the public's interest is reasonably protected.
- Removes the board's ability to designate a qualified fee appraiser organization.
- Changes a reference to the Division of Business and Professional Regulation to the Department of Agriculture and Consumer Services as land surveyors are regulated by the latter rather than the former.
- Revises the definition of the term "nonprofit organization," relating to organizations that may provide an appraisal to the division, to include nonprofit organizations whose purpose includes the preservation of natural resources for the purposes of the acquisition of conservation lands, rather than nonprofit organizations whose purpose is the preservation of natural resources.

- Authorizes rather than requires, the department to use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.
- Defines the term “project” to mean “those Florida Forever projects selected pursuant to chapter 259.”

The bill amends s. 253.031, F.S., to remove the requirement that the board keep records and papers at the U.S. Land Office in Gainesville, Florida. All documents are now held in Tallahassee as required by law.<sup>94</sup>

### ***Alternatives to Fee Simple Acquisition***

The bill creates s. 253.0251, F.S., to relocate subsection 259.041(11), F.S., without amending the language. Additionally, the bill deletes s. 259.101(7), F.S., the language of which closely mirrors s. 259.041(11), F.S., but applies to acquisitions under the Perseveration 2000 program.

### **Management Requirements**

The bill amends s. 253.03, F.S., to update a reference to a repealed rule that grandfathered-in certain structures to use sovereignty submerged lands. The bill requires the board to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses that are related to water-dependent uses.

The bill amends s. 253.034, F.S., to authorize the department to submit lands to the board to consider whether to require the managing or leasing entity to release its interests in the state-owned lands and whether to surplus the lands, if the entity managing or leasing the land from the board does not meet the short-term goals as provided in the applicable land management plan for conservation lands or the land use plan for nonconservation lands. The planning period for short-term goals in a land management plan is two years and the planning period for short-term goals in a land use plan is five years.

The bill amends s. 253.034(5), F.S., to:

- Require that each updated land management plan identify conservation lands under the plan, in part or in whole, which are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
- Require that all state nonconservation lands be managed to provide the greatest benefit to the state and that any use or possession of nonconservation lands which is not in accordance with an approved land use plan is subject to termination by the board.
- Require each land use plan to contain, at a minimum, all of the following elements:
  - 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, as opposed to an analysis of the property to determine if any significant natural or cultural resources are located on the property as required under current law.
  - A desired development outcome.
  - A schedule for achieving the desired development outcome.

<sup>94</sup> DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

- A description of both short-term (achievable within a 5-year planning period) and long-term (achievable within a 10-year planning period) development goals.
- A management and control plan for invasive nonnative plants.
- A management and control plan for soil erosion and soil and water contamination, as opposed to providing for the conservation of soil and water resources as required under current law.
- Measureable objectives to achieve the goals identified in the land use plan.
- Remove the specification that natural or cultural resources includes archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.
- Provide clarification by adding references to state conservation lands or nonconservation lands where appropriate.
- Remove duplicative language relating to the authority of the secretary of the department, the Commissioner of Agriculture, or the Executive Director of the Fish and Wildlife Conservation Commission to submit a land management plan to the board, if the council fails to make a recommendation for the plan.

The bill amends s. 253.7821, F.S., to assign the Cross Florida Greenways State Recreation and Conservation Area to the department, rather than the Office of Greenways Management.

The bill amends s. 259.032, F.S., relating to conservation and recreation lands to:

- Remove the requirement that outdoor activities related to recreation which are authorized be compatible with the purposes for which the lands were acquired.
- Remove the requirement that conservation lands be managed for the purposes for which the lands were acquired.
- Require the board to evaluate and amend the management policy statement for a project to ensure that the policy is compatible with conservation or recreation purposes rather than consistent with the purposes for which the lands are acquired.
- Remove obsolete language relating to the land management plan for the Babcock Crescent B Ranch. The land management plan has been created.
- Revise the requirements for individual management plans by:
  - Removing the requirement that the priority schedules for conducting management activities be based on the purposes for which the lands were acquired.
  - Requiring the determination of the public uses and public access to be compatible with conservation or recreation purposes rather than consistent with the purposes for which the lands were acquired.
- Revise the legislative intent that such lands be managed and maintained in a manner that is compatible with conservation or recreation purposes rather than for the purposes for which the lands were acquired and the requirement that public access and use be consistent with acquisition purposes.
- Conform cross-references.

The bill amends s. 259.035, F.S., to clarify that the council provides assistance to the board in reviewing the recommendations and plans for state-owned conservation lands. The council does not provide the board with assistance relating to plans for state-owned nonconservation lands.

The bill amends s. 259.036, F.S., relating to the requirements of management review teams to:

- Require the review teams to determine whether conservation, preservation, and recreation lands titled in the name of the board are managed for purposes that are compatible with conservation, preservation, or recreation in accordance with the applicable land management plan, rather than for the purposes for which they were acquired.
- Revise the composition of regional land management review teams to provide a preference for private land managers from the local community and to authorize a member or staff of the jurisdictional water management district to be on the team instead of a member or staff of the local soil and water conservation district board of supervisors.
- Change references from the division to the department.

The bill amends s. 259.037, F.S., to provide an acronym for the Land Management Uniform Accounting Council (LMUAC) and remove the director of the Office of Greenways and Trails from the council.

Under s. 259.047, F.S., a state or acquiring entity is required to make reasonable efforts to keep lands in agricultural production which were in agricultural production at the time of acquisition, where consistent with the purposes for which the property was acquired. The bill amends the language to state if consistent with the purposes of conservation or recreation.

The bill amends s. 259.101, F.S., to revise the language related to the incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation purposes rather than compatible with the purposes for which such lands were acquired. The bill removes the language relating to alternatives to fee simple acquisition under this section. This language closely mirrors the authorization for alternatives to fee simple acquisitions under the Florida Forever program, which was moved to a new section. The bill conforms cross-references.

### **Disposition Procedures**

The bill amends s. 253.0341, F.S., to include the provisions from s. 253.034(6) and (13), F.S., to provide one section of law that encompasses the surplus requirements for state lands. The bill:

- Removes authorization for local governments to submit surplusing requests directly to the board.
- Removes authorization for the board to decide to surplus nonconservation lands without a review of, or a recommendation on, the request from the council or the division.
- Requires all requests to surplus conservation lands to be submitted to the lead managing agency for review and recommendation to the council, and all requests to surplus nonconservation lands to be submitted to the division for review and recommendation to the board.
- Under current law, surplusing requests for nonconservation lands by a county or local government were required to be considered by the board within 60 days of the board's receipt of the request. Surplus requests by a county or local government to surplus conservation lands were required to be considered by the board within 120 days of the board's receipt of the request. The bill applies the 60-day review requirement to all requests, not just from a county or local government, and to requests to surplus conservation lands.

- Requires state universities or Florida College System institutions that request the use of a property that was to be declared as surplus to secure the property under a fully executed lease within 90 days after being notified that it may use such property.
- Requires the division, at least every 10 years, to review all state-owned conservation lands titled to the board to determine whether any such land is no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
  - After such review, the division is required to submit a list of identified lands to the council.
  - The council, within nine months after receiving the list, is required to provide recommendations to the board as to whether any such land is no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
  - After reviewing the list and considering the council's recommendations, if the board determines, by an affirmative vote of at least three members, that any such land is no longer needed for conservation purposes, the board is required to dispose of the lands in fee simple or with the state retaining a permanent conservation easement.
- Requires the division, at least every 10 years, to review all encumbered and unencumbered nonconservation lands titled to the board and recommend to the board whether any such lands should be retained in public ownership or disposed of by the board by a majority vote of the members.
- Clarifies that council review and recommendation on requests for surplus lands only applies to conservation lands.
- Removes language relating to the conveyance of title to property on which the Graham Building is located to Miami-Dade County. The conveyance has been executed.
- Removes the authorization for local governments to request that state lands be specifically declared surplus for the purpose of providing alternative water supply and water resource development projects, public facilities, and affordable housing.
- Removes examples of permissible uses of land surplus under certain circumstances to a state, county, or local government.
- Revises the deadline for state agencies, state universities, and Florida College System institutions requesting to lease a surplus facility or parcel from 60 days after the offer for lease to 45 days after the offer for lease.
- Adds the term "nonconservation" to clarify that only facilities or parcels of nonconservation lands are required to be first offered for lease to state agencies, state universities, and Florida College System institutions before such facility or parcel is offered for lease or sale. The bill also changes the term from "building" to "facility" to include all possible structures on the parcel.

The bill amends s. 253.111, F.S., to require the board before it sells any land to which it holds title to provide notice and afford an opportunity to receive such land to a municipality, in addition to the county, in which the land is situated. Additionally, the bill:

- Gives priority consideration to a municipality over the county, if the parcel is located within a municipality, in cases where both the county and municipality have proposed to acquire land the board intends to sell.

- Revises the notification requirements to include express mail or any commercial delivery service requiring a signed receipt, or electronic notification with return receipt.
- Removes the 40-day requirement for a determination by resolution to be made by the governing board of the county or municipality, but retains the 45-day requirement for receipt of such resolution by the board.
- Authorizes the board to convey the land to the county or municipality at a price that is equal to its market value based on, at the discretion of the division, an appraisal, a comparable sales analysis, or a broker's opinion of value. Under current law, the market value had to be based on an appraisal established by generally acceptable professional standards.

The bill amends s. 253.42, F.S., relating to the exchange of lands, to create a new process authorizing a person who owns land contiguous to state-owned lands to submit a request to the division to exchange all or a portion of the privately owned land for all or a portion of the state-owned land. The state would retain a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. The bill authorizes the division to submit the request to the council for review, in which case the council shall provide recommendations to the division. The division then is required to review the request and the council's recommendations and may provide recommendations to the board. The bill authorizes the board to approve the request if:

- At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.
- The approval does not result in a violation of the terms of a preexisting lease or agreement by the board, the department, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.
- For state-owned land purchased for conservation purposes, the board of trustees makes a determination that the exchange of land under this subsection will result in a positive conservation benefit.
- The approval does not conflict with any existing flowage easement.
- The request is approved by three or more members of the board of trustees.

The bill specifies that state-owned sovereign submerged land is not authorized for this type of exchange and that special consideration is required to be given to requests that maintain public access for any recreational purpose allowed on the state-owned land at the time the request is submitted to the board. The bill provides that a person who maintains public access on such lands is entitled to a limitation on liability. The bill requires that any land subject to a permanent conservation easement granted under this process is subject to inspection by the department to ensure compliance with the terms of the permanent conservation easement.

The bill amends s. 253.782, F.S., to remove the directive requiring the department to retain ownership of and maintain all lands or interests in land owned by the board, including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.



## FL-SOLARIS

The bill creates s. 253.87, F.S., to require the department to expand the scope of the FL-SOLARIS database and require:

- By July 1, 2018, that the database include all federally owned conservation lands, all lands on which the Federal Government retains a permanent conservation easement, and all lands on which the state retains a permanent conservation easement.
- By July 1, 2018, and at least every five years thereafter, that counties and municipalities identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. If a municipality qualifies as a financially disadvantaged small community it has until July 1, 2019, to complete this requirement.<sup>95</sup>
- The department to add the lands on a list submitted by a county or municipality to the database within six months after receiving the list.
- The department to update the database at least every five years.
- The department to conduct a study on the technical and economic feasibility of including the following lands in the database or a similar public lands inventory:
  - All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres.
  - All publicly and privately owned lands for which development rights have been transferred.
  - All privately owned lands under a permanent conservation easement.
  - All lands owned by a nonprofit or nongovernmental organization for conservation purposes.
  - All lands that are part of a mitigation bank.
- The department to submit a report regarding the study on the technical and economic feasibility of including such lands in the database to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2018.

## Florida Forever Program

The bill amends s. 259.01, F.S., to revise the short title for chapter 259, F.S., from the “Land Conservation Act of 1972” to the “Land Conservation Program.”

The bill repeals s. 259.02, F.S., relating to the bonding authority for state capital projects for environmentally endangered lands up to \$200 million and outdoor recreation lands up to \$40 million. The bond issuance has been satisfied.<sup>96</sup>

The bill amends s. 259.03, F.S., to revise the definition of the term “water resource development project” to delete the express exclusion of the construction of treatment, transmission, and distribution facilities from the definition. This revision authorizes projects for constructing

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<sup>95</sup> Section 403.1838, F.S., defines the term “financially disadvantaged small community as “a municipality that has a population of 10,000 or fewer, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.”

<sup>96</sup> DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

treatment, transmission, and distribution facilities to be eligible for funding under the Florida Forever program as water resource development projects. Additionally, water resource development projects are authorized as a “multiple use” which lands acquired under chapter 259, F.S., may be managed for, where compatible with the resource values of and management objectives for such lands.<sup>97</sup>

The bill amends s. 259.105, F.S., to:

- Provide increased priority under Florida Forever for:
  - Projects that can be acquired in less than fee ownership such as permanent conservation easements;
  - Projects that contribute to improving quality and quantity of surface water and groundwater; or
  - Projects that contribute to improving the water quality and flow of springs.
- Remove the requirement that where habitat or potentially restorable habitat for imperiled species is located on state lands the short-term and long-term management goals included in the land management plan must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting the other uses identified in the management plan. This language was moved to s. 259.032(8)(c), F.S., but the requirement that the goals and objectives of imperiled species management plan be consistent with the purposes for which the land was acquired was removed.
- Clarify that an affirmative vote of at least five members of the council is required to place a proposed project on the priority list.
- Remove legislative ratification requirements for rules that have been ratified and taken effect.
- Conform cross-references.

The bill amends, s. 259.1052, F.S., to delete distribution requirements under Florida Forever relating to the Babcock Crescent B Ranch. This language is obsolete as the acquisition project is now completed.

The bill amends ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S., to conform cross-references.

The bill is effective July 1, 2016.

#### **IV. Constitutional Issues:**

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

The bill requires each county and municipality to submit to the department a list of all conservation lands owned in fee simple by the entity and lands on which the entity holds a permanent conservation easement. The bill may require counties and municipalities to take actions requiring the expenditure of funds. As a result, the county and municipality mandates provision of Article VII, section 18, of the Florida Constitution may apply. A

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<sup>97</sup> Section 259.105(5)(a), F.S.

law having an insignificant fiscal impact is exempt from the requirements of Article VII, section 18, of the Florida Constitution. The cost to counties and municipalities to identify and submit the list to the department is indeterminate at this time. If the cost will have an insignificant fiscal impact the exemption may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires a review of a lease to ensure that all short-term goals are being met for conservation and nonconservation lands. The department estimates that to track, review, and submit to the board for a recommendation whether to require the managing agency to release its interest and consider surplus, the department would need one full-time equivalent (FTE) employee to facilitate the non-conservation land portion under the bill.<sup>98</sup> Additionally, additions to the current land management database are necessary to track and provide reminders when the short-term goal reviews are due. The department estimates that costs of these additions are indeterminate without a study.<sup>99</sup>

The bill requires the department to review state-owned lands every 10 years, the department estimates that to facilitate these 10-year reviews, one FTE employee would be necessary.<sup>100</sup> The department has begun an analysis on what is necessary to enable the department to track land management plans. The costs of this addition is indeterminate without a study.<sup>101</sup>

The bill requires the department to include all federally owned conservation lands and all lands on which the federal government holds a permanent conservation easement, and all lands on which the state holds a permanent conservation easement. The department

<sup>98</sup> DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

estimates that they will need an additional FTE to produce the initial data, establish federal contacts to acquire data, and to maintain the system and data.<sup>102</sup> The bill also requires counties and municipalities to submit lists of conservation lands that they own in fee simple and lands for which they hold a permanent easement. The department estimates that an FTE will be required to act as a liaison to counties and municipalities, to assure compliance, quality control, and maintain the county and municipal conservation data in FL-SOLARIS.<sup>103</sup> The department estimates that these costs will be \$1,135,784, see chart below.<sup>104</sup>

Division of State Lands/Office of Operations				
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
Contracted Services/FNAI Data		\$20,000	-	\$20,000
Transfer to DMS-HR Services-Statewide Contract		\$688	-	\$688
<b>Total</b>	<b>2.0</b>	<b>\$273,020</b>	<b>\$862,764</b>	<b>\$1,135,784</b>

The bill requires the department to conduct a study and submit a report on the technical and economic feasibility of including lands within various criteria in FL-SOLARIS. The department estimates that this cost will be \$500,000.<sup>105</sup>

**VI. Technical Deficiencies:**

The bill contains the following technical deficiencies:

- On line 295 the reference to “chapter 259” was inadvertently left out.
- On line 398 the term “Minimum Technical Standards” should be amended to read “Standards of Practice.”
- On lines 511-515 the bill amends s. 253.025, F.S., to authorize rather than require the department to use outside counsel unless staff can conduct the same activity in 15 days or less. If the intent is to provide the department with flexibility to use outside counsel under any circumstance, the language should be amended to remove the clause restricting the department from being able to use outside counsel if department staff can conduct the same activity in 15 days or less.
- On lines 792-794 the term “project” is defined for purposes of the section to mean “Florida Forever projects.” Within that section, on line 261, the term “project” is used to refer to joint state and federal acquisition projects. The definition of the term “project” should be removed.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

- On lines 1731 the term “building” was revised to “facility.” However, on lines 1737, 1741, and 1746, the term “building” is used. These references should be changed to “facility.”
- On lines 2046-2047 all federally owned conservation lands and all lands on which the Federal Government retains a permanent conservation easement are required to be included on FL-SOLARIS. For clarification, the language should be amended to limit the requirement to apply only to federally owned conservation lands and easements in the state.
- On line 2195 the term “statement” should be included after the word “policy.”
- On line 2625 the term “purposes” should be reinstated.

## **VII. Related Issues:**

The bill moves language relating to alternatives to fee simple acquisitions from s. 259.041, F.S., to the newly created s. 253.0251, F.S. The requirement that each applicant within a project application must provide a statement as to why they are seeking full fee simple, rather than using an alternative to fee simple, was moved and revised under the bill to apply to all applications for alternatives to fee simple. With the revision, the language no longer makes sense, see lines 830-834. This provision should be reinstated to the original language and moved to s. 259.105, F.S., relating to the Florida Forever project application requirements.

The bill consolidates the request procedures for nonconservation lands and conservation lands in s. 253.0341(12), F.S., beginning on line 1814. Within that subsection language was moved from s. 253.023(6)(j), F.S., which provides an exemption from paragraph (f). Paragraph (f) requires consideration of whether the land would be more appropriately owned or managed by the county or other unit of local government and requires such lands to be first offered to the state, county or local government. It is not clear, under current law, which requirement this exemption applies. Under the bill, this exemption will now apply to all requests to surplus lands and an additional exemption from subsection (8), relating to offers to state agencies, state universities, and Florida College System institutions, was added. The bill seems to state that all requests to surplus lands would be exempted from the requirement that the lands be first offered to a state agency, local government, state university, or Florida College System institution. This provision on lines 1829-1831 should be amended for clarification.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 253.025, 253.03, 253.031, 253.034, 253.0341, 253.111, 253.42, 253.782, 253.7821, 259.01, 259.03, 259.032, 259.035, 259.036, 259.037, 259.047, 259.101, 259.105, 259.1052, 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, 1013.14.

This bill creates the following sections of the Florida Statutes: 253.0251 and 253.87.

This bill repeals the following sections of the Florida Statutes: 259.02 and 259.041.

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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294294

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/09/2016	.	
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The Committee on Environmental Preservation and Conservation  
(Soto) recommended the following:

**Senate Amendment (with title amendment)**

1  
2  
3 Delete lines 2121 - 2122  
4 and insert:  
5 improvements. The term does not include construction of  
6 treatment, transmission, or distribution facilities.  
7

8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 Delete lines 176 - 178



294294

11 and insert:  
12       revising definitions;



By Senator Simpson

18-00774-16

20161290\_\_

1                   A bill to be entitled  
2           An act relating to state lands; amending s. 253.025,  
3           F.S.; authorizing the Board of Trustees of the  
4           Internal Improvement Trust Fund to waive certain  
5           requirements and rules and substitute procedures  
6           relating to the acquisition of state lands under  
7           certain conditions; providing that title to certain  
8           acquired lands are vested in the board; providing for  
9           the administration of such lands; authorizing the  
10          board to adopt specified rules; revising requirements  
11          for the appraisal of lands proposed for acquisition;  
12          requiring an agency proposing an acquisition to pay  
13          the associated costs; deleting provisions directing  
14          the board to approve qualified fee appraisal  
15          organizations; requiring fee appraisers to submit  
16          certain affidavits to an agency before contracting  
17          with a participant in a multiparty agreement;  
18          prohibiting fee appraisers from negotiating with  
19          property owners; providing for the Minimum Technical  
20          Standards for Land Surveying in Florida to be  
21          published by the Department of Agriculture and  
22          Consumer Services rather than the Department of  
23          Business and Professional Regulation; authorizing the  
24          disclosure of confidential appraisal reports under  
25          certain conditions; providing for public agencies and  
26          nonprofit organizations to enter into written  
27          agreements with the Department of Environmental  
28          Protection rather than the Division of State Lands to  
29          purchase and hold property for subsequent resale to  
30          the board rather than the division; revising the  
31          definition of the term "nonprofit organization";  
32          directing the board to adopt by rule the method for

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33 determining the value of parcels sought to be acquired  
34 by state agencies; providing requirements for such  
35 acquisitions; expanding the scope of real estate  
36 acquisition services for which the board and state  
37 agencies may contract; authorizing the Department of  
38 Environmental Protection to use outside counsel to  
39 review any agreements or documents or to perform  
40 acquisition closings under certain conditions;  
41 requiring state agencies to furnish the Department of  
42 Environmental Protection rather than the Division of  
43 State Lands with specified acquisition documents;  
44 providing that the purchase price of certain parcels  
45 is not subject to an increase or decrease as a result  
46 of certain circumstances; authorizing the board of  
47 trustees to direct the Department of Environmental  
48 Protection to exercise eminent domain for the  
49 acquisition of certain conservation parcels under  
50 certain circumstances; authorizing the Department of  
51 Environmental Protection to exercise condemnation  
52 authority directly or by contracting with the  
53 Department of Transportation or a water management  
54 district to provide such service; authorizing the  
55 board to direct the Department of Environmental  
56 Protection to purchase lands on an immediate basis  
57 using specified funds; authorizing the board of  
58 trustees to waive or modify all procedures required  
59 for such land acquisition; providing that title to  
60 certain lands held jointly by the board and a water  
61 management district meet the standards necessary for

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62 ownership by the board; defining the term "projects"  
63 for purposes of land acquisition; creating s.  
64 253.0251, F.S.; providing for the use of alternatives  
65 to fee simple acquisition by public land acquisition  
66 agencies; amending s. 253.03, F.S.; deleting  
67 provisions directing the board to adopt by rule an  
68 annual administrative fee for certain leases and  
69 similar instruments; revising the criteria by which  
70 specified structures have the right to continue  
71 submerged land leases; directing the board to adopt by  
72 rule an annual administrative fee for certain leases  
73 and instruments; authorizing nonwater-dependent uses  
74 for submerged lands; amending s. 253.031, F.S.;;  
75 providing for the Department of Environmental  
76 Protection to maintain documents concerning all state  
77 lands; deleting an obsolete provision; amending s.  
78 253.034, F.S.; authorizing the department to submit  
79 certain state-owned lands to the board for  
80 consideration; requiring that all nonconservation land  
81 use plans are managed to provide the greatest benefit  
82 to the state; deleting provisions requiring an  
83 analysis of natural or cultural resources as part of a  
84 nonconservation land use plan; specifying that certain  
85 management and short-term and long-term goals for the  
86 conservation of plant and animal species apply to  
87 conservation lands; providing conditions under which  
88 the Secretary of Environmental Protection,  
89 Commissioner of Agriculture, or executive director of  
90 the Fish and Wildlife Conservation Commission or their

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91 designees are required to submit land management plans  
92 to the board; requiring that updated land management  
93 plans identify conservation lands that are no longer  
94 needed for conservation purposes; deleting provisions  
95 directing the board to make certain determinations  
96 regarding the surplus and disposition of state lands;  
97 deleting provisions requiring that buildings and  
98 parcels of land be offered for lease to state  
99 agencies, state universities, and Florida College  
100 System institutions before being offered for lease or  
101 sale to a local or federal unit of government or a  
102 private party; amending s. 253.0341, F.S.; deleting  
103 provisions requiring that county or local government  
104 requests for the state to surplus conservation or  
105 nonconservation lands be expedited; directing the  
106 board to make certain determinations regarding the  
107 surplus and disposition of state lands; providing that  
108 lands acquired before a certain date using specified  
109 proceeds are deemed to have been acquired for  
110 conservation purposes; providing that certain lands  
111 used by the Department of Corrections, the Department  
112 of Management Services, and the Department of  
113 Transportation may not be designated as lands acquired  
114 for conservation purposes; requiring updated land  
115 management plans to identify conservation lands that  
116 are no longer needed and could be disposed of;  
117 requiring the Division of State Lands to review state-  
118 owned conservation lands and determine if such lands  
119 are no longer needed and could be disposed of and to

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120 submit a list of such lands to the Acquisition and  
121 Restoration Council; requiring the council to provide  
122 certain recommendations to the board regarding  
123 conservation lands; requiring the division to review  
124 certain nonconservation lands and make recommendations  
125 to the board as to whether such lands should be  
126 retained in public ownership or disposed of; deleting  
127 an obsolete provision; requiring that buildings and  
128 parcels of land be offered for lease to state  
129 agencies, state universities, and Florida College  
130 System institutions before being offered for lease or  
131 sale to a local or federal unit of government or a  
132 private party; providing for the valuation and  
133 disposition of surplus lands; providing for the  
134 deposit of proceeds from the sale of such lands;  
135 authorizing the board to adopt rules; amending s.  
136 253.111, F.S.; revising provisions requiring the board  
137 to afford an opportunity to local governments to  
138 purchase certain lands; amending s. 253.42, F.S.;  
139 authorizing individuals or entities to submit requests  
140 to the Division of State Lands to exchange state-owned  
141 land for privately held land; requiring the state to  
142 retain permanent conservation easements over the  
143 state-owned land and all or a portion of the privately  
144 held land; requiring the division to review requests  
145 and provide recommendations to the Acquisition and  
146 Restoration Council; providing applicability;  
147 directing the board to consider a request if certain  
148 conditions are met; providing special consideration

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149 for certain requests; providing that such lands are  
150 subject to inspection; amending s. 253.782, F.S.;  
151 deleting a provision directing the Department of  
152 Environmental Protection to retain ownership of and  
153 maintain lands or interests in land owned by the  
154 board; amending s. 253.7821, F.S.; assigning the Cross  
155 Florida Greenways State Recreation and Conservation  
156 Area to the Department of Environmental Protection  
157 rather than the Office of Greenways Management within  
158 the Office of the Secretary; creating s. 253.87, F.S.;  
159 directing the Department of Environmental Protection  
160 to include certain county, municipal, state, and  
161 federal lands in the Florida State-Owned Lands and  
162 Records Information System (FL-SOLARIS) database and  
163 to update the database at specified intervals;  
164 requiring counties, municipalities, and financially  
165 disadvantaged small communities to submit a list of  
166 certain lands to the department by a specified date  
167 and at specified intervals; directing the department  
168 to conduct a study and submit a report to the Governor  
169 and the Legislature on the technical and economic  
170 feasibility of including certain lands in the database  
171 or a similar public lands inventory; amending s.  
172 259.01, F.S.; renaming the "Land Conservation Act of  
173 1972" as the "Land Conservation Program"; repealing s.  
174 259.02, F.S., relating to issuance of state bonds for  
175 certain land projects; amending s. 259.03, F.S.;  
176 revising the definition of the term "water resource  
177 development project" to include construction of

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178 treatment, transmission, and distribution facilities;  
179 amending s. 259.032, F.S.; conforming cross-  
180 references; revising provisions relating to the  
181 management of conservation and recreation lands to  
182 conform with changes made by the act; revising duties  
183 of the Acquisition and Restoration Council; amending  
184 s. 259.035, F.S.; requiring recipients of funds from  
185 the Land Acquisition Trust Fund to annually report  
186 certain performance measures to the Department of  
187 Environmental Protection rather than the Division of  
188 State Lands; amending s. 259.036, F.S.; revising the  
189 composition of the regional land management review  
190 team; providing for the Department of Environmental  
191 Protection rather than the Division of State Lands to  
192 act as the review team coordinator; revising  
193 requirements for conservation and recreation land  
194 management reviews and plans; amending s. 259.037,  
195 F.S.; removing the director of the Office of Greenways  
196 and Trails from the Land Management Uniform Accounting  
197 Council; repealing s. 259.041, F.S., relating to the  
198 acquisition of state-owned lands for preservation,  
199 conservation, and recreation purposes; amending s.  
200 259.047, F.S.; revising provisions relating to the  
201 acquisition of land on which an agricultural lease  
202 exists to conform with changes made by the act;  
203 amending s. 259.101, F.S.; conforming cross-  
204 references; revising provisions relating to alternate  
205 use of lands acquired under the Florida Preservation  
206 2000 Act to conform with changes made by the act;

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207 deleting provisions for alternatives to fee simple  
208 acquisition of such lands to conform with changes made  
209 by the act; amending s. 259.105, F.S.; deleting  
210 provisions requiring the advancement of certain goals  
211 and objectives of imperiled species management on  
212 state lands to conform with changes made by the act;  
213 conforming cross-references; revising provisions  
214 directing the Acquisition and Restoration Council to  
215 give increased priority to certain projects when  
216 developing proposed rules relating to Florida Forever  
217 funding and additions to the Conservation and  
218 Recreation Lands list; deleting provisions requiring  
219 that such rules be submitted to the Legislature for  
220 review; amending s. 259.1052, F.S.; deleting  
221 provisions authorizing the Department of Environmental  
222 Protection to distribute revenues from the Florida  
223 Forever Trust Fund for the acquisition of a portion of  
224 Babcock Crescent B Ranch; amending ss. 73.015,  
225 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824,  
226 260.015, 260.016, 369.317, 373.139, 375.031, 375.041,  
227 380.05, 380.055, 380.508, 589.07, 944.10, 957.04,  
228 985.682, and 1013.14, F.S.; conforming cross-  
229 references; providing an effective date.

230

231 Be It Enacted by the Legislature of the State of Florida:

232

233 Section 1. Section 253.025, Florida Statutes, is amended to  
234 read:

235 253.025 Acquisition of state lands ~~for purposes other than~~



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236 ~~preservation, conservation, and recreation.~~

237 (1) (a) ~~Neither~~ The Board of Trustees of the Internal  
238 Improvement Trust Fund or ~~nor~~ its duly authorized agent may not  
239 ~~shall~~ commit the state, through any instrument of negotiated  
240 contract or agreement for purchase, to the purchase of lands  
241 with or without appurtenances unless ~~the provisions of this~~  
242 section has ~~have~~ been fully complied with.

243 (b) Except for the requirements of subsections (4), (11),  
244 and (22), if the public's interest is reasonably protected, the  
245 board of trustees may:

246 1. Waive any requirements of this section.

247 2. Waive any rules adopted pursuant to this section,  
248 notwithstanding chapter 120.

249 3. Substitute other reasonably prudent procedures.

250 (c) ~~However,~~ The board of trustees may also substitute  
251 federally mandated acquisition procedures for the provisions of  
252 this section if ~~when~~ federal funds are available and will be  
253 used ~~utilized~~ for the purchase of lands, title to which will  
254 vest in the board of trustees, and qualification for such  
255 federal funds requires compliance with federally mandated  
256 acquisition procedures.

257 (d) Notwithstanding ~~any provisions in this section to the~~  
258 ~~contrary,~~ if lands are being acquired by the board of trustees  
259 for the anticipated sale, conveyance, or transfer to the Federal  
260 Government pursuant to a joint state and federal acquisition  
261 project, the board of trustees may use appraisals obtained by  
262 the Federal Government in the acquisition of such lands. The  
263 board of trustees may waive any provision of this section when  
264 land is being conveyed from a state agency to the board.

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265 (e) The title to lands acquired pursuant to this section  
266 shall vest in the board of trustees pursuant to s. 253.03(1)  
267 unless otherwise provided by law, and all such titled lands  
268 shall be administered pursuant to s. 253.03.

269 (2) Before ~~Prior to~~ any state agency initiates ~~initiating~~  
270 any land acquisition, except for ~~as pertains to~~ the purchase of  
271 property for transportation facilities and transportation  
272 corridors and property for borrow pits for road building  
273 purposes, the agency shall coordinate with the Division of State  
274 Lands to determine the availability of existing, suitable state-  
275 owned lands in the area and the public purpose for which the  
276 acquisition is being proposed. If the state agency determines  
277 that no suitable state-owned lands exist, the state agency may  
278 proceed to acquire such lands by employing all available  
279 statutory authority for acquisition.

280 (3) The board of trustees is authorized to adopt rules to  
281 implement this section, including rules governing the terms and  
282 conditions of land purchases. The rules shall address, with  
283 specificity, but need not be limited to:

284 (a) The procedures to be followed in the acquisition  
285 process, including selection of appraisers, surveyors, title  
286 agents, and closing agents, and the content of appraisal  
287 reports.

288 (b) The determination of the value of parcels which the  
289 state has an interest in acquiring.

290 (c) Special requirements when multiple landowners are  
291 involved in an acquisition.

292 (d) Requirements for obtaining written option agreements so  
293 that the interests of the state are fully protected.

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294       (4) An agreement to acquire real property for the purposes  
295 described in this chapter, chapter 260, or chapter 375, title to  
296 which will vest in the board of trustees, may not bind the state  
297 before the agreement is reviewed and approved by the Department  
298 of Environmental Protection as complying with this section and  
299 any rules adopted pursuant to this section. If any of the  
300 following conditions exist, the agreement shall be submitted to  
301 and approved by the board of trustees:

302       (a) The purchase price agreed to by the seller exceeds the  
303 value as established pursuant to the rules of the board of  
304 trustees;

305       (b) The contract price agreed to by the seller and the  
306 acquiring agency exceeds \$1 million;

307       (c) The acquisition is the initial purchase in a Florida  
308 Forever project; or

309       (d) Other conditions that the board of trustees may adopt  
310 by rule. Such conditions may include, but are not limited to,  
311 Florida Forever projects when title to the property being  
312 acquired is considered nonmarketable or is encumbered in such a  
313 way as to significantly affect its management.

314  
315 If approval of the board of trustees is required pursuant to  
316 this subsection, the acquiring agency must provide a  
317 justification as to why it is in the public's interest to  
318 acquire the parcel or Florida Forever project. Approval of the  
319 board of trustees is also required for Florida Forever projects  
320 the department recommends acquiring pursuant to subsections (11)  
321 and (22). Review and approval of agreements for acquisitions for  
322 Florida Greenways and Trails Program properties pursuant to

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323 chapter 260 may be waived by the department in any contract with  
324 nonprofit corporations that have agreed to assist the department  
325 with this program. If the contribution of the acquiring agency  
326 exceeds \$100 million in any one fiscal year, the agreement shall  
327 be submitted to and approved by the Legislative Budget  
328 Commission.

329 (5)~~(3)~~ Land acquisition procedures provided for in this  
330 section are for voluntary, negotiated acquisitions.

331 (6)~~(4)~~ For the purposes of this section, the term  
332 "negotiations" does not include preliminary contacts with the  
333 property owner to determine the availability of the property,  
334 existing appraisal data, existing abstracts, and surveys.

335 (7)~~(5)~~ Evidence of marketable title shall be provided by  
336 the landowner before ~~prior to~~ the conveyance of title, as  
337 provided in the final agreement for purchase. Such evidence of  
338 marketability shall be in the form of title insurance or an  
339 abstract of title with a title opinion. The board of trustees  
340 may waive the requirement that the landowner provide evidence of  
341 marketable title, and, in such case, the acquiring agency shall  
342 provide evidence of marketable title. The board of trustees or  
343 its designee may waive the requirement of evidence of  
344 marketability for acquisitions of property assessed by the  
345 county property appraiser at \$10,000 or less, if ~~where~~ the  
346 Division of State Lands finds, based upon such review of the  
347 title records as is reasonable under the circumstances, that  
348 there is no apparent impediment to marketability, or to  
349 management of the property by the state.

350 (8)~~(6)~~ Before approval by the board of trustees, or, when  
351 applicable, the Department of Environmental Protection, of any

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352 agreement to purchase land pursuant to this chapter, chapter  
353 259, chapter 260, or chapter 375, and before ~~Prior to~~  
354 negotiations with the parcel owner to purchase any other land  
355 ~~pursuant to this section~~, title to which will vest in the board  
356 of trustees, an appraisal of the parcel shall be required as  
357 follows:

358 (a) The board of trustees shall adopt by rule the method  
359 for determining the value of parcels sought to be acquired by  
360 state agencies pursuant to this section.

361 (b) ~~(a)~~ Each parcel to be acquired shall have at least one  
362 appraisal. Two appraisals are required when the estimated value  
363 of the parcel exceeds \$1 million. However, if both appraisals  
364 exceed \$1 million and differ significantly, a third appraisal  
365 may be obtained. If ~~When~~ a parcel is estimated to be worth  
366 \$100,000 or less and the director of the Division of State Lands  
367 finds that the cost of an outside appraisal is not justified, a  
368 comparable sales analysis, an appraisal prepared by the  
369 division, or other reasonably prudent procedures may be used by  
370 the division to estimate the value of the parcel, provided the  
371 public's interest is reasonably protected. The state is not  
372 required to appraise the value of lands and appurtenances that  
373 are being donated to the state.

374 (c) ~~(b)~~ Appraisal fees and associated costs shall be paid by  
375 the agency proposing the acquisition. ~~The board of trustees~~  
376 ~~shall approve qualified fee appraisal organizations.~~ All  
377 appraisals used for the acquisition of lands pursuant to this  
378 section shall be prepared by a ~~member of an approved appraisal~~  
379 ~~organization or by~~ a state-certified appraiser. The board of  
380 trustees shall adopt rules for selecting individuals to perform

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381 appraisals pursuant to this section. Each fee appraiser selected  
382 to appraise a particular parcel shall, before ~~prior to~~  
383 contracting with the agency or a participant in a multiparty  
384 agreement, submit to the ~~that~~ agency an affidavit substantiating  
385 that he or she has no vested or fiduciary interest in such  
386 parcel.

387 (d) The fee appraiser and the review appraiser for the  
388 agency may not act in any manner that may be construed as  
389 negotiating with the owner of a parcel proposed for acquisition.

390 (e) ~~(e)~~ The board of trustees shall adopt by rule the  
391 minimum criteria, techniques, and methods to be used in the  
392 preparation of appraisal reports. Such rules shall incorporate,  
393 to the extent practicable, generally accepted appraisal  
394 standards. Any appraisal issued for acquisition of lands  
395 pursuant to this section must comply with the rules adopted by  
396 the board of trustees. A certified survey must be made which  
397 meets the minimum requirements for upland parcels established in  
398 the Minimum Technical Standards for Land Surveying in Florida  
399 published by the Department of Agriculture and Consumer Services  
400 ~~Business and Professional Regulation~~ and which accurately  
401 portrays, to the greatest extent practicable, the condition of  
402 the parcel as it currently exists. The requirement for a  
403 certified survey may, in part or in whole, be waived by the  
404 board of trustees any time before ~~prior to~~ submitting the  
405 agreement for purchase to the Division of State Lands. When an  
406 existing boundary map and description of a parcel are determined  
407 by the division to be sufficient for appraisal purposes, the  
408 division director may temporarily waive the requirement for a  
409 survey until any time before ~~prior to~~ conveyance of title to the

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410 parcel. ~~The fee appraiser and the review appraiser for the~~  
411 ~~agency shall not act in any way that may be construed as~~  
412 ~~negotiating with the property owner.~~

413 (f)~~(d)~~ Appraisal reports are confidential and exempt from  
414 ~~the provisions of s. 119.07(1), for use by the agency and the~~  
415 board of trustees, until an option contract is executed or, if  
416 no option contract is executed, until 2 weeks before a contract  
417 or agreement for purchase is considered for approval by the  
418 board of trustees. The Department of Environmental Protection  
419 may disclose appraisal reports to private landowners during  
420 negotiations for acquisitions using alternatives to fee simple  
421 techniques, if the department determines that disclosure of such  
422 reports will bring the proposed acquisition to closure. However,  
423 the private landowner must agree to maintain the confidentiality  
424 of the reports or information. However, The department ~~Division~~  
425 ~~of State Lands~~ may also disclose appraisal information to public  
426 agencies or nonprofit organizations that agree to maintain the  
427 confidentiality of the reports or information when joint  
428 acquisition of property is contemplated, or when a public agency  
429 or nonprofit organization enters into a written agreement with  
430 the department ~~division~~ to purchase and hold property for  
431 subsequent resale to the board of trustees ~~division~~. In  
432 addition, the department ~~division~~ may use, as its own,  
433 appraisals obtained by a public agency or nonprofit  
434 organization, if provided the appraiser is selected from the  
435 department's ~~division's~~ list of appraisers and the appraisal is  
436 reviewed and approved by the department ~~division~~. For ~~the~~  
437 purposes of this paragraph, the term "nonprofit organization"  
438 means an organization that ~~whose purpose is the preservation of~~

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439 ~~natural resources, and which~~ is exempt from federal income tax  
440 under s. 501(c)(3) of the Internal Revenue Code and, for  
441 purposes of the acquisition of conservation lands, an  
442 organization whose purpose must include the preservation of  
443 natural resources. The agency may release an appraisal report  
444 when the passage of time has rendered the conclusions of value  
445 in the report invalid or when the acquiring agency has  
446 terminated negotiations.

447 (g) ~~(e)~~ Before ~~Prior to~~ acceptance of an appraisal, the  
448 agency shall submit a copy of such report to the division ~~of~~  
449 ~~State Lands~~. The division shall review such report for  
450 compliance with the rules of the board ~~of trustees~~. Any  
451 questions of applicability of laws affecting an appraisal shall  
452 be addressed by the legal office of the agency.

453 (h) ~~(f)~~ The appraisal report shall be accompanied by the  
454 sales history of the parcel for at least the previous ~~prior~~ 5  
455 years. Such sales history shall include all parties and  
456 considerations with the amount of consideration verified, if  
457 possible. If a sales history would not be useful, or it is its  
458 cost prohibitive compared to the value of a parcel, the sales  
459 history may be waived by the board of trustees. The board of  
460 trustees shall adopt a rule specifying guidelines for waiver of  
461 a sales history.

462 (i) ~~(g)~~ The board of trustees may consider an appraisal  
463 acquired by a seller, or any part thereof, in negotiating to  
464 purchase a parcel, but such appraisal may not be used in lieu of  
465 an appraisal required by this subsection or to determine the  
466 maximum offer allowed by law.

467 (j)1. The board of trustees shall adopt by rule the method



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468 for determining the value of parcels sought to be acquired by  
469 state agencies pursuant to this section. An offer by a state  
470 agency may not exceed the value for that parcel as determined  
471 pursuant to the highest approved appraisal or the value  
472 determined pursuant to the rules of the board of trustees,  
473 whichever value is less.

474 2. For a joint acquisition by a state agency and a local  
475 government or other entity apart from the state, the joint  
476 purchase price may not exceed 150 percent of the value for a  
477 parcel as determined in accordance with the limits in  
478 subparagraph 1. The state agency share of a joint purchase offer  
479 may not exceed what the agency may offer singly pursuant to  
480 subparagraph 1.

481 3. This paragraph does not apply to the acquisition of  
482 historically unique or significant property as determined by the  
483 Division of Historical Resources of the Department of State.

484  
485 Notwithstanding this subsection, on behalf of the board of  
486 trustees and before the appraisal of parcels approved for  
487 purchase under this chapter or chapter 259, the Secretary of  
488 Environmental Protection or the director of the Division of  
489 State Lands may enter into option contracts to buy such parcels.  
490 Any such option contract shall state that the final purchase  
491 price is subject to approval by the board of trustees or, if  
492 applicable, the Secretary of Environmental Protection, and that  
493 the final purchase price may not exceed the maximum offer  
494 allowed by law. Any such option contract presented to the board  
495 of trustees for final purchase price approval shall explicitly  
496 state that payment of the final purchase price is subject to an

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497 appropriation from the Legislature. The consideration for such  
498 an option may not exceed \$1,000 or 0.01 percent of the estimate  
499 by the department of the value of the parcel, whichever amount  
500 is greater.

501 (9) ~~(7)~~ (a) When the owner is represented by an agent or  
502 broker, negotiations may not be initiated or continued until a  
503 written statement verifying such agent's or broker's legal or  
504 fiduciary relationship with the owner is on file with the  
505 agency.

506 (b) The board of trustees or any state agency may contract  
507 for real estate acquisition services, including, but not limited  
508 to, contracts for real estate commission fees, surveying,  
509 mapping, environmental audits, title work, and legal and other  
510 professional assistance to review acquisition agreements and  
511 other documents and to perform acquisition closings. However,  
512 the Department of Environmental Protection may use outside  
513 counsel to review any agreements or documents or to perform  
514 acquisition closings unless department staff can conduct the  
515 same activity in 15 days or less.

516 (c) Upon the initiation of negotiations, the state agency  
517 shall inform the owner in writing that all agreements for  
518 purchase are subject to approval by the board of trustees.

519 (d) All offers or counteroffers shall be documented in  
520 writing and shall be confidential and exempt from ~~the provisions~~  
521 ~~of~~ s. 119.07(1) until an option contract is executed, or if no  
522 option contract is executed, until 2 weeks before a contract or  
523 agreement for purchase is considered for approval by the board  
524 of trustees. The agency shall maintain complete and accurate  
525 records of all offers and counteroffers for all projects.

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526 ~~(e)1. The board of trustees shall adopt by rule the method~~  
527 ~~for determining the value of parcels sought to be acquired by~~  
528 ~~state agencies pursuant to this section. No offer by a state~~  
529 ~~agency, except an offer by an agency acquiring lands pursuant to~~  
530 ~~s. 259.041, may exceed the value for that parcel as determined~~  
531 ~~pursuant to the highest approved appraisal or the value~~  
532 ~~determined pursuant to the rules of the board of trustees,~~  
533 ~~whichever value is less.~~

534 ~~2. In the case of a joint acquisition by a state agency and~~  
535 ~~a local government or other entity apart from the state, the~~  
536 ~~joint purchase price may not exceed 150 percent of the value for~~  
537 ~~a parcel as determined in accordance with the limits prescribed~~  
538 ~~in subparagraph 1. The state agency share of a joint purchase~~  
539 ~~offer may not exceed what the agency may offer singly as~~  
540 ~~prescribed by subparagraph 1.~~

541 ~~3. The provisions of this paragraph do not apply to the~~  
542 ~~acquisition of historically unique or significant property as~~  
543 ~~determined by the Division of Historical Resources of the~~  
544 ~~Department of State.~~

545 (e)~~(f)~~ When making an offer to a landowner, a state agency  
546 shall consider the desirability of a single cash payment in  
547 relation to the maximum offer allowed by law.

548 (f)~~(g)~~ The state shall have the authority to reimburse the  
549 owner for the cost of the survey when deemed appropriate. The  
550 reimbursement is ~~shall~~ not be considered a part of the purchase  
551 price.

552 (g)~~(h)~~ A final offer shall be in the form of an option  
553 contract or agreement for purchase and shall be signed and  
554 attested to by the owner and the representative of the agency.

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555 Before the agency executes the option contract or agreement for  
556 purchase, the contract or agreement shall be reviewed for form  
557 and legality by legal staff of the agency. Before the agency  
558 signs the agreement for purchase or exercises the option  
559 contract, the provisions of s. 286.23 shall be complied with.  
560 Within 10 days after the signing of the agreement for purchase,  
561 the state agency shall furnish the Department of Environmental  
562 Protection ~~Division of State Lands~~ with the original of the  
563 agreement for purchase along with copies of the disclosure  
564 notice, evidence of marketability, the accepted appraisal  
565 report, the fee appraiser's affidavit, a statement that the  
566 inventory of existing state-owned lands was examined and  
567 contained no available suitable land in the area, and a  
568 statement outlining the public purpose for which the acquisition  
569 is being made and the statutory authority therefor.

570 (h) ~~(i)~~ Within 45 days after ~~of~~ receipt by the Department of  
571 Environmental Protection ~~Division of State Lands~~ of the  
572 agreement for purchase and the required documentation, the board  
573 of trustees or, if ~~when~~ the purchase price does not exceed  
574 \$100,000, its designee shall ~~either~~ reject or approve the  
575 agreement. An approved agreement for purchase is binding on both  
576 parties. Any agreement which has been disapproved shall be  
577 returned to the agency, along with a statement as to the  
578 deficiencies of the agreement or the supporting documentation.  
579 An agreement for purchase which has been disapproved by the  
580 board of trustees may be resubmitted when such deficiencies have  
581 been corrected.

582 (10) ~~(8)~~ (a) A ~~No~~ dedication, gift, grant, or bequest of  
583 lands and appurtenances may not be accepted by the board of

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584 trustees until the receiving state agency supplies sufficient  
585 evidence of marketability of title. The board of trustees may  
586 not accept by dedication, gift, grant, or bequest any lands and  
587 appurtenances that are determined as being owned by the state  
588 ~~either~~ in fee or by virtue of the state's sovereignty or which  
589 are so encumbered so as to preclude the use of such lands and  
590 appurtenances for any reasonable public purpose. The board of  
591 trustees may accept a dedication, gift, grant, or bequest of  
592 lands and appurtenances without formal evidence of  
593 marketability, or when the title is nonmarketable, if the board  
594 or its designee determines that such lands and appurtenances  
595 have value and are reasonably manageable by the state, and that  
596 their acceptance would serve the public interest. The state is  
597 not required to appraise the value of such donated lands and  
598 appurtenances as a condition of receipt.

599 (b) A ~~No~~ deed filed in the public records to donate lands  
600 to the board of trustees does not of the Internal Improvement  
601 ~~Trust Fund shall be construed to~~ transfer title to or vest title  
602 in the board of trustees unless ~~there shall also be filed in the~~  
603 ~~public records,~~ a document indicating that the board of trustees  
604 has agreed to accept the transfer of title to such donated lands  
605 is also filed in the public records.

606 (c) Notwithstanding any other provision of law, the maximum  
607 value of a parcel to be purchased by the board of trustees as  
608 determined by the highest approved appraisal or as determined  
609 pursuant to the rules of the board of trustees may not be  
610 increased or decreased as a result of a change in zoning or  
611 permitted land uses, or changes in market forces or prices that  
612 occur within 1 year after the date the Department of

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613 Environmental Protection or the board of trustees approves a  
614 contract to purchase the parcel.

615 (11) Notwithstanding this section, the board of trustees,  
616 by an affirmative vote of at least three members, voting at a  
617 regularly scheduled and advertised meeting, may direct the  
618 Department of Environmental Protection to exercise the power of  
619 eminent domain pursuant to chapters 73 and 74 to acquire any  
620 conservation parcel identified on the acquisition list  
621 established by the Acquisition and Restoration Council and  
622 approved by the board of trustees pursuant to chapter 259.  
623 However, the board of trustees may only make such a vote under  
624 the following circumstances:

625 (a) The state has made at least two bona fide offers to  
626 purchase the land through negotiation and, notwithstanding those  
627 offers, an impasse between the state and the landowner was  
628 reached.

629 (b) The land is of special importance to the state because  
630 of one or more of the following reasons:

631 1. It involves an endangered or natural resource and is in  
632 imminent danger of development.

633 2. It is of unique value to the state and the failure to  
634 acquire it will result in irreparable loss to the state.

635 3. The failure of the state to acquire it will seriously  
636 impair the state's ability to manage or protect other state-  
637 owned lands.

638  
639 Pursuant to this subsection, the department may exercise  
640 condemnation authority directly or by contracting with the  
641 Department of Transportation or a water management district to

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642 provide that service. If the Department of Transportation or a  
643 water management district enters into such a contract with the  
644 department, the Department of Transportation or a water  
645 management district may use statutorily approved methods and  
646 procedures ordinarily used by the agency for condemnation  
647 purposes.

648 (12)~~(9)~~ Any conveyance to the board of trustees of fee  
649 title shall be made by no less than a special warranty deed,  
650 unless the conveyance is from the Federal Government, the county  
651 government, or another state agency or, in the event of a gift  
652 or donation by quitclaim deed, if the board of trustees, or its  
653 designee, determines that the acceptance of such quitclaim deed  
654 is in the best interest of the public. A quitclaim deed may also  
655 be accepted to aid in clearing title or boundary questions. ~~The~~  
656 ~~title to lands acquired pursuant to this section shall vest in~~  
657 ~~the board of trustees as provided in s. 253.03(1). All such~~  
658 ~~lands, title to which is vested in the board pursuant to this~~  
659 ~~section, shall be administered pursuant to the provisions of s.~~  
660 ~~253.03.~~

661 (13)~~(10)~~ The board of trustees may purchase tax  
662 certificates or tax deeds issued in accordance with chapter 197  
663 relating to property eligible for purchase under this section.

664 (14)~~(11)~~ The Auditor General shall conduct audits of  
665 acquisitions and divestitures which, according to his or her  
666 preliminary assessments of board-approved acquisitions and  
667 divestitures, he or she deems necessary. These preliminary  
668 assessments shall be initiated not later than 60 days after  
669 ~~following~~ the board of trustees' final approval ~~by the board~~ of  
670 land acquisitions under this section. If an audit is conducted,

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671 the Auditor General shall submit an audit report to the board of  
672 trustees, the President of the Senate, the Speaker of the House  
673 of Representatives, and their designees.

674 (15)~~(12)~~ The board of trustees and all affected agencies  
675 shall adopt and may modify or repeal such rules and regulations  
676 as are necessary to carry out ~~the purposes of~~ this section,  
677 including rules governing the terms and conditions of land  
678 purchases. Such rules shall address the procedures to be  
679 followed, when multiple landowners are involved in an  
680 acquisition, in obtaining written option agreements so that the  
681 interests of the state are fully protected.

682 (16)~~(13)~~ (a) The board of trustees ~~of the Internal~~  
683 ~~Improvement Trust Fund~~ may deed property to the Department of  
684 Agriculture and Consumer Services, so that the Department of  
685 Agriculture and Consumer Services is ~~department shall be~~ able to  
686 sell, convey, transfer, exchange, trade, or purchase land on  
687 which a forestry facility resides for money or other more  
688 suitable property on which to relocate the facility. Any sale or  
689 purchase of property by the Department of Agriculture and  
690 Consumer Services shall follow the requirements of subsections  
691 (7)-(10) and (12) ~~(5)-(9)~~. Any sale shall be at fair market  
692 value, and any trade shall ensure that the state is getting at  
693 least an equal value for the property. Except as provided in  
694 subsections (7)-(10) and (12) ~~(5)-(9)~~, the Department of  
695 Agriculture and Consumer Services is excluded from following the  
696 provisions of this chapter and chapters 259 and 375. This  
697 exclusion does ~~shall~~ not apply to lands acquired for  
698 conservation purposes in accordance with s. 253.0341(1) or (2)  
699 ~~253.034(6) (a) or (b)~~.



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700 (b) In the case of a sale by the Department of Agriculture  
701 and Consumer Services of a forestry facility, the proceeds of  
702 the sale shall be deposited ~~go~~ into the Department of  
703 Agriculture and Consumer Services Incidental Trust Fund. The  
704 Legislature may, at the request of the Department of Agriculture  
705 and Consumer Services ~~department~~, appropriate such money within  
706 the trust fund to the Department of Agriculture and Consumer  
707 Services ~~department~~ for purchase of land and construction of a  
708 facility to replace the disposed facility. All proceeds other  
709 than land from any sale, conveyance, exchange, trade, or  
710 transfer conducted pursuant to ~~as provided for in~~ this  
711 subsection shall be deposited into ~~placed within~~ the Department  
712 of Agriculture and Consumer Services ~~department's~~ Incidental  
713 Trust Fund.

714 (c) Additional funds may be added from time to time by the  
715 Legislature to further the relocation and construction of  
716 forestry facilities. If ~~In the instance where~~ an equal trade of  
717 land occurs, money from the trust fund may be appropriated for  
718 building construction even though no money was received from the  
719 trade.

720 (17) ~~(14)~~ Any agency that acquires land on behalf of the  
721 board of trustees is authorized to request disbursement of  
722 payments for real estate closings in accordance with a written  
723 authorization from an ultimate beneficiary to allow a third  
724 party authorized by law to receive such payment provided the  
725 Chief Financial Officer determines that such disbursement is  
726 consistent with good business practices and can be completed in  
727 a manner minimizing costs and risks to the state.

728 (18) ~~(15)~~ Pursuant to s. 944.10, the Department of

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729 Corrections is responsible for obtaining appraisals and entering  
730 into option agreements and agreements for the purchase of state  
731 correctional facility sites. An option agreement or agreement  
732 for purchase is not binding upon the state until it is approved  
733 by the board of trustees ~~of the Internal Improvement Trust Fund~~.  
734 The provisions of paragraphs (8) (c), (e), and (f) and (9) (b),  
735 (c), and (d) ~~(6) (b), (c), and (d) and (7) (b), (c), and (d)~~ apply  
736 to all appraisals, offers, and counteroffers of the Department  
737 of Corrections for state correctional facility sites.

738 (19) ~~(16)~~ Many parcels of land acquired pursuant to this  
739 section may contain cattle-dipping vats as defined in s.  
740 376.301. The state is encouraged to continue with the  
741 acquisition of such lands, including any ~~the~~ cattle-dipping vats  
742 vat.

743 (20) ~~(17)~~ Pursuant to s. 985.682, the Department of Juvenile  
744 Justice is responsible for obtaining appraisals and entering  
745 into option agreements and agreements for the purchase of state  
746 juvenile justice facility sites. An option agreement or  
747 agreement for purchase is not binding upon the state until it is  
748 approved by the board of trustees ~~of the Internal Improvement~~  
749 ~~Trust Fund~~. The provisions of paragraphs (8) (c), (e), and (f)  
750 and (9) (b), (c), and (d) ~~(6) (b), (c), and (d) and (7) (b), (c),~~  
751 ~~and (d)~~ apply to all appraisals, offers, and counteroffers of  
752 the Department of Juvenile Justice for state juvenile justice  
753 facility sites.

754 (21) ~~(18)~~ The board of trustees may acquire, pursuant to s.  
755 288.980 (2) (b), nonconservation lands from the annual list  
756 submitted by the Department of Economic Opportunity for the  
757 purpose of buffering a military installation against

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758 encroachment.

759 (22) The board of trustees, by an affirmative vote of at  
760 least three members, may direct the department to purchase lands  
761 on an immediate basis using up to 15 percent of the funds  
762 allocated to the department pursuant to s. 259.105 for the  
763 acquisition of lands that:

764 (a) Are listed or placed at auction by the Federal  
765 Government as part of the Resolution Trust Corporation sale of  
766 lands from failed savings and loan associations;

767 (b) Are listed or placed at auction by the Federal  
768 Government as part of the Federal Deposit Insurance Corporation  
769 sale of lands from failed banks; or

770 (c) Will be developed or otherwise lost to potential public  
771 ownership, or for which federal matching funds will be lost, by  
772 the time the land can be purchased under the program within  
773 which the land is listed for acquisition.

774

775 For such acquisitions, the board of trustees may waive or modify  
776 all procedures required for land acquisition pursuant to this  
777 chapter and all competitive bid procedures required pursuant to  
778 chapters 255 and 287. Lands acquired pursuant to this subsection  
779 must, at the time of purchase, be on one of the acquisition  
780 lists established pursuant to chapter 259, or be essential for  
781 water resource development, protection, or restoration, or a  
782 significant portion of the lands must contain natural  
783 communities or plant or animal species that are listed by the  
784 Florida Natural Areas Inventory as critically imperiled,  
785 imperiled, or rare, or as excellent quality occurrences of  
786 natural communities.

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787 (23) Title to lands to be held jointly by the board of  
788 trustees and a water management district and acquired pursuant  
789 to s. 373.139 may be deemed to meet the standards necessary for  
790 ownership by the board of trustees, notwithstanding this section  
791 or related rules.

792 (24) For purposes of this section, the term "projects"  
793 means those Florida Forever projects selected pursuant to  
794 chapter 259.

795 Section 2. Section 253.0251, Florida Statutes, is created  
796 to read:

797 253.0251 Alternatives to fee simple acquisition.-

798 (1) The Legislature finds that:

799 (a) With the increasing pressures on the natural areas of  
800 this state and on open space suitable for recreational use, the  
801 state must develop creative techniques to maximize the use of  
802 acquisition and management funds.

803 (b) The state's conservation and recreational land  
804 acquisition agencies should be encouraged to augment their  
805 traditional, fee simple acquisition programs with the use of  
806 alternatives to fee simple acquisition techniques. In addition,  
807 the Legislature finds that generations of private landowners  
808 have been good stewards of their land, protecting or restoring  
809 native habitats and ecosystems to the benefit of the natural  
810 resources of this state, its heritage, and its citizens. The  
811 Legislature also finds that using alternatives to fee simple  
812 acquisition by public land acquisition agencies will achieve the  
813 following public policy goals:

814 1. Allow more lands to be brought under public protection  
815 for preservation, conservation, and recreational purposes with

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816 less expenditure of public funds.

817 2. Retain, on local government tax rolls, some portion of  
818 or interest in lands which are under public protection.

819 3. Reduce long-term management costs by allowing private  
820 property owners to continue acting as stewards of their land,  
821 when appropriate.

822  
823 Therefore, it is the intent of the Legislature that public land  
824 acquisition agencies develop programs to pursue alternatives to  
825 fee simple acquisition and to educate private landowners about  
826 such alternatives and the benefits of such alternatives. It is  
827 also the intent of the Legislature that a portion of the shares  
828 of Florida Forever bond proceeds be used to purchase eligible  
829 properties using alternatives to fee simple acquisition.

830 (2) All applications for alternatives to fee simple  
831 acquisition projects shall identify, within their acquisition  
832 plans, projects that require a full fee simple interest to  
833 achieve the public policy goals, together with the reasons full  
834 title is determined to be necessary. The state agencies and the  
835 water management districts may use alternatives to fee simple  
836 acquisition to bring the remaining projects in their acquisition  
837 plans under public protection. For purposes of this section, the  
838 phrase "alternatives to fee simple acquisition" includes, but is  
839 not limited to, purchase of development rights; obtaining  
840 conservation easements; obtaining flowage easements; purchase of  
841 timber rights, mineral rights, or hunting rights; purchase of  
842 agricultural interests or silvicultural interests; fee simple  
843 acquisitions with reservations; creating life estates; or any  
844 other acquisition technique that achieves the public policy

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845 goals listed in subsection (1). It is presumed that a private  
846 landowner retains the full range of uses for all the rights or  
847 interests in the landowner's land which are not specifically  
848 acquired by the public agency. The lands upon which hunting  
849 rights are specifically acquired pursuant to this section shall  
850 be available for hunting in accordance with the management plan  
851 or hunting regulations adopted by the Fish and Wildlife  
852 Conservation Commission, unless the hunting rights are purchased  
853 specifically to protect activities on adjacent lands.

854 (3) When developing the acquisition plan pursuant to s.  
855 259.105, the Acquisition and Restoration Council may give  
856 preference to those less than fee simple acquisitions that  
857 provide any public access. However, the Legislature recognizes  
858 that public access is not always appropriate for certain less  
859 than fee simple acquisitions. Therefore, any proposed less than  
860 fee simple acquisition may not be rejected simply because public  
861 access would be limited.

862 (4) The Department of Environmental Protection and each  
863 water management district shall implement initiatives to use  
864 alternatives to fee simple acquisition and to educate private  
865 landowners about such alternatives. The department and the water  
866 management districts may enter into joint acquisition agreements  
867 to jointly fund the purchase of lands using alternatives to fee  
868 simple techniques.

869 (5) The Legislature finds that the lack of direct sales  
870 comparison information has served as an impediment to successful  
871 implementation of alternatives to fee simple acquisition. It is  
872 the intent of the Legislature that, in the absence of direct  
873 comparable sales information, appraisals of alternatives to fee

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874 simple acquisitions be based on the difference between the full  
875 fee simple valuation and the value of the interests remaining  
876 with the seller after acquisition.

877 (6) The public agency that has been assigned management  
878 responsibility shall inspect and monitor any less than fee  
879 simple interest according to the terms of the purchase agreement  
880 relating to such interest.

881 Section 3. Subsection (2), paragraph (c) of subsection (7),  
882 and subsections (11) and (15) of section 253.03, Florida  
883 Statutes, are amended to read:

884 253.03 Board of trustees to administer state lands; lands  
885 enumerated.—

886 (2) It is the intent of the Legislature that the board of  
887 trustees ~~of the Internal Improvement Trust Fund~~ continue to  
888 receive proceeds from the sale or disposition of the products of  
889 lands and the sale of lands of which the use and possession are  
890 not subsequently transferred by appropriate lease or similar  
891 instrument from the board of trustees to the proper using  
892 agency. Such using agency shall be entitled to the proceeds from  
893 the sale of products on, under, growing out of, or connected  
894 with lands which such using agency holds under lease or similar  
895 instrument from the board of trustees. The board of trustees ~~of~~  
896 ~~the Internal Improvement Trust Fund~~ is directed and authorized  
897 to enter into leases or similar instruments for the use,  
898 benefit, and possession of public lands by agencies which may  
899 properly use and possess them for the benefit of the state. ~~The~~  
900 ~~board of trustees shall adopt by rule an annual administrative~~  
901 ~~fee for all existing and future leases or similar instruments,~~  
902 ~~to be charged agencies that are leasing land from it. This~~

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903 ~~annual administrative fee assessed for all leases or similar~~  
904 ~~instruments is to compensate the board for costs incurred in the~~  
905 ~~administration and management of such leases or similar~~  
906 ~~instruments.~~

907 (7)

908 (c) Structures which are listed in or are eligible for the  
909 National Register of Historic Places or the State Inventory of  
910 Historic Places which are over the waters of the state ~~of~~  
911 ~~Florida~~ and which have a submerged land lease, or have been  
912 grandfathered-in to use sovereignty submerged lands until  
913 January 1, 1998, pursuant to former rule 18-21.00405, Florida  
914 Administrative Code, as it existed in rule on March 15, 1990,  
915 shall have the right to continue such submerged land leases,  
916 regardless of the fact that the present landholder is not an  
917 adjacent riparian landowner, so long as the lessee maintains the  
918 structure in a good state of repair consistent with the  
919 guidelines for listing. If the structure is damaged or  
920 destroyed, the lessee may ~~shall be allowed to~~ reconstruct, so  
921 long as the reconstruction is consistent with the integrity of  
922 the listed structure and does not increase the footprint of the  
923 structure. If a listed structure ~~so listed~~ falls into disrepair  
924 and the lessee is not willing to repair and maintain it  
925 consistent with its listing, the state may cancel the submerged  
926 lease and ~~either~~ repair and maintain the property or require  
927 that the structure be removed from sovereignty submerged lands.

928 (11) The board of trustees ~~of the Internal Improvement~~  
929 ~~Trust Fund~~ may adopt rules to provide for the assessment and  
930 collection of reasonable fees, commensurate with the actual cost  
931 to the board, for disclaimers, easements, exchanges, gifts,



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932 leases, releases, or sales of any interest in lands or any  
 933 applications therefor and for reproduction of documents. All  
 934 revenues received from the application fees charged by a water  
 935 management district to process applications that include a  
 936 request to use state lands are to be retained by the water  
 937 management district. The board of trustees shall adopt by rule  
 938 an annual administrative fee for all existing and future leases  
 939 or similar instruments to be charged to agencies that are  
 940 leasing land from the board of trustees. This annual  
 941 administrative fee assessed for all leases or similar  
 942 instruments is to compensate the board of trustees for costs  
 943 incurred in the administration and management of such leases or  
 944 similar instruments.

945 (15) The board of trustees ~~of the Internal Improvement~~  
 946 ~~Trust Fund~~ shall encourage the use of sovereign submerged lands  
 947 for public access and water-dependent uses which may include  
 948 related minimal secondary nonwater-dependent uses and public  
 949 ~~access.~~

950 Section 4. Subsections (8) and (9) of section 253.031,  
 951 Florida Statutes, are renumbered as subsections (7) and (8),  
 952 respectively, and present subsections (2) and (7) of that  
 953 section are amended, to read:

954 253.031 Land office; custody of documents concerning land;  
 955 moneys; plats.—

956 (2) The board ~~of trustees of the Internal Improvement Trust~~  
 957 ~~Fund~~ shall have custody of, and the department shall maintain,  
 958 all the records, surveys, plats, maps, field notes, and patents  
 959 and all other evidence touching the title and description of the  
 960 public domain.

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961       ~~(7) The board shall receive all of the tract books, plats,~~  
962 ~~and such records and papers heretofore kept in the United States~~  
963 ~~Land Office at Gainesville, Alachua County, as may be~~  
964 ~~surrendered by the Secretary of the Interior; and the board~~  
965 ~~shall carefully and safely keep and preserve all of said tract~~  
966 ~~books, plats, records, and papers as part of the public records~~  
967 ~~of its office, and at any time allow any duly accredited~~  
968 ~~authority of the United States, full and free access to any and~~  
969 ~~all of such tract books, plats, records, and papers, and shall~~  
970 ~~furnish any duly accredited authority of the United States with~~  
971 ~~copies of any such records without charge.~~

972       Section 5. Section 253.034, Florida Statutes, is amended to  
973 read:

974       253.034 State-owned lands; uses.-

975       (1) All lands acquired pursuant to chapter 259 shall be  
976 managed to serve the public interest by protecting and  
977 conserving land, air, water, and the state's natural resources,  
978 which contribute to the public health, welfare, and economy of  
979 the state. These lands shall be managed to provide for areas of  
980 natural resource based recreation, and to ensure the survival of  
981 plant and animal species and the conservation of finite and  
982 renewable natural resources. The state's lands and natural  
983 resources shall be managed using a stewardship ethic that  
984 assures these resources will be available for the benefit and  
985 enjoyment of all people of the state, both present and future.  
986 It is the intent of the Legislature that, where feasible and  
987 consistent with the goals of protection and conservation of  
988 natural resources associated with lands held in the public trust  
989 by the Board of Trustees of the Internal Improvement Trust Fund,

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990 public land not designated for single-use purposes pursuant to  
991 paragraph (2)(b) be managed for multiple-use purposes. All  
992 multiple-use land management strategies shall address public  
993 access and enjoyment, resource conservation and protection,  
994 ecosystem maintenance and protection, and protection of  
995 threatened and endangered species, and the degree to which  
996 public-private partnerships or endowments may allow the entity  
997 with management responsibility to enhance its ability to manage  
998 these lands. The Acquisition and Restoration Council ~~created in~~  
999 ~~s. 259.035~~ shall recommend rules to the board of trustees, and  
1000 the board of trustees shall adopt rules necessary to carry out  
1001 the purposes of this section.

1002 (2) As used in this section, the term ~~following phrases~~  
1003 ~~have the following meanings:~~

1004 (a) "Multiple use" means the harmonious and coordinated  
1005 management of timber, recreation, conservation of fish and  
1006 wildlife, forage, archaeological and historic sites, habitat and  
1007 other biological resources, or water resources so that they are  
1008 used ~~utilized~~ in the combination that will best serve the people  
1009 of the state, making the most judicious use of the land for some  
1010 or all of these resources and giving consideration to the  
1011 relative values of the various resources. Where necessary and  
1012 appropriate for all state-owned lands that are larger than 1,000  
1013 acres in project size and are managed for multiple uses, buffers  
1014 may be formed around any areas that require special protection  
1015 or have special management needs. Such buffers may ~~shall~~ not  
1016 exceed more than one-half of the total acreage. Multiple uses  
1017 within a buffer area may be restricted to provide the necessary  
1018 buffering effect desired. Multiple use in this context includes

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1019 both uses of land or resources by more than one management  
1020 entity, which may include private sector land managers. In any  
1021 case, lands identified as multiple-use lands in the land  
1022 management plan shall be managed to enhance and conserve the  
1023 lands and resources for the enjoyment of the people of the  
1024 state.

1025 (b) "Single use" means management for one particular  
1026 purpose to the exclusion of all other purposes, except that the  
1027 using entity shall have the option of including in its  
1028 management program compatible secondary purposes which will not  
1029 detract from or interfere with the primary management purpose.  
1030 Such single uses may include, but are not necessarily restricted  
1031 to, the use of agricultural lands for production of food and  
1032 livestock, the use of improved sites and grounds for  
1033 institutional purposes, and the use of lands for parks,  
1034 preserves, wildlife management, archaeological or historic  
1035 sites, or wilderness areas where the maintenance of essentially  
1036 natural conditions is important. All submerged lands shall be  
1037 considered single-use lands and shall be managed primarily for  
1038 the maintenance of essentially natural conditions, the  
1039 propagation of fish and wildlife, and public recreation,  
1040 including hunting and fishing where deemed appropriate by the  
1041 managing entity.

1042 (c) "Conservation lands" means lands that are currently  
1043 managed for conservation, outdoor resource-based recreation, or  
1044 archaeological or historic preservation, except those lands that  
1045 were acquired solely to facilitate the acquisition of other  
1046 conservation lands. Lands acquired for uses other than  
1047 conservation, outdoor resource-based recreation, or

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1048 archaeological or historic preservation may ~~shall~~ not be  
1049 designated conservation lands except as otherwise authorized  
1050 under this section. These lands shall include, but not be  
1051 limited to, the following: correction and detention facilities,  
1052 military installations and facilities, state office buildings,  
1053 maintenance yards, state university or Florida College System  
1054 institution campuses, agricultural field stations or offices,  
1055 tower sites, law enforcement and license facilities,  
1056 laboratories, hospitals, clinics, and other sites that do not  
1057 possess ~~ne~~ significant natural or historical resources. However,  
1058 lands acquired solely to facilitate the acquisition of other  
1059 conservation lands, and for which the land management plan has  
1060 not yet been completed or updated, may be evaluated by the Board  
1061 of Trustees of the Internal Improvement Trust Fund on a case-by-  
1062 case basis to determine if they will be designated conservation  
1063 lands.

1064 (d) "Public access," as used in this chapter and chapter  
1065 259, means access by the general public to state lands and  
1066 water, including vessel access made possible by boat ramps,  
1067 docks, and associated support facilities, where compatible with  
1068 conservation and recreation objectives.

1069  
1070 Lands acquired by the state as a gift, through donation, or by  
1071 any other conveyance for which no consideration was paid, and  
1072 which are not managed for conservation, outdoor resource-based  
1073 recreation, or archaeological or historic preservation under a  
1074 land management plan approved by the board of trustees are not  
1075 conservation lands.

1076 (3) Recognizing that recreational trails purchased with

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1077 rails-to-trails funds pursuant to former s. 259.101(3)(g),  
1078 Florida Statutes 2014, or s. 259.105(3)(h) have had historic  
1079 transportation uses and that their linear character may extend  
1080 many miles, the Legislature intends that if the necessity arises  
1081 to serve public needs, after balancing the need to protect trail  
1082 users from collisions with automobiles and a preference for the  
1083 use of overpasses and underpasses to the greatest extent  
1084 feasible and practical, transportation uses shall be allowed to  
1085 cross recreational trails purchased pursuant to former s.  
1086 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h). When  
1087 these crossings are needed, the location and design should  
1088 consider and mitigate the impact on humans and environmental  
1089 resources, and the value of the land shall be paid based on fair  
1090 market value.

1091 (4) A ~~No~~ management agreement, lease, or other instrument  
1092 authorizing the use of lands owned by the board of trustees may  
1093 not of the Internal Improvement Trust Fund shall be executed for  
1094 a period greater than is necessary to provide for the reasonable  
1095 use of the land for the existing or planned life cycle or  
1096 amortization of the improvements, except that an easement in  
1097 perpetuity may be granted by the board of trustees ~~of the~~  
1098 ~~Internal Improvement Trust Fund~~ if the improvement is a  
1099 transportation facility. If an entity managing or leasing state-  
1100 owned lands from the board of trustees does not meet the short-  
1101 term goals under paragraph (5)(b) for conservation lands or  
1102 under paragraph (5)(i) for nonconservation lands, the Department  
1103 of Environmental Protection may submit the lands to the board of  
1104 trustees to consider whether to require the managing or leasing  
1105 entity to release its interest in the lands and to consider

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1106 whether to surplus the lands. If the state-owned land is  
1107 determined to be surplus, the board of trustees may require an  
1108 entity to release its interest in the lands. An entity managing  
1109 or leasing state-owned lands from the board of trustees may not  
1110 sublease such lands without prior review by the Division of  
1111 State Lands and, for conservation lands, by the Acquisition and  
1112 Restoration Council ~~created in s. 259.035~~. All management  
1113 agreements, leases, or other instruments authorizing the use of  
1114 lands owned by the board of trustees shall be reviewed for  
1115 approval by the board of trustees or its designee. The council  
1116 is not required to review subleases of parcels which are less  
1117 than 160 acres in size.

1118 (5) Each manager of conservation lands shall submit to the  
1119 Division of State Lands a land management plan at least every 10  
1120 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the  
1121 board of trustees and in accordance with ~~the provisions of~~ s.  
1122 259.032. Each manager of conservation lands shall also update a  
1123 land management plan whenever the manager proposes to add new  
1124 facilities or make substantive land use or management changes  
1125 that were not addressed in the approved plan, or within 1 year  
1126 after ~~of~~ the addition of significant new lands. Each manager of  
1127 nonconservation lands shall submit to the Division of State  
1128 Lands a land use plan at least every 10 years in a form and  
1129 manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees.  
1130 The division shall review each plan for compliance with the  
1131 requirements of this subsection and the requirements of the  
1132 rules adopted ~~established~~ by the board of trustees pursuant to  
1133 this section. All nonconservation land use plans, whether for  
1134 single-use or multiple-use properties, shall be managed to

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1135 ~~provide the greatest benefit to the state include an analysis of~~  
1136 ~~the property to determine if any significant natural or cultural~~  
1137 ~~resources are located on the property. Such resources include~~  
1138 ~~archaeological and historic sites, state and federally listed~~  
1139 ~~plant and animal species, and imperiled natural communities and~~  
1140 ~~unique natural features. If such resources occur on the~~  
1141 ~~property, the manager shall consult with the Division of State~~  
1142 ~~Lands and other appropriate agencies to develop management~~  
1143 ~~strategies to protect such resources. Land use plans shall also~~  
1144 ~~provide for the control of invasive nonnative plants and~~  
1145 ~~conservation of soil and water resources, including a~~  
1146 ~~description of how the manager plans to control and prevent soil~~  
1147 ~~erosion and soil or water contamination. Land use plans~~  
1148 ~~submitted by a manager shall include reference to appropriate~~  
1149 ~~statutory authority for such use or uses and shall conform to~~  
1150 ~~the appropriate policies and guidelines of the state land~~  
1151 ~~management plan. Plans for managed areas larger than 1,000 acres~~  
1152 ~~shall contain an analysis of the multiple-use potential of the~~  
1153 ~~property, which includes analysis shall include the potential of~~  
1154 ~~the property to generate revenues to enhance the management of~~  
1155 ~~the property. In addition ~~Additionally~~, the plan shall contain~~  
1156 ~~an analysis of the potential use of private land managers to~~  
1157 ~~facilitate the restoration or management of these lands. If ~~If~~~~  
1158 ~~those cases where~~ a newly acquired property has a valid  
1159 conservation plan that was developed by a soil and conservation  
1160 district, such plan shall be used to guide management of the  
1161 property until a formal land use plan is completed.

1162 (a) State conservation lands shall be managed to ensure the  
1163 conservation of the state's plant and animal species and to



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1164 ensure the accessibility of state lands for the benefit and  
1165 enjoyment of all people of the state, both present and future.  
1166 Each land management plan for state conservation lands shall  
1167 provide a desired outcome, describe both short-term and long-  
1168 term management goals, and include measurable objectives to  
1169 achieve those goals. Short-term goals shall be achievable within  
1170 a 2-year planning period, and long-term goals shall be  
1171 achievable within a 10-year planning period. These short-term  
1172 and long-term management goals shall be the basis for all  
1173 subsequent land management activities.

1174 (b) Short-term and long-term management goals for state  
1175 conservation lands shall include measurable objectives for the  
1176 following, as appropriate:

- 1177 1. Habitat restoration and improvement.
- 1178 2. Public access and recreational opportunities.
- 1179 3. Hydrological preservation and restoration.
- 1180 4. Sustainable forest management.
- 1181 5. Exotic and invasive species maintenance and control.
- 1182 6. Capital facilities and infrastructure.
- 1183 7. Cultural and historical resources.
- 1184 8. Imperiled species habitat maintenance, enhancement,  
1185 restoration, or population restoration.

1186 (c) The land management plan shall, at a minimum, contain  
1187 the following elements:

- 1188 1. A physical description of the land.
- 1189 2. A quantitative data description of the land which  
1190 includes an inventory of forest and other natural resources;  
1191 exotic and invasive plants; hydrological features;  
1192 infrastructure, including recreational facilities; and other

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1193 significant land, cultural, or historical features. The  
1194 inventory shall reflect the number of acres for each resource  
1195 and feature, when appropriate. The inventory shall be of such  
1196 detail that objective measures and benchmarks can be established  
1197 for each tract of land and monitored during the lifetime of the  
1198 plan. All quantitative data collected shall be aggregated,  
1199 standardized, collected, and presented in an electronic format  
1200 to allow for uniform management reporting and analysis. The  
1201 information collected by the Department of Environmental  
1202 Protection pursuant to s. 253.0325(2) shall be available to the  
1203 land manager and his or her assignee.

1204 3. A detailed description of each short-term and long-term  
1205 land management goal, the associated measurable objectives, and  
1206 the related activities that are to be performed to meet the land  
1207 management objectives. Each land management objective must be  
1208 addressed by the land management plan, and if where practicable,  
1209 a ~~no~~ land management objective may not shall be performed to the  
1210 detriment of the other land management objectives.

1211 4. A schedule of land management activities which contains  
1212 short-term and long-term land management goals and the related  
1213 measurable objective and activities. The schedule shall include  
1214 for each activity a timeline for completion, quantitative  
1215 measures, and detailed expense and manpower budgets. The  
1216 schedule shall provide a management tool that facilitates  
1217 development of performance measures.

1218 5. A summary budget for the scheduled land management  
1219 activities of the land management plan. For state lands  
1220 containing or anticipated to contain imperiled species habitat,  
1221 the summary budget shall include any fees anticipated from

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1222 public or private entities for projects to offset adverse  
1223 impacts to imperiled species or such habitat, which fees shall  
1224 be used solely to restore, manage, enhance, repopulate, or  
1225 acquire imperiled species habitat. The summary budget shall be  
1226 prepared in such manner that it facilitates computing an  
1227 aggregate of land management costs for all state-managed lands  
1228 using the categories described in s. 259.037(3).

1229 (d) Upon completion, the land management plan must ~~will~~ be  
1230 transmitted to the Acquisition and Restoration Council for  
1231 review. The ~~Acquisition and Restoration~~ council shall have 90  
1232 days after receipt of the plan to review the plan and submit its  
1233 recommendations to the board of trustees. During the review  
1234 period, the land management plan may be revised if agreed to by  
1235 the primary land manager and the ~~Acquisition and Restoration~~  
1236 council taking into consideration public input. ~~If the~~  
1237 ~~Acquisition and Restoration Council fails to make a~~  
1238 ~~recommendation for a land management plan, the secretary of the~~  
1239 ~~Department of Environmental Protection, Commissioner of~~  
1240 ~~Agriculture, or Executive Director of the Fish and Wildlife~~  
1241 ~~Conservation Commission or their designees shall submit the land~~  
1242 ~~management plan to the board of trustees.~~ The land management  
1243 plan becomes effective upon approval by the board of trustees.

1244 (e) Land management plans are to be updated every 10 years  
1245 on a rotating basis. Each updated land management plan must  
1246 identify conservation lands under the plan, in part or in whole,  
1247 that are no longer needed for conservation purposes and could be  
1248 disposed of in fee simple or with the state retaining a  
1249 permanent conservation easement.

1250 (f) In developing land management plans, at least one

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1251 public hearing shall be held in any one affected county.

1252 (g) The Division of State Lands shall make available to the  
1253 public an electronic copy of each land management plan for  
1254 parcels that exceed 160 acres in size. The division ~~of State~~  
1255 ~~Lands~~ shall review each plan for compliance with the  
1256 requirements of this subsection, the requirements of chapter  
1257 259, and the requirements of the rules adopted ~~established~~ by  
1258 the board of trustees pursuant to this section. The Acquisition  
1259 and Restoration Council shall also consider the propriety of the  
1260 recommendations of the managing entity with regard to the future  
1261 use of the property, the protection of fragile or nonrenewable  
1262 resources, the potential for alternative or multiple uses not  
1263 recognized by the managing entity, and the possibility of  
1264 disposal of the property by the board of trustees. After its  
1265 review, the council shall submit the plan, along with its  
1266 recommendations and comments, to the board of trustees. The  
1267 council shall specifically recommend to the board of trustees  
1268 whether to approve the plan as submitted, approve the plan with  
1269 modifications, or reject the plan. If the ~~Acquisition and~~  
1270 ~~Restoration~~ council fails to make a recommendation for a land  
1271 management plan, the Secretary ~~of the Department~~ of  
1272 Environmental Protection, Commissioner of Agriculture, or  
1273 executive director of the Fish and Wildlife Conservation  
1274 Commission or their designees shall submit the land management  
1275 plan to the board of trustees.

1276 (h) The board of trustees ~~of the Internal Improvement Trust~~  
1277 ~~Fund~~ shall consider the land management plan submitted by each  
1278 entity and the recommendations of the Acquisition and  
1279 Restoration Council and the Division of State Lands and shall

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1280 approve the plan with or without modification or reject such  
1281 plan. The use or possession of any such lands that is not in  
1282 accordance with an approved land management plan is subject to  
1283 termination by the board of trustees.

1284 (i)1. State nonconservation lands shall be managed to  
1285 provide the greatest benefit to the state. Each land use plan  
1286 shall, at a minimum, contain the following elements:

1287 a. A physical description of the land to include any  
1288 significant natural or cultural resources as well as management  
1289 strategies developed by the land manager to protect such  
1290 resources.

1291 b. A desired development outcome.

1292 c. A schedule for achieving the desired development  
1293 outcome.

1294 d. A description of both short-term and long-term  
1295 development goals.

1296 e. A management and control plan for invasive nonnative  
1297 plants.

1298 f. A management and control plan for soil erosion and soil  
1299 and water contamination.

1300 g. Measureable objectives to achieve the goals identified  
1301 in the land use plan.

1302 2. Short-term goals shall be achievable within a 5-year  
1303 planning period and long-term goals shall be achievable within a  
1304 10-year planning period.

1305 3. The use or possession of any such lands that is not in  
1306 accordance with an approved land use plan is subject to  
1307 termination by the board of trustees.

1308 4. Land use plans submitted by a manager shall include

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1309 reference to appropriate statutory authority for such use or  
1310 uses and shall conform to the appropriate policies and  
1311 guidelines of the state land management plan.

1312 ~~(6) The Board of Trustees of the Internal Improvement Trust~~  
1313 ~~Fund shall determine which lands, the title to which is vested~~  
1314 ~~in the board, may be surplused. For conservation lands, the~~  
1315 ~~board shall determine whether the lands are no longer needed for~~  
1316 ~~conservation purposes and may dispose of them by an affirmative~~  
1317 ~~vote of at least three members. In the case of a land exchange~~  
1318 ~~involving the disposition of conservation lands, the board must~~  
1319 ~~determine by an affirmative vote of at least three members that~~  
1320 ~~the exchange will result in a net positive conservation benefit.~~  
1321 ~~For all other lands, the board shall determine whether the lands~~  
1322 ~~are no longer needed and may dispose of them by an affirmative~~  
1323 ~~vote of at least three members.~~

1324 ~~(a) For the purposes of this subsection, all lands acquired~~  
1325 ~~by the state before July 1, 1999, using proceeds from~~  
1326 ~~Preservation 2000 bonds, the former Conservation and Recreation~~  
1327 ~~Lands Trust Fund, the former Water Management Lands Trust Fund,~~  
1328 ~~Environmentally Endangered Lands Program, and the Save Our Coast~~  
1329 ~~Program and titled to the board which are identified as core~~  
1330 ~~parcels or within original project boundaries are deemed to have~~  
1331 ~~been acquired for conservation purposes.~~

1332 ~~(b) For any lands purchased by the state on or after July~~  
1333 ~~1, 1999, before acquisition, the board must determine which~~  
1334 ~~parcels must be designated as having been acquired for~~  
1335 ~~conservation purposes. Lands acquired for use by the Department~~  
1336 ~~of Corrections, the Department of Management Services for use as~~  
1337 ~~state offices, the Department of Transportation, except those~~

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1338 ~~specifically managed for conservation or recreation purposes, or~~  
1339 ~~the State University System or the Florida College System may~~  
1340 ~~not be designated as having been purchased for conservation~~  
1341 ~~purposes.~~

1342 ~~(c) At least every 10 years, as a component of each land~~  
1343 ~~management plan or land use plan and in a form and manner~~  
1344 ~~prescribed by rule by the board, each manager shall evaluate and~~  
1345 ~~indicate to the board those lands that are not being used for~~  
1346 ~~the purpose for which they were originally leased. For~~  
1347 ~~conservation lands, the council shall review and recommend to~~  
1348 ~~the board whether such lands should be retained in public~~  
1349 ~~ownership or disposed of by the board. For nonconservation~~  
1350 ~~lands, the division shall review such lands and recommend to the~~  
1351 ~~board whether such lands should be retained in public ownership~~  
1352 ~~or disposed of by the board.~~

1353 ~~(d) Lands owned by the board which are not actively managed~~  
1354 ~~by any state agency or for which a land management plan has not~~  
1355 ~~been completed pursuant to subsection (5) must be reviewed by~~  
1356 ~~the council or its successor for its recommendation as to~~  
1357 ~~whether such lands should be disposed of by the board.~~

1358 ~~(e) Before any decision by the board to surplus lands, the~~  
1359 ~~Acquisition and Restoration Council shall review and make~~  
1360 ~~recommendations to the board concerning the request for~~  
1361 ~~surplusing. The council shall determine whether the request for~~  
1362 ~~surplusing is compatible with the resource values of and~~  
1363 ~~management objectives for such lands.~~

1364 ~~(f) In reviewing lands owned by the board, the council~~  
1365 ~~shall consider whether such lands would be more appropriately~~  
1366 ~~owned or managed by the county or other unit of local government~~

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1367 ~~in which the land is located. The council shall recommend to the~~  
1368 ~~board whether a sale, lease, or other conveyance to a local~~  
1369 ~~government would be in the best interests of the state and local~~  
1370 ~~government. The provisions of this paragraph in no way limit the~~  
1371 ~~provisions of ss. 253.111 and 253.115. Such lands shall be~~  
1372 ~~offered to the state, county, or local government for a period~~  
1373 ~~of 45 days. Permittable uses for such surplus lands may include~~  
1374 ~~public schools; public libraries; fire or law enforcement~~  
1375 ~~substations; governmental, judicial, or recreational centers;~~  
1376 ~~and affordable housing meeting the criteria of s. 420.0004(3).~~  
1377 ~~County or local government requests for surplus lands shall be~~  
1378 ~~expedited throughout the surplusing process. If the county or~~  
1379 ~~local government does not elect to purchase such lands in~~  
1380 ~~accordance with s. 253.111, any surplusing determination~~  
1381 ~~involving other governmental agencies shall be made when the~~  
1382 ~~board decides the best public use of the lands. Surplus~~  
1383 ~~properties in which governmental agencies have expressed no~~  
1384 ~~interest must then be available for sale on the private market.~~

1385 ~~(g) The sale price of lands determined to be surplus~~  
1386 ~~pursuant to this subsection and s. 253.82 shall be determined by~~  
1387 ~~the division, which shall consider an appraisal of the property,~~  
1388 ~~or, if the estimated value of the land is \$500,000 or less, a~~  
1389 ~~comparable sales analysis or a broker's opinion of value. The~~  
1390 ~~division may require a second appraisal. The individual or~~  
1391 ~~entity that requests to purchase the surplus parcel shall pay~~  
1392 ~~all costs associated with determining the property's value, if~~  
1393 ~~any.~~

1394 ~~1. A written valuation of land determined to be surplus~~  
1395 ~~pursuant to this subsection and s. 253.82, and related documents~~



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1396 ~~used to form the valuation or which pertain to the valuation,~~  
1397 ~~are confidential and exempt from s. 119.07(1) and s. 24(a), Art.~~  
1398 ~~I of the State Constitution.~~

1399 ~~a. The exemption expires 2 weeks before the contract or~~  
1400 ~~agreement regarding the purchase, exchange, or disposal of the~~  
1401 ~~surplus land is first considered for approval by the board.~~

1402 ~~b. Before expiration of the exemption, the division may~~  
1403 ~~disclose confidential and exempt appraisals, valuations, or~~  
1404 ~~valuation information regarding surplus land:~~

1405 ~~(I) During negotiations for the sale or exchange of the~~  
1406 ~~land.~~

1407 ~~(II) During the marketing effort or bidding process~~  
1408 ~~associated with the sale, disposal, or exchange of the land to~~  
1409 ~~facilitate closure of such effort or process.~~

1410 ~~(III) When the passage of time has made the conclusions of~~  
1411 ~~value invalid.~~

1412 ~~(IV) When negotiations or marketing efforts concerning the~~  
1413 ~~land are concluded.~~

1414 ~~2. A unit of government that acquires title to lands~~  
1415 ~~hereunder for less than appraised value may not sell or transfer~~  
1416 ~~title to all or any portion of the lands to any private owner~~  
1417 ~~for 10 years. Any unit of government seeking to transfer or sell~~  
1418 ~~lands pursuant to this paragraph must first allow the board of~~  
1419 ~~trustees to reacquire such lands for the price at which the~~  
1420 ~~board sold such lands.~~

1421 ~~(h) Parcels with a market value over \$500,000 must be~~  
1422 ~~initially offered for sale by competitive bid. The division may~~  
1423 ~~use agents, as authorized by s. 253.431, for this process. Any~~  
1424 ~~parcels unsuccessfully offered for sale by competitive bid, and~~

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1425 ~~parcels with a market value of \$500,000 or less, may be sold by~~  
1426 ~~any reasonable means, including procuring real estate services,~~  
1427 ~~open or exclusive listings, competitive bid, auction, negotiated~~  
1428 ~~direct sales, or other appropriate services, to facilitate the~~  
1429 ~~sale.~~

1430 ~~(i) After reviewing the recommendations of the council, the~~  
1431 ~~board shall determine whether lands identified for surplus are~~  
1432 ~~to be held for other public purposes or are no longer needed.~~  
1433 ~~The board may require an agency to release its interest in such~~  
1434 ~~lands. A state agency, county, or local government that has~~  
1435 ~~requested the use of a property that was to be declared as~~  
1436 ~~surplus must secure the property under lease within 90 days~~  
1437 ~~after being notified that it may use such property.~~

1438 ~~(j) Requests for surplusizing may be made by any public or~~  
1439 ~~private entity or person. All requests shall be submitted to the~~  
1440 ~~lead managing agency for review and recommendation to the~~  
1441 ~~council or its successor. Lead managing agencies have 90 days to~~  
1442 ~~review such requests and make recommendations. Any surplusizing~~  
1443 ~~requests that have not been acted upon within the 90-day time~~  
1444 ~~period shall be immediately scheduled for hearing at the next~~  
1445 ~~regularly scheduled meeting of the council or its successor.~~  
1446 ~~Requests for surplusizing pursuant to this paragraph are not~~  
1447 ~~required to be offered to local or state governments as provided~~  
1448 ~~in paragraph (f).~~

1449 ~~(k) Proceeds from the sale of surplus conservation lands~~  
1450 ~~purchased before July 1, 2015, shall be deposited into the~~  
1451 ~~Florida Forever Trust Fund.~~

1452 ~~(l) Proceeds from the sale of surplus conservation lands~~  
1453 ~~purchased on or after July 1, 2015, shall be deposited into the~~

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1454 ~~Land Acquisition Trust Fund, except when such lands were~~  
1455 ~~purchased with funds other than those from the Land Acquisition~~  
1456 ~~Trust Fund or a land acquisition trust fund created to implement~~  
1457 ~~s. 28, Art. X of the State Constitution, the proceeds shall be~~  
1458 ~~deposited into the fund from which the lands were purchased.~~

1459 ~~(m) Funds received from the sale of surplus nonconservation~~  
1460 ~~lands or lands that were acquired by gift, by donation, or for~~  
1461 ~~no consideration shall be deposited into the Internal~~  
1462 ~~Improvement Trust Fund.~~

1463 ~~(n) Notwithstanding this subsection, such disposition of~~  
1464 ~~land may not be made if it would have the effect of causing all~~  
1465 ~~or any portion of the interest on any revenue bonds issued to~~  
1466 ~~lose the exclusion from gross income for federal income tax~~  
1467 ~~purposes.~~

1468 ~~(o) The sale of filled, formerly submerged land that does~~  
1469 ~~not exceed 5 acres in area is not subject to review by the~~  
1470 ~~council or its successor.~~

1471 ~~(p) The board may adopt rules to administer this section~~  
1472 ~~which may include procedures for administering surplus land~~  
1473 ~~requests and criteria for when the division may approve requests~~  
1474 ~~to surplus nonconservation lands on behalf of the board.~~

1475 ~~(6)(7) This section does shall not be construed so as to~~  
1476 ~~affect:~~

1477 ~~(a) Other provisions of this chapter relating to oil, gas,~~  
1478 ~~or mineral resources.~~

1479 ~~(b) The exclusive use of state-owned land subject to a~~  
1480 ~~lease by the board of trustees of the Internal Improvement Trust~~  
1481 ~~Fund of state-owned land for private uses and purposes.~~

1482 ~~(c) Sovereignty lands not leased for private uses and~~

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1483 purposes.

1484 (7)~~(8)~~ (a) The Legislature recognizes the value of the  
1485 state's conservation lands as water recharge areas and air  
1486 filters.

1487 (b) If state-owned lands are subject to annexation  
1488 procedures, the Division of State Lands must notify the county  
1489 legislative delegation of the county in which the land is  
1490 located.

1491 (8)~~(9)~~ Land management plans required to be submitted by  
1492 the Department of Corrections, the Department of Juvenile  
1493 Justice, the Department of Children and Families, or the  
1494 Department of Education are not subject to ~~the provisions for~~  
1495 review by the Acquisition and Restoration Council ~~or its~~  
1496 ~~successor described in subsection (5)~~. Management plans filed by  
1497 these agencies shall be made available to the public for a  
1498 period of 90 days at the administrative offices of the parcel or  
1499 project affected by the management plan and at the Tallahassee  
1500 offices of each agency. Any plans not objected to during the  
1501 public comment period shall be deemed approved. Any plans for  
1502 which an objection is filed shall be submitted to the board of  
1503 trustees ~~of the Internal Improvement Trust Fund~~ for  
1504 consideration. The board of trustees ~~of the Internal Improvement~~  
1505 ~~Trust Fund~~ shall approve the plan with or without modification,  
1506 or reject the plan. The use or possession of any such lands  
1507 which is not in accordance with an approved land management plan  
1508 is subject to termination by the board of trustees.

1509 (9)~~(10)~~ The following additional uses of conservation lands  
1510 acquired pursuant to the Florida Forever program and other  
1511 state-funded conservation land purchase programs shall be

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1512 authorized, upon a finding by the board of trustees, if they  
1513 meet the criteria specified in paragraphs (a)-(e): water  
1514 resource development projects, water supply development  
1515 projects, stormwater management projects, linear facilities, and  
1516 sustainable agriculture and forestry. Such additional uses are  
1517 authorized if ~~where~~:

1518 (a) The use is not inconsistent with the management plan  
1519 for such lands;

1520 (b) The use is compatible with the natural ecosystem and  
1521 resource values of such lands;

1522 (c) The ~~proposed~~ use is appropriately located on such lands  
1523 and if ~~where~~ due consideration is given to the use of other  
1524 available lands;

1525 (d) The using entity reasonably compensates the titleholder  
1526 for such use based upon an appropriate measure of value; and

1527 (e) The use is consistent with the public interest.

1528

1529 A decision by the board of trustees pursuant to this section  
1530 shall be given a presumption of correctness. Moneys received  
1531 from the use of state lands pursuant to this section shall be  
1532 returned to the lead managing entity in accordance with s.  
1533 259.032 (9) (c).

1534 (10) ~~(11)~~ Lands listed as projects for acquisition may be  
1535 managed for conservation pursuant to s. 259.032, on an interim  
1536 basis by a private party in anticipation of a state purchase in  
1537 accordance with a contractual arrangement between the acquiring  
1538 agency and the private party that may include management service  
1539 contracts, leases, cost-share arrangements or resource  
1540 conservation agreements. Lands designated as eligible under this

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1541 subsection shall be managed to maintain or enhance the resources  
1542 the state is seeking to protect by acquiring the land. Funding  
1543 for these contractual arrangements may originate from the  
1544 documentary stamp tax revenue deposited into the Land  
1545 Acquisition Trust Fund. No more than \$6.2 million may be  
1546 expended from the Land Acquisition Trust Fund for this purpose.

1547 (11)~~(12)~~ Any lands available to governmental employees,  
1548 including water management district employees, for hunting or  
1549 other recreational purposes shall also be made available to the  
1550 general public for such purposes.

1551 ~~(13) Before a building or parcel of land is offered for~~  
1552 ~~lease or sale to a local or federal unit of government or a~~  
1553 ~~private party, it shall first be offered for lease to state~~  
1554 ~~agencies, state universities, and Florida College System~~  
1555 ~~institutions, with priority consideration given to state~~  
1556 ~~universities and Florida College System institutions. Within 60~~  
1557 ~~days after the offer for lease of a surplus building or parcel,~~  
1558 ~~a state university or Florida College System institution that~~  
1559 ~~requests the lease must submit a plan for review and approval by~~  
1560 ~~the Board of Trustees of the Internal Improvement Trust Fund~~  
1561 ~~regarding the intended use, including future use, of the~~  
1562 ~~building or parcel of land before approval of a lease. Within 60~~  
1563 ~~days after the offer for lease of a surplus building or parcel,~~  
1564 ~~a state agency that requests the lease of such facility or~~  
1565 ~~parcel must submit a plan for review and approval by the board~~  
1566 ~~of trustees regarding the intended use. The state agency plan~~  
1567 ~~must, at a minimum, include the proposed use of the facility or~~  
1568 ~~parcel, the estimated cost of renovation, a capital improvement~~  
1569 ~~plan for the building, evidence that the building or parcel~~

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1570 ~~meets an existing need that cannot otherwise be met, and other~~  
1571 ~~criteria developed by rule by the board of trustees. The board~~  
1572 ~~or its designee shall compare the estimated value of the~~  
1573 ~~building or parcel to any submitted business plan to determine~~  
1574 ~~if the lease or sale is in the best interest of the state. The~~  
1575 ~~board of trustees shall adopt rules pursuant to chapter 120 for~~  
1576 ~~the implementation of this section.~~

1577 Section 6. Section 253.0341, Florida Statutes, is amended  
1578 to read:

1579 253.0341 Surplus of state-owned lands ~~to counties or local~~  
1580 ~~governments. Counties and local governments may submit~~  
1581 ~~surplusing requests for state-owned lands directly to the board~~  
1582 ~~of trustees. County or local government requests for the state~~  
1583 ~~to surplus conservation or nonconservation lands, whether for~~  
1584 ~~purchase or exchange, shall be expedited throughout the~~  
1585 ~~surplusing process. Property jointly acquired by the state and~~  
1586 ~~other entities shall not be surplusd without the consent of all~~  
1587 ~~joint owners.~~

1588 (1) The board of trustees shall determine which lands, the  
1589 title to which is vested in the board, may be surplusd. For all  
1590 conservation lands, the Acquisition and Restoration Council  
1591 shall make a recommendation to the board of trustees, and the  
1592 board of trustees shall determine whether the lands are no  
1593 longer needed for conservation purposes. If the board of  
1594 trustees determines the lands are no longer needed for  
1595 conservation purposes, it may dispose of such lands by an  
1596 affirmative vote of at least three members. In the case of a  
1597 land exchange involving the disposition of conservation lands,  
1598 the board of trustees must determine by an affirmative vote of

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1599 at least three members that the exchange will result in a net  
1600 positive conservation benefit. For all nonconservation lands,  
1601 the board of trustees shall determine whether the lands are no  
1602 longer needed. If the board of trustees determines the lands are  
1603 no longer needed, it may dispose of such lands by an affirmative  
1604 vote of at least three members. Local government requests for  
1605 the state to surplus conservation or nonconservation lands,  
1606 whether for purchase or exchange, shall be expedited throughout  
1607 the surplus process. Property jointly acquired by the state  
1608 and other entities may not be surplus without the consent of  
1609 all joint owners ~~The decision to surplus state-owned~~  
1610 ~~nonconservation lands may be made by the board without a review~~  
1611 ~~of, or a recommendation on, the request from the Acquisition and~~  
1612 ~~Restoration Council or the Division of State Lands. Such~~  
1613 ~~requests for nonconservation lands shall be considered by the~~  
1614 ~~board within 60 days of the board's receipt of the request.~~

1615 (2) For purposes of this section, all lands acquired by the  
1616 state before July 1, 1999, using proceeds from Preservation 2000  
1617 bonds, the former Conservation and Recreation Lands Trust Fund,  
1618 the former Water Management Lands Trust Fund, Environmentally  
1619 Endangered Lands Program, and the Save Our Coast Program and  
1620 titled to the board of trustees which are identified as core  
1621 parcels or within original project boundaries are deemed to have  
1622 been acquired for conservation purposes ~~County or local~~  
1623 ~~government requests for the surplus of state-owned~~  
1624 ~~conservation lands are subject to review of, and recommendation~~  
1625 ~~on, the request to the board by the Acquisition and Restoration~~  
1626 ~~Council. Requests to surplus conservation lands shall be~~  
1627 ~~considered by the board within 120 days of the board's receipt~~



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1628 ~~of the request.~~

1629 (3) For any lands purchased by the state on or after July  
1630 1, 1999, before acquisition, the board of trustees must  
1631 determine which parcels must be designated as having been  
1632 acquired for conservation purposes. Lands acquired for use by  
1633 the Department of Corrections; the Department of Management  
1634 Services for use as state offices; the Department of  
1635 Transportation, except those lands specifically managed for  
1636 conservation or recreation purposes; the State University  
1637 System; or the Florida College System may not be designated as  
1638 having been acquired for conservation purposes ~~A local~~  
1639 ~~government may request that state lands be specifically declared~~  
1640 ~~surplus lands for the purpose of providing alternative water~~  
1641 ~~supply and water resource development projects as defined in s.~~  
1642 ~~373.019, public facilities such as schools, fire and police~~  
1643 ~~facilities, and affordable housing. The request shall comply~~  
1644 ~~with the requirements of subsection (1) if the lands are~~  
1645 ~~nonconservation lands or subsection (2) if the lands are~~  
1646 ~~conservation lands. Surplus lands that are conveyed to a local~~  
1647 ~~government for affordable housing shall be disposed of by the~~  
1648 ~~local government under the provisions of s. 125.379 or s.~~  
1649 ~~166.0451.~~

1650 (4) (a) At least every 10 years, as a component of each land  
1651 management plan or land use plan and in a form and manner  
1652 adopted by rule of the board of trustees, each manager shall  
1653 evaluate and indicate to the board of trustees those lands that  
1654 are not being used for the purpose for which they were  
1655 originally leased. For conservation lands, the Acquisition and  
1656 Restoration Council shall review and recommend to the board of

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1657 trustees whether such lands should be retained in public  
1658 ownership or disposed of by the board of trustees. For  
1659 nonconservation lands, the Division of State Lands shall review  
1660 and recommend to the board of trustees whether such lands should  
1661 be retained in public ownership or disposed of by the board of  
1662 trustees ~~Notwithstanding the requirements of this section and~~  
1663 ~~the requirements of s. 253.034 which provides a surplus process~~  
1664 ~~for the disposal of state lands, the board shall convey to~~  
1665 ~~Miami Dade County title to the property on which the Graham~~  
1666 ~~Building, which houses the offices of the Miami Dade State~~  
1667 ~~Attorney, is located. By January 1, 2008, the board shall convey~~  
1668 ~~fee simple title to the property to Miami Dade County for a~~  
1669 ~~consideration of one dollar. The deed conveying title to Miami-~~  
1670 ~~Dade County must contain restrictions that limit the use of the~~  
1671 ~~property for the purpose of providing workforce housing as~~  
1672 ~~defined in s. 420.5095, and to house the offices of the Miami-~~  
1673 ~~Dade State Attorney. Employees of the Miami Dade State Attorney~~  
1674 ~~and the Miami Dade Public Defender who apply for and meet the~~  
1675 ~~income qualifications for workforce housing shall receive~~  
1676 ~~preference over other qualified applicants.~~

1677 (b) At least every 10 years, the Division of State Lands  
1678 shall review all state-owned conservation lands titled to the  
1679 board of trustees to determine whether any such lands are no  
1680 longer needed for conservation purposes and could be disposed of  
1681 in fee simple or with the state retaining a permanent  
1682 conservation easement. After such review, the division shall  
1683 submit a list of such lands, including additional conservation  
1684 lands identified in an updated land management plan pursuant to  
1685 s. 253.034(5), to the Acquisition and Restoration Council.

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1686 Within 9 months after receiving the list, the council shall  
1687 provide recommendations to the board of trustees as to whether  
1688 any such lands are no longer needed for conservation purposes  
1689 and could be disposed of in fee simple or with the state  
1690 retaining a permanent conservation easement. After reviewing  
1691 such list and considering such recommendations, if the board of  
1692 trustees determines by an affirmative vote of at least three  
1693 members that any such lands are no longer needed for  
1694 conservation purposes, the board of trustees shall dispose of  
1695 the lands in fee simple or with the state retaining a permanent  
1696 conservation easement.

1697 (c) At least every 10 years, the Division of State Lands  
1698 shall review all encumbered and unencumbered nonconservation  
1699 lands titled to the board of trustees and recommend to the board  
1700 of trustees whether any such lands should be retained in public  
1701 ownership or disposed of by the board of trustees. The board of  
1702 trustees may dispose of nonconservation lands under this  
1703 paragraph by a majority vote of the members.

1704 (5) Conservation lands owned by the board of trustees which  
1705 are not actively managed by any state agency or for which a land  
1706 management plan has not been completed pursuant to s. 253.034(5)  
1707 must be reviewed by the Acquisition and Restoration Council for  
1708 its recommendation as to whether such lands should be disposed  
1709 of by the board of trustees.

1710 (6) Before any decision by the board of trustees to surplus  
1711 conservation lands, the Acquisition and Restoration Council  
1712 shall review and make recommendations to the board of trustees  
1713 concerning the request for surplusings. The council shall  
1714 determine whether the request for surplusings is compatible with

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1715 the resource values of and management objectives for such lands.

1716 (7) In reviewing conservation lands owned by the board of  
1717 trustees, the Acquisition and Restoration Council shall consider  
1718 whether such lands would be more appropriately owned or managed  
1719 by the county or other unit of local government in which the  
1720 land is located. The council shall recommend to the board of  
1721 trustees whether a sale, lease, or other conveyance to a local  
1722 government would be in the best interests of the state and local  
1723 government. This subsection does not limit the provisions of ss.  
1724 253.111 and 253.115. If the county or local government does not  
1725 elect to purchase such lands in accordance with s. 253.111, any  
1726 surplus determination involving other governmental agencies  
1727 shall be made when the board of trustees decides the best public  
1728 use of the lands. Surplus properties in which governmental  
1729 agencies have not expressed interest must then be available for  
1730 sale on the private market.

1731 (8) Before a facility or parcel of nonconservation land is  
1732 offered for lease or sale to a local or federal unit of  
1733 government or a private party, it shall first be offered for  
1734 lease to state agencies, state universities, and Florida College  
1735 System institutions, with priority consideration given to state  
1736 universities and Florida College System institutions. Within 45  
1737 days after the offer for lease of a surplus building or parcel,  
1738 a state agency, state university, or Florida College System  
1739 institution that requests the lease must submit a plan to the  
1740 board of trustees that includes a description of the proposed  
1741 use, including future use, of the building or parcel of land.  
1742 The board of trustees must review and approve the plan before  
1743 approving the lease. The state agency plan must, at a minimum,

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1744 include the proposed use of the facility or parcel, the  
1745 estimated cost of renovation, a capital improvement plan for the  
1746 building, evidence that the building or parcel meets an existing  
1747 need that cannot otherwise be met, and other criteria adopted by  
1748 rule of the board of trustees. The board of trustees or its  
1749 designee shall compare the estimated value of the facility or  
1750 parcel to any submitted business plan to determine if the lease  
1751 or sale is in the best interest of the state. The board of  
1752 trustees shall adopt rules pursuant to chapter 120 to implement  
1753 this section. A state agency or local government that has  
1754 requested the use of a property that was to be declared as  
1755 surplus must secure the property with a fully executed lease  
1756 within 90 days after being notified that it may use such  
1757 property or the request is voidable.

1758 (9) The sale price of lands determined to be surplus  
1759 pursuant to this section and s. 253.82 shall be determined by  
1760 the Division of State Lands, which shall consider an appraisal  
1761 of the property or, if the estimated value of the land is  
1762 \$500,000 or less, a comparable sales analysis or a broker's  
1763 opinion of value. The division may require a second appraisal.  
1764 The individual or entity that requests to purchase the surplus  
1765 parcel shall pay all costs associated with determining the  
1766 property's value, if any.

1767 (a) A written valuation of land determined to be surplus  
1768 pursuant to this section and s. 253.82, and related documents  
1769 used to form the valuation or which pertain to the valuation,  
1770 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
1771 I of the State Constitution.

1772 1. The exemption expires 2 weeks before the contract or

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1773 agreement regarding the purchase, exchange, or disposal of the  
1774 surplus land is first considered for approval by the board of  
1775 trustees.

1776 2. Before expiration of the exemption, the Division of  
1777 State Lands may disclose confidential and exempt appraisals,  
1778 valuations, or valuation information regarding surplus land:

1779 a. During negotiations for the sale or exchange of the  
1780 land;

1781 b. During the marketing effort or bidding process  
1782 associated with the sale, disposal, or exchange of the land to  
1783 facilitate closure of such effort or process;

1784 c. When the passage of time has made the conclusions of  
1785 value invalid; or

1786 d. When negotiations or marketing efforts concerning the  
1787 land are concluded.

1788 (b) A unit of government that acquires title to lands  
1789 pursuant to this section for less than appraised value may not  
1790 sell or transfer title to all or any portion of the lands to any  
1791 private owner for 10 years. A unit of government seeking to  
1792 transfer or sell lands pursuant to this paragraph must first  
1793 allow the board of trustees to reacquire such lands for the  
1794 price at which the board of trustees sold such lands.

1795 (10) Parcels with a market value over \$500,000 must be  
1796 initially offered for sale by competitive bid. Any parcels  
1797 unsuccessfully offered for sale by competitive bid, and parcels  
1798 with a market value of \$500,000 or less, may be sold by any  
1799 reasonable means, including procuring real estate services, open  
1800 or exclusive listings, competitive bid, auction, negotiated  
1801 direct sales, or other appropriate services, to facilitate the

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1802 sale.

1803 (11) After reviewing the recommendations of the Acquisition  
1804 and Restoration Council, the board of trustees shall determine  
1805 whether conservation lands identified for surplus should be held  
1806 for other public purposes or are no longer needed. The board of  
1807 trustees may require an agency to release its interest in such  
1808 lands. A state entity, state agency, local government, or state  
1809 university or Florida College System institution that has  
1810 requested the use of a property that was to be declared as  
1811 surplus must secure the property under a fully executed lease  
1812 within 90 days after being notified that it may use such  
1813 property or the request is voidable.

1814 (12) Requests to surplus lands may be made by any public or  
1815 private entity or person and shall be determined by the board of  
1816 trustees. All requests to surplus conservation lands shall be  
1817 submitted to the lead managing agency for review and  
1818 recommendation to the Acquisition and Restoration Council, and  
1819 all requests to surplus nonconservation lands shall be submitted  
1820 to the Division of State Lands for review and recommendation to  
1821 the board of trustees. The lead managing agencies shall review  
1822 such requests and make recommendations to the council within 90  
1823 days after receipt of the requests. Any requests to surplus  
1824 conservation lands that are not acted upon within the 90-day  
1825 period shall be immediately scheduled for hearing at the next  
1826 regularly scheduled meeting of the council. Requests to surplus  
1827 lands shall be considered by the board of trustees within 60  
1828 days after receipt of the requests from the council or division.  
1829 Requests to surplus lands pursuant to this subsection are not  
1830 required to be offered to local or state governments as provided

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1831 in subsection (7) or subsection (8).

1832 (13) Proceeds from the sale of surplus conservation lands  
1833 purchased before July 1, 2015, shall be deposited into the  
1834 Florida Forever Trust Fund.

1835 (14) Proceeds from the sale of surplus conservation lands  
1836 purchased on or after July 1, 2015, shall be deposited into the  
1837 Land Acquisition Trust Fund, except when such lands were  
1838 purchased with funds other than those from the Land Acquisition  
1839 Trust Fund or a land acquisition trust fund created to implement  
1840 s. 28, Art. X of the State Constitution, the proceeds shall be  
1841 deposited into the fund from which the lands were purchased.

1842 (15) Funds received from the sale of surplus  
1843 nonconservation lands or lands that were acquired by gift, by  
1844 donation, or for no consideration shall be deposited into the  
1845 Internal Improvement Trust Fund.

1846 (16) Notwithstanding this section, such disposition of land  
1847 may not be made if it would have the effect of causing all or  
1848 any portion of the interest on any revenue bonds issued to lose  
1849 the exclusion from gross income for federal income tax purposes.

1850 (17) The sale of filled, formerly submerged land that does  
1851 not exceed 5 acres in area is not subject to review by the  
1852 Acquisition and Restoration Council.

1853 (18) The board of trustees may adopt rules to administer  
1854 this section, including procedures for administering surplus  
1855 land requests and criteria for when the Division of State Lands  
1856 may approve requests to surplus nonconservation lands on behalf  
1857 of the board of trustees.

1858 (19) Surplus lands that are conveyed to a local government  
1859 for affordable housing shall be disposed of by the local



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1860 government under s. 125.379 or s. 166.0451.

1861 Section 7. Section 253.111, Florida Statutes, is amended to  
1862 read:

1863 253.111 Notice to county and municipality ~~board of county~~  
1864 ~~commissioners~~ before sale.—The Board of Trustees of the Internal  
1865 Improvement Trust Fund ~~of the state~~ may not sell any land to  
1866 which it holds ~~they hold~~ title unless and until it affords ~~they~~  
1867 ~~afford~~ an opportunity to the county and municipality in which  
1868 such land is situated to receive such land on the following  
1869 terms and conditions:

1870 (1) If a request ~~an application~~ is filed with the Division  
1871 of State Lands ~~board~~ requesting that the board of trustees ~~they~~  
1872 sell certain land to which it holds ~~they hold~~ title and the  
1873 board of trustees decides to sell such land or if the board of  
1874 trustees, without such request ~~application~~, decides to sell such  
1875 land, the board of trustees shall, before consideration of any  
1876 private offers, notify the governing body ~~board of county~~  
1877 ~~commissioners~~ of the county and municipality in which such land  
1878 is situated that such land is available to such county and  
1879 municipality. Such notification shall be given by registered or  
1880 express mail, return receipt requested, any commercial delivery  
1881 service requiring a signed receipt, or electronic notification  
1882 with return receipt.

1883 (2) The governing bodies ~~board of county commissioners~~ of  
1884 the county and municipality in which such land is situated shall  
1885 each, ~~within 40 days after receipt of such notification from the~~  
1886 ~~board~~, determine by resolution whether ~~or not~~ it proposes to  
1887 acquire such land.

1888 (3) If the board of trustees receives, within 45 days after

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1889 notice is given to the governing bodies of the county and  
1890 municipality ~~board of county commissioners~~ pursuant to  
1891 subsection (1), the certified copy of the resolution provided  
1892 for in subsection (2), the board of trustees shall ~~forthwith~~  
1893 convey to the county or municipality such land at a price that  
1894 is equal to its ~~appraised~~ market value based on, at the  
1895 discretion of the Division of State Lands, an appraisal, a  
1896 comparable sales analysis, or a broker's opinion of value  
1897 ~~established by generally accepted professional standards for~~  
1898 ~~real estate appraisal~~ and subject to such other terms and  
1899 conditions as the board of trustees determines. If a parcel is  
1900 located within a municipality, priority consideration shall be  
1901 given to the municipality over the county.

1902 (4) ~~Nothing in~~ This section does not restrict ~~restricts~~ any  
1903 right otherwise granted to the board of trustees by this chapter  
1904 to convey land to which it holds ~~they hold~~ title to the state or  
1905 any department, office, authority, board, bureau, commission,  
1906 institution, court, tribunal, agency, or other instrumentality  
1907 of or under the state. For purposes of this section, the term  
1908 ~~word "land" as used in this act~~ means all lands vested in the  
1909 Board of Trustees of the Internal Improvement Trust Fund.

1910 (5) If any riparian owner exists with respect to any land  
1911 to be sold by the board of trustees, such riparian owner shall  
1912 have a right to secure such land, which right is prior in  
1913 interest to the right in the county and municipality created by  
1914 this section, provided that such riparian owner shall be  
1915 required to pay for such land upon such prices, terms, and  
1916 conditions as determined by the board of trustees. Such riparian  
1917 owner may waive this prior right, in which case this section

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1918 shall apply.

1919 (6) This section does not apply to:

1920 (a) Any land exchange approved by the board of trustees;

1921 (b) The conveyance of any lands located within the  
1922 Everglades Agricultural Area; or

1923 (c) Lands managed pursuant to ss. 253.781-253.785.

1924 Section 8. Section 253.42, Florida Statutes, is amended to  
1925 read:

1926 253.42 Board of trustees may exchange lands. ~~The provisions~~  
1927 ~~of~~ This section applies ~~apply~~ to all lands owned by, vested in,  
1928 or titled in the name of the board of trustees whether the lands  
1929 were acquired by the state as a purchase, or through gift,  
1930 donation, or any other conveyance for which no consideration was  
1931 paid.

1932 (1) The board of trustees may exchange any lands owned by,  
1933 vested in, or titled in its ~~the name of the board~~ for other  
1934 lands in the state owned by counties, local governments,  
1935 individuals, or private or public corporations, and may fix the  
1936 terms and conditions of any such exchange. Any nonconservation  
1937 lands that were acquired by the state through gift, donation, or  
1938 any other conveyance for which no consideration was paid must  
1939 first be offered at no cost to a county or local government  
1940 unless otherwise provided in a deed restriction of record or  
1941 other legal impediment, and so long as the use proposed by the  
1942 county or local government is for a public purpose. For  
1943 conservation lands acquired by the state through gift, donation,  
1944 or any other conveyance for which no consideration was paid, the  
1945 state may request land of equal conservation value from the  
1946 county or local government but no other consideration.

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1947 (2) In exchanging state-owned lands not acquired by the  
1948 state through gift, donation, or any other conveyance for which  
1949 no consideration was paid, with counties or local governments,  
1950 the board of trustees shall require an exchange of equal value.  
1951 Equal value is defined as the conservation benefit of the lands  
1952 being offered for exchange by a county or local government being  
1953 equal or greater in conservation benefit than the state-owned  
1954 lands. Such exchanges may include cash transactions if based on  
1955 an appropriate measure of value of the state-owned land, but  
1956 must also include the determination of a net-positive  
1957 conservation benefit by the Acquisition and Restoration Council,  
1958 irrespective of appraised value.

1959 (3) The board of trustees shall select and agree upon the  
1960 state lands to be exchanged and the lands to be conveyed to the  
1961 state and shall pay or receive any sum of money the board of  
1962 trustees deems ~~deemed~~ necessary ~~by the board~~ for the purpose of  
1963 equalizing the value of the exchanged property. The board of  
1964 trustees is authorized to make and enter into contracts or  
1965 agreements for such purpose or purposes.

1966 (4) (a) A person who owns land contiguous to state-owned  
1967 land titled to the board of trustees may submit a request to the  
1968 Division of State Lands to exchange all or a portion of the  
1969 privately owned land for all or a portion of the state-owned  
1970 land, whereby the state retains a permanent conservation  
1971 easement over all or a portion of the exchanged state-owned land  
1972 and a permanent conservation easement over all or a portion of  
1973 the exchanged privately owned land. State-owned land exchanged  
1974 pursuant to this subsection shall be contiguous to the privately  
1975 owned land upon which the state retains a permanent conservation

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1976 easement. The division may submit such request to the  
1977 Acquisition and Restoration Council for review. If the division  
1978 submits a request to the council, the council shall provide  
1979 recommendations to the division. After receiving the council's  
1980 recommendations, the division shall review the request and the  
1981 council's recommendations and may provide recommendations to the  
1982 board of trustees. This subsection does not apply to state-owned  
1983 sovereign submerged land.

1984 (b) After receiving a request and the division's  
1985 recommendations, the board of trustees shall consider such  
1986 request and recommendations and may approve the request if:

1987 1. At least 30 percent of the perimeter of the privately  
1988 owned land is bordered by state-owned land and the exchange does  
1989 not create an inholding.

1990 2. The approval does not result in a violation of the terms  
1991 of a preexisting lease or agreement by the board of trustees,  
1992 the Department of Environmental Protection, the Department of  
1993 Agriculture and Consumer Services, or the Fish and Wildlife  
1994 Conservation Commission.

1995 3. For state-owned land purchased for conservation  
1996 purposes, the board of trustees makes a determination that the  
1997 exchange of land under this subsection will result in a positive  
1998 conservation benefit.

1999 4. The approval does not conflict with any existing flowage  
2000 easement.

2001 5. The request is approved by three or more members of the  
2002 board of trustees.

2003 (c) Special consideration shall be given to a request that  
2004 maintains public access for any recreational purpose allowed on

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2005 the state-owned land at the time the request is submitted to the  
2006 board of trustees. A person who maintains public access pursuant  
2007 to this paragraph is entitled to the limitation on liability  
2008 provided in s. 375.251.

2009 (d) Land subject to a permanent conservation easement  
2010 granted pursuant to this subsection is subject to inspection by  
2011 the Department of Environmental Protection to ensure compliance  
2012 with the terms of the permanent conservation easement.

2013 Section 9. Subsection (2) of section 253.782, Florida  
2014 Statutes, is amended to read:

2015 253.782 Retention of state-owned lands in and around Lake  
2016 Rousseau and the Cross Florida Barge Canal right-of-way from  
2017 Lake Rousseau west to the Withlacoochee River.—

2018 (2) The Department of Environmental Protection is  
2019 authorized ~~and directed~~ to retain ownership of and maintain all  
2020 lands or interests in land owned by the Board of Trustees of the  
2021 Internal Improvement Trust Fund, including all fee and less-  
2022 than-fee interests in lands previously owned by the canal  
2023 authority in Lake Rousseau and the Cross Florida Barge Canal  
2024 right-of-way from Lake Rousseau at U.S. Highway 41 west to and  
2025 including the Withlacoochee River.

2026 Section 10. Section 253.7821, Florida Statutes, is amended  
2027 to read:

2028 253.7821 Cross Florida Greenways State Recreation and  
2029 Conservation Area assigned to the Department of Environmental  
2030 Protection ~~Office of the Executive Director.~~—The Cross Florida  
2031 Greenways State Recreation and Conservation Area is ~~hereby~~  
2032 established and ~~is initially~~ assigned to the department ~~Office~~  
2033 ~~of Greenways Management within the Office of the Secretary.~~ The

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2034 ~~department office~~ shall manage the greenways pursuant to the  
2035 department's existing statutory authority until administrative  
2036 rules are adopted by the department. However, the provisions of  
2037 this act shall control in any conflict between this act and any  
2038 other authority of the department.

2039 Section 11. Section 253.87, Florida Statutes, is created to  
2040 read:

2041 253.87 Inventory of state, federal, and local government  
2042 conservation lands by the Department of Environmental  
2043 Protection.-

2044 (1) By July 1, 2018, the department shall include in the  
2045 Florida State-Owned Lands and Records Information System (FL-  
2046 SOLARIS) database all federally owned conservation lands, all  
2047 lands on which the Federal Government retains a permanent  
2048 conservation easement, and all lands on which the state retains  
2049 a permanent conservation easement. The department shall update  
2050 the database at least every 5 years.

2051 (2) By July 1, 2018, for counties and municipalities, and  
2052 by July 1, 2019, for financially disadvantaged small  
2053 communities, as defined in s. 403.1838, and at least every 5  
2054 years thereafter, respectively, each county, municipality, and  
2055 financially disadvantaged small community shall identify all  
2056 conservation lands that it owns in fee simple and all lands on  
2057 which it retains a permanent conservation easement and submit,  
2058 in a manner determined by the department, a list of such lands  
2059 to the department. Within 6 months after receiving such list,  
2060 the department shall add such lands to the FL-SOLARIS database.

2061 (3) By January 1, 2018, the department shall conduct a  
2062 study and submit a report to the Governor, the President of the

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2063 Senate, and the Speaker of the House of Representatives on the  
 2064 technical and economic feasibility of including the following  
 2065 lands in the FL-SOLARIS database or a similar public lands  
 2066 inventory:

2067 (a) All lands on which local comprehensive plans, land use  
 2068 restrictions, zoning ordinances, or land development regulations  
 2069 prohibit the land from being developed or limit the amount of  
 2070 development to one unit per 40 or more acres.

2071 (b) All publicly and privately owned lands for which  
 2072 development rights have been transferred.

2073 (c) All privately owned lands under a permanent  
 2074 conservation easement.

2075 (d) All lands owned by a nonprofit or nongovernmental  
 2076 organization for conservation purposes.

2077 (e) All lands that are part of a mitigation bank.

2078 Section 12. Section 259.01, Florida Statutes, is amended to  
 2079 read:

2080 259.01 Short title.—This chapter shall be known and may be  
 2081 cited as the "Land Conservation Program Act of 1972."

2082 Section 13. Section 259.02, Florida Statutes, is repealed.

2083 Section 14. Section 259.03, Florida Statutes, is amended to  
 2084 read:

2085 259.03 Definitions.—~~As The following terms and phrases when~~  
 2086 ~~used in this chapter, the term shall have the meanings ascribed~~  
 2087 ~~to them in this section, except where the context clearly~~  
 2088 ~~indicates a different meaning:~~

2089 (1) "Council" means the Acquisition and Restoration that  
 2090 Council established pursuant to s. 259.035.

2091 (2) "Board" means the Governor and Cabinet, sitting as the



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2092 Board of Trustees of the Internal Improvement Trust Fund.

2093 (3) "Capital improvement" or "capital project expenditure"  
2094 means those activities relating to the acquisition, restoration,  
2095 public access, and recreational uses of such lands, water areas,  
2096 and related resources deemed necessary to accomplish the  
2097 purposes of this chapter. Eligible activities include, but are  
2098 not limited to: the initial removal of invasive plants; the  
2099 construction, improvement, enlargement or extension of  
2100 facilities' signs, firelanes, access roads, and trails; or any  
2101 other activities that serve to restore, conserve, protect, or  
2102 provide public access, recreational opportunities, or necessary  
2103 services for land or water areas. Such activities shall be  
2104 identified before ~~prior to~~ the acquisition of a parcel or the  
2105 approval of a project. The continued expenditures necessary for  
2106 a capital improvement approved under this subsection are ~~shall~~  
2107 not ~~be~~ eligible for funding provided in this chapter.

2108 (4) "Department" means the Department of Environmental  
2109 Protection.

2110 (5) "Division" means the Division of Bond Finance of the  
2111 State Board of Administration.

2112 (6) "Water resource development project" means a project  
2113 eligible for funding pursuant to s. 259.105 that increases the  
2114 amount of water available to meet the needs of natural systems  
2115 and the citizens of the state by enhancing or restoring aquifer  
2116 recharge, facilitating the capture and storage of excess flows  
2117 in surface waters, or promoting reuse. The implementation of  
2118 eligible projects under s. 259.105 includes land acquisition,  
2119 land and water body restoration, aquifer storage and recovery  
2120 facilities, surface water reservoirs, and other capital

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2121 improvements. ~~The term does not include construction of~~  
2122 ~~treatment, transmission, or distribution facilities.~~

2123 Section 15. Subsections (6), (7), and (8) and paragraphs  
2124 (a) and (d) of section (9) of section 259.032, Florida Statutes,  
2125 are amended to read:

2126 259.032 Conservation and recreation lands.—

2127 (6) Conservation and recreation lands are subject to the  
2128 selection procedures of s. 259.035 and related rules and shall  
2129 be acquired in accordance with acquisition procedures for state  
2130 lands provided for in s. 253.025 ~~259.041~~, except as otherwise  
2131 provided by the Legislature. An inholding or an addition to  
2132 conservation and recreation lands is not subject to the  
2133 selection procedures of s. 259.035 if the estimated value of  
2134 such inholding or addition does not exceed \$500,000. When at  
2135 least 90 percent of the acreage of a project has been purchased  
2136 for conservation and recreation purposes, the project may be  
2137 removed from the list and the remaining acreage may continue to  
2138 be purchased. Funds appropriated to acquire conservation and  
2139 recreation lands may be used for title work, appraisal fees,  
2140 environmental audits, and survey costs related to acquisition  
2141 expenses for lands to be acquired, donated, or exchanged which  
2142 qualify under the categories of this section, at the discretion  
2143 of the board. When the Legislature has authorized the department  
2144 ~~of Environmental Protection~~ to condemn a specific parcel of land  
2145 and such parcel has already been approved for acquisition, the  
2146 land may be acquired in accordance with ~~the provisions of~~  
2147 chapter 73 or chapter 74, and the funds appropriated to acquire  
2148 conservation and recreation lands may be used to pay the  
2149 condemnation award and all costs, including reasonable attorney

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2150 fees, associated with condemnation.

2151 (7) All lands managed under this chapter and s. 253.034  
2152 shall be:

2153 (a) Managed in a manner that will provide the greatest  
2154 combination of benefits to the public and to the resources.

2155 (b) Managed for public outdoor recreation which is  
2156 compatible with the conservation and protection of public lands.  
2157 Such management may include, but not be limited to, the  
2158 following public recreational uses: fishing, hunting, camping,  
2159 bicycling, hiking, nature study, swimming, boating, canoeing,  
2160 horseback riding, diving, model hobbyist activities, birding,  
2161 sailing, jogging, and other related outdoor activities  
2162 ~~compatible with the purposes for which the lands were acquired.~~

2163 ~~(c) Managed for the purposes for which the lands were~~  
2164 ~~acquired, consistent with paragraph (9)(a).~~

2165 (c) ~~(d)~~ Concurrent with its adoption of the annual list of  
2166 acquisition projects pursuant to s. 259.035, the board ~~of~~  
2167 ~~trustees~~ shall adopt a management prospectus for each project.  
2168 The management prospectus shall delineate:

2169 1. The management goals for the property;

2170 2. The conditions that will affect the intensity of  
2171 management;

2172 3. An estimate of the revenue-generating potential of the  
2173 property, if appropriate;

2174 4. A timetable for implementing the various stages of  
2175 management and for providing access to the public, if  
2176 applicable;

2177 5. A description of potential multiple-use activities as  
2178 described in this section and s. 253.034;

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2179 6. Provisions for protecting existing infrastructure and  
2180 for ensuring the security of the project upon acquisition;

2181 7. The anticipated costs of management and projected  
2182 sources of revenue, including legislative appropriations, to  
2183 fund management needs; and

2184 8. Recommendations as to how many employees will be needed  
2185 to manage the property, and recommendations as to whether local  
2186 governments, volunteer groups, the former landowner, or other  
2187 interested parties can be involved in the management.

2188 (d)~~(e)~~ Concurrent with the approval of the acquisition  
2189 contract pursuant to s. 253.025(4)(c) ~~259.041(3)(e)~~ for any  
2190 interest in lands except those lands ~~being~~ acquired pursuant to  
2191 ~~under the provisions of~~ s. 259.1052, the board ~~of trustees~~ shall  
2192 designate an agency or agencies to manage such lands. The board  
2193 shall evaluate and amend, as appropriate, the management policy  
2194 statement for the project as provided by s. 259.035 to ensure  
2195 the policy is compatible with conservation or recreation  
2196 purposes, consistent with the purposes for which the lands are  
2197 ~~acquired~~. For any fee simple acquisition of a parcel which is or  
2198 will be leased back for agricultural purposes, or any  
2199 acquisition of a less-than-fee interest in land that is or will  
2200 be used for agricultural purposes, the board ~~of trustees of the~~  
2201 ~~Internal Improvement Trust Fund~~ shall first consider having a  
2202 soil and water conservation district, created pursuant to  
2203 chapter 582, manage and monitor such interests.

2204 (e)~~(f)~~ State agencies designated to manage lands acquired  
2205 under this chapter or with funds deposited into the Land  
2206 Acquisition Trust Fund, except those lands acquired under s.  
2207 259.1052, may contract with local governments and soil and water

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2208 conservation districts to assist in management activities,  
2209 including the responsibility of being the lead land manager.  
2210 Such land management contracts may include a provision for the  
2211 transfer of management funding to the local government or soil  
2212 and water conservation district from the land acquisition trust  
2213 fund of the lead land managing agency in an amount adequate for  
2214 the local government or soil and water conservation district to  
2215 perform its contractual land management responsibilities and  
2216 proportionate to its responsibilities, and which otherwise would  
2217 have been expended by the state agency to manage the property.

2218 (f) ~~(g)~~ Immediately following the acquisition of any  
2219 interest in conservation and recreation lands, the department ~~of~~  
2220 ~~Environmental Protection~~, acting on behalf of the board ~~of~~  
2221 ~~trustees~~, may issue to the lead managing entity an interim  
2222 assignment letter to be effective until the execution of a  
2223 formal lease.

2224 (8) (a) State, regional, or local governmental agencies or  
2225 private entities designated to manage lands under this section  
2226 shall develop and adopt, with the approval of the board ~~of~~  
2227 ~~trustees~~, an individual management plan for each project  
2228 designed to conserve and protect such lands and their associated  
2229 natural resources. Private sector involvement in management plan  
2230 development may be used to expedite the planning process.

2231 (b) Individual management plans required by s. 253.034(5),  
2232 for parcels over 160 acres, shall be developed with input from  
2233 an advisory group. Members of this advisory group shall include,  
2234 at a minimum, representatives of the lead land managing agency,  
2235 comanaging entities, local private property owners, the  
2236 appropriate soil and water conservation district, a local

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2237 conservation organization, and a local elected official. If  
 2238 habitat or potentially restorable habitat for imperiled species  
 2239 is located on state lands, the Fish and Wildlife Conservation  
 2240 Commission and the Department of Agriculture and Consumer  
 2241 Services shall be included on any advisory group required under  
 2242 chapter 253, and the short-term and long-term management goals  
 2243 required under chapter 253 must advance the goals and objectives  
 2244 of imperiled species management without restricting other uses  
 2245 identified in the management plan. The advisory group shall  
 2246 conduct at least one public hearing within the county in which  
 2247 the parcel or project is located. For those parcels or projects  
 2248 that are within more than one county, at least one areawide  
 2249 public hearing shall be acceptable and the lead managing agency  
 2250 shall invite a local elected official from each county. The  
 2251 areawide public hearing shall be held in the county in which the  
 2252 core parcels are located. Notice of such public hearing shall be  
 2253 posted on the parcel or project designated for management,  
 2254 advertised in a paper of general circulation, and announced at a  
 2255 scheduled meeting of the local governing body before the actual  
 2256 public hearing. The management prospectus required pursuant to  
 2257 paragraph (7) (c) ~~(7) (d)~~ shall be available to the public for a  
 2258 period of 30 days before ~~prior to~~ the public hearing.

2259 (c) Once a plan is adopted, the managing agency or entity  
 2260 shall update the plan at least every 10 years in a form and  
 2261 manner adopted ~~prescribed~~ by rule of the board ~~of trustees~~. Such  
 2262 updates, for parcels over 160 acres, shall be developed with  
 2263 input from an advisory group. Such plans may include transfers  
 2264 of leasehold interests to appropriate conservation organizations  
 2265 or governmental entities designated by the ~~Land Acquisition and~~

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2266 ~~Management Advisory council or its successor,~~ for uses  
 2267 consistent with the purposes of the organizations and the  
 2268 protection, preservation, conservation, restoration, and proper  
 2269 management of the lands and their resources. Volunteer  
 2270 management assistance is encouraged, including, but not limited  
 2271 to, assistance by youths participating in programs sponsored by  
 2272 state or local agencies, by volunteers sponsored by  
 2273 environmental or civic organizations, and by individuals  
 2274 participating in programs for committed delinquents and adults.

2275 (d)~~1.~~ For each project for which lands are acquired after  
 2276 July 1, 1995, an individual management plan shall be adopted and  
 2277 in place no later than 1 year after the essential parcel or  
 2278 parcels identified in the priority list developed pursuant to s.  
 2279 259.105 have been acquired. The department ~~of Environmental~~  
 2280 ~~Protection~~ shall distribute only 75 percent of the acquisition  
 2281 funds to which a budget entity or water management district  
 2282 would otherwise be entitled to any budget entity or any water  
 2283 management district that has more than one-third of its  
 2284 management plans overdue.

2285 ~~2. The requirements of subparagraph 1. do not apply to the~~  
 2286 ~~individual management plan for the Babcock Crescent B Ranch~~  
 2287 ~~being acquired pursuant to s. 259.1052. The management plan for~~  
 2288 ~~the ranch shall be adopted and in place no later than 2 years~~  
 2289 ~~following the date of acquisition by the state.~~

2290 (e) Individual management plans shall conform to the  
 2291 appropriate policies and guidelines of the state land management  
 2292 plan and shall include, but not be limited to:

2293 1. A statement of the purpose for which the lands were  
 2294 acquired, the projected use or uses as defined in s. 253.034,

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2295 and the statutory authority for such use or uses.

2296 2. Key management activities necessary to achieve the  
2297 desired outcomes, including, but not limited to, providing  
2298 public access, preserving and protecting natural resources,  
2299 protecting cultural and historical resources, restoring habitat,  
2300 protecting threatened and endangered species, controlling the  
2301 spread of nonnative plants and animals, performing prescribed  
2302 fire activities, and other appropriate resource management.

2303 3. A specific description of how the managing agency plans  
2304 to identify, locate, protect, and preserve, or otherwise use  
2305 fragile, nonrenewable natural and cultural resources.

2306 4. A priority schedule for conducting management  
2307 activities, ~~based on the purposes for which the lands were~~  
2308 ~~acquired.~~

2309 5. A cost estimate for conducting priority management  
2310 activities, to include recommendations for cost-effective  
2311 methods of accomplishing those activities.

2312 6. A cost estimate for conducting other management  
2313 activities which would enhance the natural resource value or  
2314 public recreation value ~~for which the lands were acquired.~~ The  
2315 cost estimate shall include recommendations for cost-effective  
2316 methods of accomplishing those activities.

2317 7. A determination of the public uses and public access  
2318 that would be compatible with conservation or recreation  
2319 purposes ~~that would be consistent with the purposes for which~~  
2320 ~~the lands were acquired.~~

2321 (f) The Division of State Lands shall submit a copy of each  
2322 individual management plan for parcels which exceed 160 acres in  
2323 size to each member of the ~~Acquisition and Restoration~~ council,



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2324 which shall:

2325 1. Within 60 days after receiving a plan from the Division  
2326 of State Lands, review each plan for compliance with the  
2327 requirements of this subsection and with the requirements of the  
2328 rules adopted ~~established~~ by the board pursuant to this  
2329 subsection.

2330 2. Consider the propriety of the recommendations of the  
2331 managing agency with regard to the future use or protection of  
2332 the property.

2333 3. After its review, submit the plan, along with its  
2334 recommendations and comments, to the board ~~of trustees~~, with  
2335 recommendations as to whether to approve the plan as submitted,  
2336 approve the plan with modifications, or reject the plan.

2337 (g) The board ~~of trustees~~ shall consider the individual  
2338 management plan submitted by each state agency and the  
2339 recommendations of the ~~Acquisition and Restoration~~ council and  
2340 the department ~~Division of State Lands~~ and shall approve the  
2341 plan with or without modification or reject such plan. The use  
2342 or possession of any lands owned by the board ~~of trustees~~ which  
2343 is not in accordance with an approved individual management plan  
2344 is subject to termination by the board ~~of trustees~~.

2345  
2346 By July 1 of each year, each governmental agency and each  
2347 private entity designated to manage lands shall report to the  
2348 Secretary of Environmental Protection on the progress of  
2349 funding, staffing, and resource management of every project for  
2350 which the agency or entity is responsible.

2351 (9) (a) The Legislature recognizes that acquiring lands  
2352 pursuant to this chapter serves the public interest by

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2353 protecting land, air, and water resources which contribute to  
2354 the public health and welfare, providing areas for natural  
2355 resource based recreation, and ensuring the survival of unique  
2356 and irreplaceable plant and animal species. The Legislature  
2357 intends for these lands to be managed and maintained in a manner  
2358 that is compatible with conservation or recreation purposes ~~for~~  
2359 ~~the purposes for which they were acquired~~ and for the public to  
2360 have access to and use of these lands if public access ~~where it~~  
2361 ~~is consistent with acquisition purposes~~ and would not harm the  
2362 resources the state is seeking to protect on the public's  
2363 behalf.

2364 (d) Up to one-fifth of the funds appropriated for the  
2365 purposes identified in paragraph (b) shall be reserved by the  
2366 board ~~of trustees~~ for interim management of acquisitions and for  
2367 associated contractual services, to ensure the conservation and  
2368 protection of natural resources on project sites and to allow  
2369 limited public recreational use of lands. Interim management  
2370 activities may include, but not be limited to, resource  
2371 assessments, control of invasive, nonnative species, habitat  
2372 restoration, fencing, law enforcement, controlled burning, and  
2373 public access consistent with preliminary determinations made  
2374 pursuant to paragraph (7) (f) ~~(7) (g)~~. The board ~~of trustees~~ shall  
2375 make these interim funds available immediately upon purchase.

2376 Section 16. Subsection (3) and paragraph (a) of subsection  
2377 (4) of section 259.035, Florida Statutes, are amended to read:

2378 259.035 Acquisition and Restoration Council.—

2379 (3) The council shall provide assistance to the board ~~of~~  
2380 ~~trustees~~ in reviewing the recommendations and plans for state-  
2381 owned conservation lands required under s. 253.034 and this

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2382 chapter. The council shall, in reviewing such ~~recommendations~~  
2383 ~~and~~ plans, consider the optimization of multiple-use and  
2384 conservation strategies to accomplish the provisions funded  
2385 pursuant to former s. 259.101(3)(a), Florida Statutes 2014, and  
2386 to s. 259.105(3)(b).

2387 (4)(a) By December 1, 2016, the ~~Acquisition and Restoration~~  
2388 council shall develop rules defining specific criteria and  
2389 numeric performance measures needed for lands that are to be  
2390 acquired for public purpose under the Florida Forever program  
2391 pursuant to s. 259.105 or with funds deposited into the Land  
2392 Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State  
2393 Constitution. These rules shall be reviewed and adopted by the  
2394 board, then submitted to the Legislature for consideration by  
2395 February 1, 2017. The Legislature may reject, modify, or take no  
2396 action relative to the proposed rules. If no action is taken,  
2397 the rules shall be implemented. Subsequent to their approval,  
2398 each recipient of funds from the Land Acquisition Trust Fund  
2399 shall annually report to the department ~~Division of State Lands~~  
2400 on each of the numeric performance measures accomplished during  
2401 the previous fiscal year.

2402 Section 17. Subsections (1), (2), (4), and (5) of section  
2403 259.036, Florida Statutes, are amended to read:

2404 259.036 Management review teams.—

2405 (1) To determine whether conservation, preservation, and  
2406 recreation lands titled in the name of the board ~~of Trustees of~~  
2407 ~~the Internal Improvement Trust Fund~~ are being managed for the  
2408 purposes that are compatible with conservation, preservation, or  
2409 recreation ~~for which they were acquired and~~ in accordance with a  
2410 land management plan adopted pursuant to s. 259.032, the board

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2411 ~~of trustees,~~ acting through the department ~~of Environmental~~  
2412 ~~Protection,~~ shall cause periodic management reviews to be  
2413 conducted as follows:

2414 (a) The department shall establish a regional land  
2415 management review team composed of the following members:

2416 1. One individual who is from the county or local community  
2417 in which the parcel or project is located and who is selected by  
2418 the county commission in the county which is most impacted by  
2419 the acquisition.

2420 2. One individual from the Division of Recreation and Parks  
2421 of the department.

2422 3. One individual from the Florida Forest Service of the  
2423 Department of Agriculture and Consumer Services.

2424 4. One individual from the Fish and Wildlife Conservation  
2425 Commission.

2426 5. One individual from the department's district office in  
2427 which the parcel is located.

2428 6. A private land manager, preferably from the local  
2429 community, mutually agreeable to the state agency  
2430 representatives.

2431 7. A member or staff from the jurisdictional water  
2432 management district or ~~of the~~ local soil and water conservation  
2433 district board of supervisors.

2434 8. A member of a conservation organization.

2435 (b) The department ~~staff of the Division of State Lands~~  
2436 shall act as the review team coordinator for the purposes of  
2437 establishing schedules for the reviews and other staff  
2438 functions. The Legislature shall appropriate funds necessary to  
2439 implement land management review team functions.

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2440 (2) The land management review team shall review select  
2441 management areas before ~~prior to~~ the date the manager is  
2442 required to submit a 10-year land management plan update. For  
2443 management areas that exceed 1,000 acres in size, the department  
2444 ~~Division of State Lands~~ shall schedule a land management review  
2445 at least every 5 years. A copy of the review shall be provided  
2446 to the manager, the department ~~Division of State Lands~~, and the  
2447 ~~Acquisition and Restoration~~ council. The manager shall consider  
2448 the findings and recommendations of the land management review  
2449 team in finalizing the required 10-year update of its management  
2450 plan.

2451 (4) In the event a land management plan has not been  
2452 adopted within the timeframes specified in s. 259.032(8), the  
2453 department may direct a management review of the property, to be  
2454 conducted by the land management review team. The review shall  
2455 consider the extent to which the land is being managed in a  
2456 manner that is compatible with conservation or recreation  
2457 purposes ~~for the purposes for which it was acquired~~ and the  
2458 degree to which actual management practices are in compliance  
2459 with the management policy statement and management prospectus  
2460 for that property.

2461 (5) If the land management review team determines that  
2462 reviewed lands are not being managed in a manner that is  
2463 compatible with conservation or recreation purposes ~~for the~~  
2464 ~~purposes for which they were acquired~~ or in compliance with the  
2465 adopted land management plan, management policy statement, or  
2466 management prospectus, or if the managing agency fails to  
2467 address the review findings in the updated management plan, the  
2468 department shall provide the review findings to the board, and

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2469 the managing agency must report to the board its reasons for  
2470 managing the lands as it has.

2471 Section 18. Section 259.037, Florida Statutes, is amended  
2472 to read:

2473 259.037 Land Management Uniform Accounting Council.—

2474 (1) The Land Management Uniform Accounting Council (LMUAC)  
2475 is created within the Department of Environmental Protection and  
2476 shall consist of the director of the Division of State Lands,  
2477 the director of the Division of Recreation and Parks, and the  
2478 director of the Office of Coastal and Aquatic Managed Areas, ~~and~~  
2479 ~~the director of the Office of Greenways and Trails~~ of the  
2480 department ~~of Environmental Protection~~; the director of the  
2481 Florida Forest Service of the Department of Agriculture and  
2482 Consumer Services; the executive director of the Fish and  
2483 Wildlife Conservation Commission; and the director of the  
2484 Division of Historical Resources of the Department of State, or  
2485 their respective designees. Each state agency represented on the  
2486 LMUAC ~~council~~ shall have one vote. The chair of the LMUAC  
2487 ~~council~~ shall rotate annually in the foregoing order of state  
2488 agencies. The agency of the representative serving as chair ~~of~~  
2489 ~~the council~~ shall provide staff support for the LMUAC ~~council~~.  
2490 The Division of State Lands shall serve as the recipient of and  
2491 repository for the LMUAC's ~~council's~~ documents. The LMUAC  
2492 ~~council~~ shall meet at the request of the chair.

2493 (2) The Auditor General and the director of the Office of  
2494 Program Policy Analysis and Government Accountability, or their  
2495 designees, shall advise the LMUAC ~~council~~ to ensure that  
2496 appropriate accounting procedures are used ~~utilized~~ and that a  
2497 uniform method of collecting and reporting accurate costs of

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2498 land management activities are created and can be used by all  
2499 agencies.

2500 (3) (a) All land management activities and costs must be  
2501 assigned to a specific category, and any single activity or cost  
2502 may not be assigned to more than one category. Administrative  
2503 costs, such as planning or training, shall be segregated from  
2504 other management activities. Specific management activities and  
2505 costs must initially be grouped, at a minimum, within the  
2506 following categories:

- 2507 1. Resource management.
- 2508 2. Administration.
- 2509 3. Support.
- 2510 4. Capital improvements.
- 2511 5. Recreation visitor services.
- 2512 6. Law enforcement activities.

2513

2514 Upon adoption of the initial list of land management categories  
2515 by the LMUAC council, agencies assigned to manage conservation  
2516 or recreation lands shall, ~~on July 1, 2000, begin to~~ account for  
2517 land management costs in accordance with the category to which  
2518 an expenditure is assigned.

2519 (b) Each reporting agency shall also:

2520 1. Include a report of the available public use  
2521 opportunities for each management unit of state land, the total  
2522 management cost for public access and public use, and the cost  
2523 associated with each use option.

2524 2. List the acres of land requiring minimal management  
2525 effort, moderate management effort, and significant management  
2526 effort pursuant to s. 259.032(9)(c). For each category created

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2527 in paragraph (a), the reporting agency shall include the amount  
2528 of funds requested, the amount of funds received, and the amount  
2529 of funds expended for land management.

2530 3. List acres managed and cost of management for each park,  
2531 preserve, forest, reserve, or management area.

2532 4. List acres managed, cost of management, and lead manager  
2533 for each state lands management unit for which secondary  
2534 management activities were provided.

2535 5. Include a report of the estimated calculable financial  
2536 benefits to the public for the ecosystem services provided by  
2537 conservation lands, based on the best readily available  
2538 information or science that provides a standard measurement  
2539 methodology to be consistently applied by the land managing  
2540 agencies. Such information may include, but need not be limited  
2541 to, the value of natural lands for protecting the quality and  
2542 quantity of drinking water through natural water filtration and  
2543 recharge, contributions to protecting and improving air quality,  
2544 benefits to agriculture through increased soil productivity and  
2545 preservation of biodiversity, and savings to property and lives  
2546 through flood control.

2547 (4) The LMUAC ~~council~~ shall provide a report of the  
2548 agencies' expenditures pursuant to the adopted categories to the  
2549 Acquisition and Restoration Council and the Division of State  
2550 Lands for inclusion in its annual report required pursuant to s.  
2551 259.036.

2552 (5) Should the LMUAC ~~council~~ determine that the list of  
2553 land management categories needs to be revised, it shall meet  
2554 upon the call of the chair.

2555 (6) Biennially, each reporting agency shall also submit an



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2556 operational report for each management area along with an  
2557 approved management plan. The report should assess the progress  
2558 toward achieving short-term and long-term management goals of  
2559 the approved management plan, including all land management  
2560 activities, and identify any deficiencies in management and  
2561 corrective actions to address identified deficiencies as  
2562 appropriate. This report shall be submitted to the Acquisition  
2563 and Restoration Council and the Division of State Lands for  
2564 inclusion in its annual report required pursuant to s. 259.036.

2565 Section 19. Section 259.041, Florida Statutes, is repealed.

2566 Section 20. Subsection (2) of section 259.047, Florida  
2567 Statutes, is amended to read:

2568 259.047 Acquisition of land on which an agricultural lease  
2569 exists.—

2570 (2) If ~~Where~~ consistent with the purposes of conservation  
2571 and recreation ~~for which the property was acquired~~, the state or  
2572 acquiring entity shall make reasonable efforts to keep lands in  
2573 agricultural production which are in agricultural production at  
2574 the time of acquisition.

2575 Section 21. Subsection (8) of section 259.101, Florida  
2576 Statutes, is renumbered as subsection (7), and subsection (5),  
2577 paragraph (a) of subsection (6), and present subsection (7) of  
2578 that section are amended, to read:

2579 259.101 Florida Preservation 2000 Act.—

2580 (5) DISPOSITION OF LANDS.—

2581 (a) Any lands acquired pursuant to former paragraphs  
2582 (3) (a), (3) (c), (3) (d), (3) (e), (3) (f), or (3) (g) of this  
2583 section, Florida Statutes 2014, if title to such lands is vested  
2584 in the board ~~of Trustees of the Internal Improvement Trust Fund,~~

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2585 may be disposed of by the board ~~of Trustees of the Internal~~  
2586 ~~Improvement Trust Fund~~ in accordance with the provisions and  
2587 procedures set forth in s. 253.0341 ~~253.034(6)~~, and lands  
2588 acquired pursuant to former paragraph (3)(b) of this section,  
2589 Florida Statutes 2014, may be disposed of by the owning water  
2590 management district in accordance with the procedures and  
2591 provisions set forth in ss. 373.056 and 373.089 provided such  
2592 disposition also shall satisfy the requirements of paragraphs  
2593 (b) and (c).

2594 (b) Before land acquired with Preservation 2000 funds may  
2595 be surplused as required by s. 253.0341 ~~253.034(6)~~ or determined  
2596 to be no longer required for its purposes under s. 373.056(4),  
2597 as applicable, there shall first be a determination by the board  
2598 ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the  
2599 case of water management district lands, by the owning water  
2600 management district, that such land no longer needs to be  
2601 preserved in furtherance of the intent of the Florida  
2602 Preservation 2000 Act. Any lands eligible to be disposed of  
2603 under this procedure also may be used to acquire other lands  
2604 through an exchange of lands if such lands obtained in an  
2605 exchange are described in the same paragraph of former  
2606 subsection (3) of this section, Florida Statutes 2014, as the  
2607 lands disposed.

2608 (c) Revenue derived from the disposal of lands acquired  
2609 with Preservation 2000 funds may not be used for any purpose  
2610 except for deposit into the Florida Forever Trust Fund within  
2611 the department ~~of Environmental Protection~~, for recredit to the  
2612 share held under former subsection (3) of this section, Florida  
2613 Statutes 2014, in which such disposed land is described.

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2614 (6) ALTERNATE USES OF ACQUIRED LANDS.—

2615 (a) ~~The board of Trustees of the Internal Improvement Trust~~  
2616 ~~Fund, or, in the case of water management district lands, the~~  
2617 ~~owning water management district, may authorize the granting of~~  
2618 ~~a lease, easement, or license for the use of any lands acquired~~  
2619 ~~pursuant to former subsection (3) of this section, Florida~~  
2620 ~~Statutes 2014, for any governmental use permitted by s. 17, Art.~~  
2621 ~~IX of the State Constitution of 1885, as adopted by s. 9(a),~~  
2622 ~~Art. XII of the State Constitution, and any other incidental~~  
2623 ~~public or private use that is determined by the board or the~~  
2624 ~~owning water management district to be compatible with~~  
2625 conservation, preservation, or recreation ~~the purposes for which~~  
2626 ~~such lands were acquired.~~

2627 (7) ~~ALTERNATIVES TO FEE SIMPLE ACQUISITION.—~~

2628 (a) ~~The Legislature finds that, with the increasing~~  
2629 ~~pressures on the natural areas of this state, the state must~~  
2630 ~~develop creative techniques to maximize the use of acquisition~~  
2631 ~~and management moneys. The Legislature finds that the state's~~  
2632 ~~environmental land-buying agencies should be encouraged to~~  
2633 ~~augment their traditional, fee simple acquisition programs with~~  
2634 ~~the use of alternatives to fee simple acquisition techniques.~~  
2635 ~~The Legislature also finds that using alternatives to fee simple~~  
2636 ~~acquisition by public land-buying agencies will achieve the~~  
2637 ~~following public policy goals:~~

2638 1. ~~Allow more lands to be brought under public protection~~  
2639 ~~for preservation, conservation, and recreational purposes at~~  
2640 ~~less expense using public funds.~~

2641 2. ~~Retain, on local government tax rolls, some portion of~~  
2642 ~~or interest in lands that are under public protection.~~

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2643 ~~3. Reduce long term management costs by allowing private~~  
2644 ~~property owners to continue acting as stewards of the land, as~~  
2645 ~~appropriate.~~

2646  
2647 ~~Therefore, it is the intent of the Legislature that public land-~~  
2648 ~~buying agencies develop programs to pursue alternatives to fee~~  
2649 ~~simple acquisition and to educate private landowners about such~~  
2650 ~~alternatives and the benefits of such alternatives. It also is~~  
2651 ~~the intent of the Legislature that the department and the water~~  
2652 ~~management districts spend a portion of their shares of~~  
2653 ~~Preservation 2000 bond proceeds to purchase eligible properties~~  
2654 ~~using alternatives to fee simple acquisition. Finally, it is the~~  
2655 ~~intent of the Legislature that public agencies acquire lands in~~  
2656 ~~fee simple for public access and recreational activities. Lands~~  
2657 ~~protected using alternatives to fee simple acquisition~~  
2658 ~~techniques may not be accessible to the public unless such~~  
2659 ~~access is negotiated with and agreed to by the private~~  
2660 ~~landowners who retain interests in such lands.~~

2661 ~~(b) The Land Acquisition Advisory Council and the water~~  
2662 ~~management districts shall identify, within their 1997~~  
2663 ~~acquisition plans, those projects that require a full fee simple~~  
2664 ~~interest to achieve the public policy goals, along with the~~  
2665 ~~reasons why full title is determined to be necessary. The~~  
2666 ~~council and the water management districts may use alternatives~~  
2667 ~~to fee simple acquisition to bring the remaining projects in~~  
2668 ~~their acquisition plans under public protection. For the~~  
2669 ~~purposes of this subsection, the term "alternatives to fee~~  
2670 ~~simple acquisition" includes the purchase of development rights;~~  
2671 ~~conservation easements; flowage easements; the purchase of~~

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2672 ~~timber rights, mineral rights, or hunting rights; the purchase~~  
2673 ~~of agricultural interests or silvicultural interests; land~~  
2674 ~~protection agreements; fee simple acquisitions with~~  
2675 ~~reservations; or any other acquisition technique that achieves~~  
2676 ~~the public policy goals identified in paragraph (a). It is~~  
2677 ~~presumed that a private landowner retains the full range of uses~~  
2678 ~~for all the rights or interests in the landowner's land which~~  
2679 ~~are not specifically acquired by the public agency. Life estates~~  
2680 ~~and fee simple acquisitions with leaseback provisions do not~~  
2681 ~~qualify as an alternative to fee simple acquisition under this~~  
2682 ~~subsection, although the department and the districts are~~  
2683 ~~encouraged to use such techniques if appropriate.~~

2684 ~~(c) The department and each water management district shall~~  
2685 ~~implement initiatives to use alternatives to fee simple~~  
2686 ~~acquisition and to educate private landowners about such~~  
2687 ~~alternatives. These initiatives must include at least two~~  
2688 ~~acquisitions a year by the department and each water management~~  
2689 ~~district utilizing alternatives to fee simple.~~

2690 ~~(d) The Legislature finds that the lack of direct sales~~  
2691 ~~comparison information has served as an impediment to successful~~  
2692 ~~implementation of alternatives to fee simple acquisition. It is~~  
2693 ~~the intent of the Legislature that, in the absence of direct~~  
2694 ~~comparable sales information, appraisals of alternatives to fee~~  
2695 ~~simple acquisitions be based on the difference between the full~~  
2696 ~~fee simple valuation and the value of the interests remaining~~  
2697 ~~with the seller after acquisition.~~

2698 ~~(e) The public agency that has been assigned management~~  
2699 ~~responsibility shall inspect and monitor any less-than-fee-~~  
2700 ~~simple interest according to the terms of the purchase agreement~~

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2701 ~~relating to such interest.~~

2702 ~~(f) The department and the water management districts may~~  
2703 ~~enter into joint acquisition agreements to jointly fund the~~  
2704 ~~purchase of lands using alternatives to fee simple techniques.~~

2705 Section 22. Paragraph (a) of subsection (2), paragraphs (i)  
2706 and (l) of subsection (3), subsections (10) and (13), paragraph  
2707 (i) of subsection (15), and subsection (19) of section 259.105,  
2708 Florida Statutes, are amended to read:

2709 259.105 The Florida Forever Act.—

2710 (2) (a) The Legislature finds and declares that:

2711 1. Land acquisition programs have provided tremendous  
2712 financial resources for purchasing environmentally significant  
2713 lands to protect those lands from imminent development or  
2714 alteration, thereby ensuring present and future generations'  
2715 access to important waterways, open spaces, and recreation and  
2716 conservation lands.

2717 2. The continued alteration and development of the state's  
2718 ~~Florida's~~ natural and rural areas to accommodate the state's  
2719 growing population have contributed to the degradation of water  
2720 resources, the fragmentation and destruction of wildlife  
2721 habitats, the loss of outdoor recreation space, and the  
2722 diminishment of wetlands, forests, working landscapes, and  
2723 coastal open space.

2724 3. The potential development of the state's ~~Florida's~~  
2725 remaining natural areas and escalation of land values require  
2726 government efforts to restore, bring under public protection, or  
2727 acquire lands and water areas to preserve the state's essential  
2728 ecological functions and invaluable quality of life.

2729 4. It is essential to protect the state's ecosystems by

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2730 promoting a more efficient use of land, to ensure opportunities  
2731 for viable agricultural activities on working lands, and to  
2732 promote vital rural and urban communities that support and  
2733 produce development patterns consistent with natural resource  
2734 protection.

2735       5. The state's ~~Florida's~~ groundwater, surface waters, and  
2736 springs are under tremendous pressure due to population growth  
2737 and economic expansion and require special protection and  
2738 restoration efforts, including the protection of uplands and  
2739 springsheds that provide vital recharge to aquifer systems and  
2740 are critical to the protection of water quality and water  
2741 quantity of the aquifers and springs. To ensure that sufficient  
2742 quantities of water are available to meet the current and future  
2743 needs of the natural systems and citizens of the state, and  
2744 assist in achieving the planning goals of the department and the  
2745 water management districts, water resource development projects  
2746 on public lands, if where ~~where~~ compatible with the resource values of  
2747 and management objectives for the lands, are appropriate.

2748       6. The needs of urban, suburban, and small communities in  
2749 the state ~~Florida~~ for high-quality outdoor recreational  
2750 opportunities, greenways, trails, and open space have not been  
2751 fully met by previous acquisition programs. Through such  
2752 programs as the Florida Communities Trust and the Florida  
2753 Recreation Development Assistance Program, the state shall place  
2754 additional emphasis on acquiring, protecting, preserving, and  
2755 restoring open space, ecological greenways, and recreation  
2756 properties within urban, suburban, and rural areas where  
2757 pristine natural communities or water bodies no longer exist  
2758 because of the proximity of developed property.

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2759           7. Many of the state's ~~Florida's~~ unique ecosystems, such as  
2760 the Florida Everglades, are facing ecological collapse due to  
2761 the state's ~~Florida's~~ burgeoning population growth and other  
2762 economic activities. To preserve these valuable ecosystems for  
2763 future generations, essential parcels of land must be acquired  
2764 to facilitate ecosystem restoration.

2765           8. Access to public lands to support a broad range of  
2766 outdoor recreational opportunities and the development of  
2767 necessary infrastructure, if ~~where~~ compatible with the resource  
2768 values of and management objectives for such lands, promotes an  
2769 appreciation for the state's ~~Florida's~~ natural assets and  
2770 improves the quality of life.

2771           9. Acquisition of lands, in fee simple, less-than-fee  
2772 interest, or other techniques shall be based on a comprehensive  
2773 science-based assessment of the state's ~~Florida's~~ natural  
2774 resources which targets essential conservation lands by  
2775 prioritizing all current and future acquisitions based on a  
2776 uniform set of data and planned so as to protect the integrity  
2777 and function of ecological systems and working landscapes, and  
2778 provide multiple benefits, including preservation of fish and  
2779 wildlife habitat, recreation space for urban and rural areas,  
2780 and the restoration of natural water storage, flow, and  
2781 recharge.

2782           10. The state has embraced performance-based program  
2783 budgeting as a tool to evaluate the achievements of publicly  
2784 funded agencies, build in accountability, and reward those  
2785 agencies which are able to consistently achieve quantifiable  
2786 goals. While previous and existing state environmental programs  
2787 have achieved varying degrees of success, few of these programs



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2788 can be evaluated as to the extent of their achievements,  
2789 primarily because performance measures, standards, outcomes, and  
2790 goals were not established at the outset. Therefore, the Florida  
2791 Forever program shall be developed and implemented in the  
2792 context of measurable state goals and objectives.

2793 11. The state must play a major role in the recovery and  
2794 management of its imperiled species through the acquisition,  
2795 restoration, enhancement, and management of ecosystems that can  
2796 support the major life functions of such species. It is the  
2797 intent of the Legislature to support local, state, and federal  
2798 programs that result in net benefit to imperiled species habitat  
2799 by providing public and private land owners meaningful  
2800 incentives for acquiring, restoring, managing, and repopulating  
2801 habitats for imperiled species. It is the further intent of the  
2802 Legislature that public lands, both existing and to be acquired,  
2803 identified by the lead land managing agency, in consultation  
2804 with the ~~Florida~~ Fish and Wildlife Conservation Commission for  
2805 animals or the Department of Agriculture and Consumer Services  
2806 for plants, as habitat or potentially restorable habitat for  
2807 imperiled species, be restored, enhanced, managed, and  
2808 repopulated as habitat for such species to advance the goals and  
2809 objectives of imperiled species management in a manner that is  
2810 compatible with conservation or recreation purposes ~~consistent~~  
2811 ~~with the purposes for which such lands are acquired~~ without  
2812 restricting other uses identified in the management plan. It is  
2813 also the intent of the Legislature that of the proceeds  
2814 distributed pursuant to subsection (3), additional consideration  
2815 be given to acquisitions that achieve a combination of  
2816 conservation goals, including the restoration, enhancement,

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2817 management, or repopulation of habitat for imperiled species.  
2818 The ~~Acquisition and Restoration~~ council, in addition to the  
2819 criteria in subsection (9), shall give weight to projects that  
2820 include acquisition, restoration, management, or repopulation of  
2821 habitat for imperiled species. The term "imperiled species" as  
2822 used in this chapter and chapter 253, means plants and animals  
2823 that are federally listed under the Endangered Species Act, or  
2824 state-listed by the Fish and Wildlife Conservation Commission or  
2825 the Department of Agriculture and Consumer Services.

2826       ~~a.~~ As part of the state's role, all state lands that have  
2827 imperiled species habitat shall include as a consideration in  
2828 management plan development the restoration, enhancement,  
2829 management, and repopulation of such habitats. In addition, the  
2830 lead land managing agency of such state lands may use fees  
2831 received from public or private entities for projects to offset  
2832 adverse impacts to imperiled species or their habitat in order  
2833 to restore, enhance, manage, repopulate, or acquire land and to  
2834 implement land management plans developed under s. 253.034 or a  
2835 land management prospectus developed and implemented under this  
2836 chapter. Such fees shall be deposited into a foundation or fund  
2837 created by each land management agency under s. 379.223, s.  
2838 589.012, or s. 259.032(9)(c), to be used solely to restore,  
2839 manage, enhance, repopulate, or acquire imperiled species  
2840 habitat.

2841       ~~b.~~ ~~Where habitat or potentially restorable habitat for~~  
2842 ~~imperiled species is located on state lands, the Fish and~~  
2843 ~~Wildlife Conservation Commission and the Department of~~  
2844 ~~Agriculture and Consumer Services shall be included on any~~  
2845 ~~advisory group required under chapter 253, and the short-term~~

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2846 ~~and long term management goals required under chapter 253 must~~  
2847 ~~advance the goals and objectives of imperiled species management~~  
2848 ~~consistent with the purposes for which the land was acquired~~  
2849 ~~without restricting other uses identified in the management~~  
2850 ~~plan.~~

2851 12. There is a need to change the focus and direction of  
2852 the state's major land acquisition programs and to extend  
2853 funding and bonding capabilities, so that future generations may  
2854 enjoy the natural resources of this state.

2855 (3) Less the costs of issuing and the costs of funding  
2856 reserve accounts and other costs associated with bonds, the  
2857 proceeds of cash payments or bonds issued pursuant to this  
2858 section shall be deposited into the Florida Forever Trust Fund  
2859 created by s. 259.1051. The proceeds shall be distributed by the  
2860 department of Environmental Protection in the following manner:

2861 (i) Three and five-tenths percent to the Department of  
2862 Agriculture and Consumer Services for the acquisition of  
2863 agricultural lands, through perpetual conservation easements and  
2864 other perpetual less-than-fee techniques, which will achieve the  
2865 objectives of Florida Forever and s. 570.71. Rules concerning  
2866 the application, acquisition, and priority ranking process for  
2867 such easements shall be developed pursuant to s. 570.71(10) and  
2868 as provided by this paragraph. The board shall ensure that such  
2869 rules are consistent with the acquisition process provided for  
2870 in s. 253.025 ~~259.041~~. ~~Provisions of~~ The rules developed  
2871 pursuant to s. 570.71(10), shall also provide for the following:

2872 1. An annual priority list shall be developed pursuant to  
2873 s. 570.71(10), submitted to the ~~Acquisition and Restoration~~  
2874 council for review, and approved by the board pursuant to s.

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2875 259.04.

2876 2. Terms of easements and acquisitions proposed pursuant to  
2877 this paragraph shall be approved by the board and may ~~shall~~ not  
2878 be delegated by the board to any other entity receiving funds  
2879 under this section.

2880 3. All acquisitions pursuant to this paragraph shall  
2881 contain a clear statement that they are subject to legislative  
2882 appropriation.

2883  
2884 ~~No~~ Funds provided under this paragraph may not ~~shall~~ be expended  
2885 until final adoption of rules by the board pursuant to s.  
2886 570.71.

2887 (1) For the purposes of paragraphs (e), (f), (g), and (h),  
2888 the agencies that receive the funds shall develop their  
2889 individual acquisition or restoration lists in accordance with  
2890 specific criteria and numeric performance measures developed  
2891 pursuant to s. 259.035(4). Proposed additions may be acquired if  
2892 they are identified within the original project boundary, the  
2893 management plan required pursuant to s. 253.034(5), or the  
2894 management prospectus required pursuant to s. 259.032(7)(c)  
2895 ~~259.032(7)(d)~~. Proposed additions not meeting the requirements  
2896 of this paragraph shall be submitted to the ~~Acquisition and~~  
2897 ~~Restoration~~ council for approval. The council may only approve  
2898 the proposed addition if it meets two or more of the following  
2899 criteria: serves as a link or corridor to other publicly owned  
2900 property; enhances the protection or management of the property;  
2901 would add a desirable resource to the property; would create a  
2902 more manageable boundary configuration; has a high resource  
2903 value that otherwise would be unprotected; or can be acquired at

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2904 less than fair market value.

2905 (10) The ~~Acquisition and Restoration~~ council shall give  
2906 increased priority to:

2907 (a) those Projects for which matching funds are available.

2908 (b) and to Project elements previously identified on an  
2909 acquisition list pursuant to this section that can be acquired  
2910 at 80 percent or less of appraised value.

2911 (c) Projects that can be acquired in less than fee  
2912 ownership, such as a permanent conservation easement.

2913 (d) Projects that contribute to improving the quality and  
2914 quantity of surface water and groundwater.

2915 (e) Projects that contribute to improving the water quality  
2916 and flow of springs.

2917 ~~(f) The council shall also give increased priority to those~~  
2918 ~~Projects for which where~~ the state's land conservation plans  
2919 overlap with the military's need to protect lands, water, and  
2920 habitat to ensure the sustainability of military missions  
2921 including:

2922 1. (a) Protecting habitat on nonmilitary land for any  
2923 species found on military land that is designated as threatened  
2924 or endangered, or is a candidate for such designation under the  
2925 Endangered Species Act or any Florida statute;

2926 2. (b) Protecting areas underlying low-level military air  
2927 corridors or operating areas; and

2928 3. (c) Protecting areas identified as clear zones, accident  
2929 potential zones, and air installation compatible use buffer  
2930 zones delineated by our military partners, and for which federal  
2931 or other funding is available to assist with the project.

2932 (13) An affirmative vote of at least five members of the

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2933 ~~Acquisition and Restoration~~ council shall be required in order  
2934 to place a ~~proposed~~ project submitted pursuant to subsection (7)  
2935 on the proposed project list developed pursuant to subsection  
2936 (8). Any member of the council who by family or a business  
2937 relationship has a connection with any project proposed to be  
2938 ranked shall declare such interest before ~~prior to~~ voting for a  
2939 project's inclusion on the list.

2940 (15) The ~~Acquisition and Restoration~~ council shall submit  
2941 to the board ~~of trustees~~, with its list of projects, a report  
2942 that includes, but need shall not be limited to, the following  
2943 information for each project listed:

2944 (i) A management policy statement for the project and a  
2945 management prospectus pursuant to s. 259.032(7)(c)  
2946 ~~259.032(7)(d)~~.

2947 (19) The ~~Acquisition and Restoration~~ council shall  
2948 recommend adoption of rules by the board ~~of trustees~~ necessary  
2949 to implement ~~the provisions of~~ this section relating to:  
2950 solicitation, scoring, selecting, and ranking of Florida Forever  
2951 project proposals; disposing of or leasing lands or water areas  
2952 selected for funding through the Florida Forever program; and  
2953 the process of reviewing and recommending for approval or  
2954 rejection the land management plans associated with publicly  
2955 owned properties. ~~Rules promulgated pursuant to this subsection~~  
2956 ~~shall be submitted to the President of the Senate and the~~  
2957 ~~Speaker of the House of Representatives, for review by the~~  
2958 ~~Legislature, no later than 30 days prior to the 2010 Regular~~  
2959 ~~Session and shall become effective only after legislative~~  
2960 ~~review. In its review, the Legislature may reject, modify, or~~  
2961 ~~take no action relative to such rules. The board of trustees~~

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2962 ~~shall conform such rules to changes made by the Legislature, or,~~  
2963 ~~if no action was taken by the Legislature, such rules shall~~  
2964 ~~become effective.~~

2965 Section 23. Subsections (6) and (7) of section 259.1052,  
2966 Florida Statutes, are amended to read:

2967 259.1052 Babcock Crescent B Ranch Florida Forever  
2968 acquisition; conditions for purchase.-

2969 ~~(6) In addition to distributions authorized under s.~~  
2970 ~~259.105(3), the Department of Environmental Protection is~~  
2971 ~~authorized to distribute \$310 million in revenues from the~~  
2972 ~~Florida Forever Trust Fund. This distribution shall represent~~  
2973 ~~payment in full for the portion of the Babcock Crescent B Ranch~~  
2974 ~~to be acquired by the state under this section.~~

2975 ~~(7) As used in this section, the term "state's portion of~~  
2976 ~~the Babcock Crescent B Ranch" comprises those lands to be~~  
2977 ~~conveyed by special warranty deed to the Board of Trustees of~~  
2978 ~~the Internal Improvement Trust Fund under the provisions of the~~  
2979 ~~agreement for sale and purchase executed by the Board of~~  
2980 ~~Trustees of the Internal Improvement Trust Fund, the Fish and~~  
2981 ~~Wildlife Conservation Commission, the Department of Agriculture~~  
2982 ~~and Consumer Services, and the participating local government,~~  
2983 ~~as purchaser, and MSKP, III, a Florida corporation, as seller.~~

2984 Section 24. Paragraph (d) of subsection (1) of section  
2985 73.015, Florida Statutes, is amended to read:

2986 73.015 Presuit negotiation.-

2987 (1) Effective July 1, 2000, before an eminent domain  
2988 proceeding is brought under this chapter or chapter 74, the  
2989 condemning authority must attempt to negotiate in good faith  
2990 with the fee owner of the parcel to be acquired, must provide

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2991 the fee owner with a written offer and, if requested, a copy of  
2992 the appraisal upon which the offer is based, and must attempt to  
2993 reach an agreement regarding the amount of compensation to be  
2994 paid for the parcel.

2995 (d) Notwithstanding this subsection, with respect to lands  
2996 acquired under s. 253.025 ~~259.041~~, the condemning authority is  
2997 not required to give the fee owner the current appraisal before  
2998 executing an option contract.

2999 Section 25. Paragraph (b) of subsection (1) of section  
3000 125.355, Florida Statutes, is amended to read:

3001 125.355 Proposed purchase of real property by county;  
3002 confidentiality of records; procedure.—

3003 (1)

3004 (b) If the exemptions provided in this section are  
3005 utilized, the governing body shall obtain at least one appraisal  
3006 by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~  
3007 for each purchase in an amount of not more than \$500,000. For  
3008 each purchase in an amount in excess of \$500,000, the governing  
3009 body shall obtain at least two appraisals by appraisers approved  
3010 pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase  
3011 price exceeds the average appraised price of the two appraisals,  
3012 the governing body is required to approve the purchase by an  
3013 extraordinary vote. The governing body may, by ordinary vote,  
3014 exempt a purchase in an amount of \$100,000 or less from the  
3015 requirement for an appraisal.

3016 Section 26. Paragraph (b) of subsection (1) of section  
3017 166.045, Florida Statutes, is amended to read:

3018 166.045 Proposed purchase of real property by municipality;  
3019 confidentiality of records; procedure.—



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3020 (1)

3021 (b) If the exemptions provided in this section are  
3022 utilized, the governing body shall obtain at least one appraisal  
3023 by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~  
3024 for each purchase in an amount of not more than \$500,000. For  
3025 each purchase in an amount in excess of \$500,000, the governing  
3026 body shall obtain at least two appraisals by appraisers approved  
3027 pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase  
3028 price exceeds the average appraised price of the two appraisals,  
3029 the governing body is required to approve the purchase by an  
3030 extraordinary vote. The governing body may, by ordinary vote,  
3031 exempt a purchase in an amount of \$100,000 or less from the  
3032 requirement for an appraisal.

3033 Section 27. Subsection (2) of section 215.82, Florida  
3034 Statutes, is amended to read:

3035 215.82 Validation; when required.—

3036 (2) Any bonds issued pursuant to this act which are  
3037 validated shall be validated in the manner provided by chapter  
3038 75. In actions to validate bonds to be issued in the name of the  
3039 State Board of Education under s. 9(a) and (d), Art. XII of the  
3040 State Constitution and bonds to be issued pursuant to chapter  
3041 259, the Land Conservation Program Act of 1972, the complaint  
3042 shall be filed in the circuit court of the county where the seat  
3043 of state government is situated, the notice required to be  
3044 published by s. 75.06 shall be published only in the county  
3045 where the complaint is filed, and the complaint and order of the  
3046 circuit court shall be served only on the state attorney of the  
3047 circuit in which the action is pending. In any action to  
3048 validate bonds issued pursuant to s. 1010.62 or issued pursuant

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3049 to s. 9(a)(1), Art. XII of the State Constitution or issued  
3050 pursuant to s. 215.605 or s. 338.227, the complaint shall be  
3051 filed in the circuit court of the county where the seat of state  
3052 government is situated, the notice required to be published by  
3053 s. 75.06 shall be published in a newspaper of general  
3054 circulation in the county where the complaint is filed and in  
3055 two other newspapers of general circulation in the state, and  
3056 the complaint and order of the circuit court shall be served  
3057 only on the state attorney of the circuit in which the action is  
3058 pending; provided, however, that if publication of notice  
3059 pursuant to this section would require publication in more  
3060 newspapers than would publication pursuant to s. 75.06, such  
3061 publication shall be made pursuant to s. 75.06.

3062 Section 28. Section 215.965, Florida Statutes, is amended  
3063 to read:

3064 215.965 Disbursement of state moneys.—Except as provided in  
3065 s. 17.076, s. 253.025(17) ~~253.025(14)~~, ~~s. 259.041(18)~~, s.  
3066 717.124(4)(b) and (c), s. 732.107(5), or s. 733.816(5), all  
3067 moneys in the State Treasury shall be disbursed by state  
3068 warrant, drawn by the Chief Financial Officer upon the State  
3069 Treasury and payable to the ultimate beneficiary. This  
3070 authorization shall include electronic disbursement.

3071 Section 29. Subsection (8) of section 253.027, Florida  
3072 Statutes, is amended to read:

3073 253.027 Emergency archaeological property acquisition.—

3074 (8) WAIVER OF APPRAISALS OR SURVEYS.—The Board of Trustees  
3075 of the Internal Improvement Trust Fund may waive or limit any  
3076 appraisal or survey requirements in s. 253.025 ~~259.041~~, if  
3077 necessary to effectuate the purposes of this section. Fee simple

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3078 title is not required to be conveyed if some lesser interest  
3079 will allow the preservation of the archaeological resource.  
3080 Properties purchased pursuant to this section shall be  
3081 considered archaeologically unique or significant properties and  
3082 may be purchased under the provisions of s. 253.025(9)  
3083 ~~253.025(7)~~.

3084 Section 30. Section 253.7824, Florida Statutes, is amended  
3085 to read:

3086 253.7824 Sale of products; proceeds.—The Department of of  
3087 Environmental Protection may authorize the removal and sale of  
3088 products from the land where environmentally appropriate, the  
3089 proceeds from which shall be deposited into the appropriate  
3090 trust fund in accordance with the same disposition provided  
3091 under s. 253.0341 ~~253.034(6)(k), (l), or (m)~~ applicable to the  
3092 sale of land.

3093 Section 31. Paragraphs (b) and (c) of subsection (2) of  
3094 section 260.015, Florida Statutes, are amended to read:

3095 260.015 Acquisition of land.—

3096 (2) For purposes of the Florida Greenways and Trails  
3097 Program, the board may:

3098 (b) Accept title to abandoned railroad rights-of-way which  
3099 is conveyed by quitclaim deed through purchase, dedication,  
3100 gift, grant, or settlement, notwithstanding s. 253.025  
3101 ~~259.041(1)~~.

3102 (c) Enter into an agreement or, upon delegation, the  
3103 department may enter into an agreement, with a nonprofit  
3104 corporation, as defined in s. 253.025 ~~259.041(7)(e)~~, to assume  
3105 responsibility for acquisition of lands pursuant to this  
3106 section. The agreement may transfer responsibility for all

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3107 matters which may be delegated or waived pursuant to s. 253.025  
3108 ~~259.041(1)~~.

3109 Section 32. Paragraph (b) of subsection (3) of section  
3110 260.016, Florida Statutes, is amended to read:

3111 260.016 General powers of the department.—

3112 (3) The department or its designee is authorized to  
3113 negotiate with potentially affected private landowners as to the  
3114 terms under which such landowners would consent to the public  
3115 use of their lands as part of the greenways and trails system.  
3116 The department shall be authorized to agree to incentives for a  
3117 private landowner who consents to this public use of his or her  
3118 lands for conservation or recreational purposes, including, but  
3119 not limited to, the following:

3120 (b) Agreement to exchange, subject to the approval of the  
3121 board ~~of Trustees of the Internal Improvement Trust Fund~~ or  
3122 other applicable unit of government, ownership or other rights  
3123 of use of public lands for the ownership or other rights of use  
3124 of privately owned lands. Any exchange of state-owned lands,  
3125 title to which is vested in the board ~~of Trustees of the~~  
3126 ~~Internal Improvement Trust Fund~~, for privately owned lands shall  
3127 be subject to the requirements of s. 253.025 ~~259.041~~.

3128 Section 33. Subsections (6) and (7) of section 369.317,  
3129 Florida Statutes, are amended to read:

3130 369.317 Wekiva Parkway.—

3131 (6) The Central Florida Expressway Authority is hereby  
3132 granted the authority to act as a third-party acquisition agent,  
3133 pursuant to s. 253.025 ~~259.041~~ on behalf of the Board of  
3134 Trustees of the Internal Improvement Trust Fund or chapter 373  
3135 on behalf of the governing board of the St. Johns River Water

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3136 Management District, for the acquisition of all necessary lands,  
3137 property and all interests in property identified herein,  
3138 including fee simple or less-than-fee simple interests. The  
3139 lands subject to this authority are identified in paragraph  
3140 10.a., State of Florida, Office of the Governor, Executive Order  
3141 03-112 of July 1, 2003, and in Recommendation 16 of the Wekiva  
3142 Basin Area Task Force created by Executive Order 2002-259, such  
3143 lands otherwise known as Neighborhood Lakes, a 1,587+/-acre  
3144 parcel located in Orange and Lake Counties within Sections 27,  
3145 28, 33, and 34 of Township 19 South, Range 28 East, and Sections  
3146 3, 4, 5, and 9 of Township 20 South, Range 28 East; Seminole  
3147 Woods/Swamp, a 5,353+/-acre parcel located in Lake County within  
3148 Section 37, Township 19 South, Range 28 East; New Garden Coal; a  
3149 1,605+/-acre parcel in Lake County within Sections 23, 25, 26,  
3150 35, and 36, Township 19 South, Range 28 East; Pine Plantation, a  
3151 617+/-acre tract consisting of eight individual parcels within  
3152 the Apopka City limits. The Department of Transportation, the  
3153 Department of Environmental Protection, the St. Johns River  
3154 Water Management District, and other land acquisition entities  
3155 shall participate and cooperate in providing information and  
3156 support to the third-party acquisition agent. The land  
3157 acquisition process authorized by this paragraph shall begin no  
3158 later than December 31, 2004. Acquisition of the properties  
3159 identified as Neighborhood Lakes, Pine Plantation, and New  
3160 Garden Coal, or approval as a mitigation bank shall be concluded  
3161 no later than December 31, 2010. Department of Transportation  
3162 and Central Florida Expressway Authority funds expended to  
3163 purchase an interest in those lands identified in this  
3164 subsection shall be eligible as environmental mitigation for

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3165 road construction related impacts in the Wekiva Study Area. If  
3166 any of the lands identified in this subsection are used as  
3167 environmental mitigation for road-construction-related impacts  
3168 incurred by the Department of Transportation or Central Florida  
3169 Expressway Authority, or for other impacts incurred by other  
3170 entities, within the Wekiva Study Area or within the Wekiva  
3171 parkway alignment corridor, and if the mitigation offsets these  
3172 impacts, the St. Johns River Water Management District and the  
3173 Department of Environmental Protection shall consider the  
3174 activity regulated under part IV of chapter 373 to meet the  
3175 cumulative impact requirements of s. 373.414(8)(a).

3176 (a) Acquisition of the land described in this section is  
3177 required to provide right-of-way for the Wekiva Parkway, a  
3178 limited access roadway linking State Road 429 to Interstate 4,  
3179 an essential component in meeting regional transportation needs  
3180 to provide regional connectivity, improve safety, accommodate  
3181 projected population and economic growth, and satisfy critical  
3182 transportation requirements caused by increased traffic volume  
3183 growth and travel demands.

3184 (b) Acquisition of the lands described in this section is  
3185 also required to protect the surface water and groundwater  
3186 resources of Lake, Orange, and Seminole counties, otherwise  
3187 known as the Wekiva Study Area, including recharge within the  
3188 springshed that provides for the Wekiva River system. Protection  
3189 of this area is crucial to the long term viability of the Wekiva  
3190 River and springs and the central Florida region's water supply.  
3191 Acquisition of the lands described in this section is also  
3192 necessary to alleviate pressure from growth and development  
3193 affecting the surface and groundwater resources within the

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3194 recharge area.

3195 (c) Lands acquired pursuant to this section that are needed  
 3196 for transportation facilities for the Wekiva Parkway shall be  
 3197 determined not necessary for conservation purposes pursuant to  
 3198 ss. 253.0341 ~~253.034(6)~~ and 373.089(5) and shall be transferred  
 3199 to or retained by the Central Florida Expressway Authority or  
 3200 the Department of Transportation upon reimbursement of the full  
 3201 purchase price and acquisition costs.

3202 (7) The Department of Transportation, the Department of  
 3203 Environmental Protection, the St. Johns River Water Management  
 3204 District, Central Florida Expressway Authority, and other land  
 3205 acquisition entities shall cooperate and establish funding  
 3206 responsibilities and partnerships by agreement to the extent  
 3207 funds are available to the various entities. Properties acquired  
 3208 with Florida Forever funds shall be in accordance with s.  
 3209 253.025 ~~259.041~~ or chapter 373. The Central Florida Expressway  
 3210 Authority shall acquire land in accordance with this section ~~of~~  
 3211 ~~law~~ to the extent funds are available from the various funding  
 3212 partners; however, the authority is, but shall not be required  
 3213 or nor assumed to fund the land acquisition beyond the agreement  
 3214 and funding provided by the various land acquisition entities.

3215 Section 34. Paragraph (a) of subsection (3) of section  
 3216 373.139, Florida Statutes, is amended to read:

3217 373.139 Acquisition of real property.—

3218 (3) The initial 5-year work plan and any subsequent  
 3219 modifications or additions thereto shall be adopted by each  
 3220 water management district after a public hearing. Each water  
 3221 management district shall provide at least 14 days' advance  
 3222 notice of the hearing date and shall separately notify each

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3223 county commission within which a proposed work plan project or  
3224 project modification or addition is located of the hearing date.

3225 (a) Appraisal reports, offers, and counteroffers are  
3226 confidential and exempt from ~~the provisions of~~ s. 119.07(1)  
3227 until an option contract is executed or, if no option contract  
3228 is executed, until 30 days before a contract or agreement for  
3229 purchase is considered for approval by the governing board.  
3230 However, each district may, at its discretion, disclose  
3231 appraisal reports to private landowners during negotiations for  
3232 acquisitions using alternatives to fee simple techniques, if the  
3233 district determines that disclosure of such reports will bring  
3234 the proposed acquisition to closure. If ~~In the event that~~  
3235 negotiation is terminated by the district, the appraisal report,  
3236 offers, and counteroffers shall become available pursuant to s.  
3237 119.07(1). Notwithstanding ~~the provisions of~~ this section and s.  
3238 253.025 ~~259.041~~, a district and the Division of State Lands may  
3239 share and disclose appraisal reports, appraisal information,  
3240 offers, and counteroffers when joint acquisition of property is  
3241 contemplated. A district and the Division of State Lands shall  
3242 maintain the confidentiality of such appraisal reports,  
3243 appraisal information, offers, and counteroffers in conformance  
3244 with this section and s. 253.025 ~~259.041~~, except in those cases  
3245 in which a district and the division have exercised discretion  
3246 to disclose such information. A district may disclose appraisal  
3247 information, offers, and counteroffers to a third party who has  
3248 entered into a contractual agreement with the district to work  
3249 with or on the behalf of or to assist the district in connection  
3250 with land acquisitions. The third party shall maintain the  
3251 confidentiality of such information in conformance with this



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3252 section. In addition, a district may use, as its own, appraisals  
3253 obtained by a third party provided the appraiser is selected  
3254 from the district's list of approved appraisers and the  
3255 appraisal is reviewed and approved by the district.

3256 Section 35. Subsection (8) of section 375.031, Florida  
3257 Statutes, is amended to read:

3258 375.031 Acquisition of land; procedures.—

3259 (8) The department may, if it deems it desirable and in the  
3260 best interest of the program, request the board of trustees to  
3261 sell or otherwise dispose of any lands or water storage areas  
3262 acquired under this act. The board of trustees, when so  
3263 requested, shall offer the lands or water storage areas, on such  
3264 terms as the department may determine, first to other state  
3265 agencies and then, if still available, to the county or  
3266 municipality in which the lands or water storage areas lie. If  
3267 not acquired by another state agency or local governmental body  
3268 for beneficial public purposes, the lands or water storage areas  
3269 shall then be offered by the board of trustees at public sale,  
3270 after first giving notice of such sale by publication in a  
3271 newspaper published in the county or counties in which such  
3272 lands or water storage areas lie not less than once a week for 3  
3273 consecutive weeks. All proceeds from the sale or disposition of  
3274 any lands or water storage areas pursuant to this section shall  
3275 be deposited into the appropriate trust fund pursuant to s.  
3276 253.0341 ~~253.034(6)(k), (l), or (m)~~.

3277 Section 36. Subsection (2) of section 375.041, Florida  
3278 Statutes, is amended to read:

3279 375.041 Land Acquisition Trust Fund.—

3280 (2) All moneys and revenue from the sale or other

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3281 disposition of land, water areas, or related resources acquired  
3282 on or after July 1, 2015, for the purposes of s. 28, Art. X of  
3283 the State Constitution shall be deposited into or credited to  
3284 the Land Acquisition Trust Fund, except as otherwise provided  
3285 pursuant to s. 253.0341 ~~253.034(6)(1)~~.

3286 Section 37. Paragraph (a) of subsection (1) of section  
3287 380.05, Florida Statutes, is amended to read:

3288 380.05 Areas of critical state concern.—

3289 (1) (a) The state land planning agency may from time to time  
3290 recommend to the Administration Commission specific areas of  
3291 critical state concern. In its recommendation, the agency shall  
3292 include recommendations with respect to the purchase of lands  
3293 situated within the boundaries of the proposed area as  
3294 environmentally endangered lands and outdoor recreation lands  
3295 under the Land Conservation Program Act ~~of 1972~~. The agency also  
3296 shall include any report or recommendation of a resource  
3297 planning and management committee appointed pursuant to s.  
3298 380.045; the dangers that would result from uncontrolled or  
3299 inadequate development of the area and the advantages that would  
3300 be achieved from the development of the area in a coordinated  
3301 manner; a detailed boundary description of the proposed area;  
3302 specific principles for guiding development within the area; an  
3303 inventory of lands owned by the state, federal, county, and  
3304 municipal governments within the proposed area; and a list of  
3305 the state agencies with programs that affect the purpose of the  
3306 designation. The agency shall recommend actions which the local  
3307 government and state and regional agencies must accomplish in  
3308 order to implement the principles for guiding development. These  
3309 actions may include, but need ~~shall~~ not be limited to, revisions

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3310 of the local comprehensive plan and adoption of land development  
3311 regulations, density requirements, and special permitting  
3312 requirements.

3313 Section 38. Paragraph (b) of subsection (5) of section  
3314 380.055, Florida Statutes, is amended to read:

3315 380.055 Big Cypress Area.—

3316 (5) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE.—

3317 (b) The Board of Trustees of the Internal Improvement Trust  
3318 Fund shall set aside from the proceeds of the full faith and  
3319 credit bonds authorized by the Land Conservation Program Act of  
3320 ~~1972~~, or from other funds authorized, appropriated, or allocated  
3321 for the acquisition of environmentally endangered lands, or from  
3322 both sources, \$40 million for acquisition of the area proposed  
3323 as the Federal Big Cypress National Preserve, Florida, or  
3324 portions thereof.

3325 Section 39. Paragraph (f) of subsection (4) of section  
3326 380.508, Florida Statutes, is amended to read:

3327 380.508 Projects; development, review, and approval.—

3328 (4) Projects or activities which the trust undertakes,  
3329 coordinates, or funds in any manner shall comply with the  
3330 following guidelines:

3331 (f) The trust shall cooperate with local governments, state  
3332 agencies, federal agencies, and nonprofit organizations in  
3333 ensuring the reservation of lands for parks, recreation, fish  
3334 and wildlife habitat, historical preservation, or scientific  
3335 study. If any local government, state agency, federal agency, or  
3336 nonprofit organization is unable, due to limited financial  
3337 resources or other circumstances of a temporary nature, to  
3338 acquire a site for the purposes described in this paragraph, the

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3339 trust may acquire and hold the site for subsequent conveyance to  
3340 the appropriate governmental agency or nonprofit organization.  
3341 The trust may provide such technical assistance as required to  
3342 aid local governments, state and federal agencies, and nonprofit  
3343 organizations in completing acquisition and related functions.  
3344 The trust may not reserve lands acquired in accordance with this  
3345 paragraph for more than 5 years from the time of acquisition. A  
3346 local government, federal or state agency, or nonprofit  
3347 organization may acquire the land at any time during this period  
3348 for public purposes. The purchase price shall be based upon the  
3349 trust's cost of acquisition, plus administrative and management  
3350 costs in reserving the land. The payment of the purchase price  
3351 shall be by money, trust-approved property of an equivalent  
3352 value, or a combination of money and trust-approved property.  
3353 If, after the 5-year period, the trust has not sold to a  
3354 governmental agency or nonprofit organization land acquired for  
3355 site reservation, the trust shall dispose of such land at fair  
3356 market value or shall trade it for other land of comparable  
3357 value which will serve to accomplish the purposes of this part.  
3358 Any proceeds from the sale of such land received by the  
3359 department shall be deposited into the appropriate trust fund  
3360 pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

3361  
3362 Project costs may include costs of providing parks, open space,  
3363 public access sites, scenic easements, and other areas and  
3364 facilities serving the public where such features are part of a  
3365 project plan approved according to this part. In undertaking or  
3366 coordinating projects or activities authorized by this part, the  
3367 trust shall, when appropriate, use and promote the use of

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3368 creative land acquisition methods, including the acquisition of  
3369 less than fee interest through, among other methods,  
3370 conservation easements, transfer of development rights, leases,  
3371 and leaseback arrangements. The trust shall assist local  
3372 governments in the use of sound alternative methods of financing  
3373 for funding projects and activities authorized under this part.  
3374 Any funds over and above eligible project costs, which remain  
3375 after completion of a project approved according to this part,  
3376 shall be transmitted to the state and deposited into the Florida  
3377 Forever Trust Fund.

3378 Section 40. Section 589.07, Florida Statutes, is amended to  
3379 read:

3380 589.07 Florida Forest Service may acquire lands for forest  
3381 purposes.—The Florida Forest Service, on behalf of the state and  
3382 subject to the restrictions mentioned in s. 589.08, may acquire  
3383 lands, suitable for state forest purposes, by gift, donation,  
3384 contribution, purchase, or otherwise and may enter into  
3385 agreements with the Federal Government, or other agency, for  
3386 acquiring by gift, purchase, or otherwise, such lands as are, in  
3387 the judgment of the Florida Forest Service, suitable and  
3388 desirable for state forests. The acquisition procedures for  
3389 state lands provided in s. 253.025 ~~259.041~~ do not apply to  
3390 acquisition of land by the Florida Forest Service.

3391 Section 41. Paragraphs (a) and (b) of subsection (4) of  
3392 section 944.10, Florida Statutes, are amended to read:

3393 944.10 Department of Corrections to provide buildings; sale  
3394 and purchase of land; contracts to provide services and inmate  
3395 labor.—

3396 (4) (a) Notwithstanding s. 253.025 or s. 287.057, whenever

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3397 the department finds it to be necessary for timely site  
3398 acquisition, it may contract without the need for competitive  
3399 selection with one or more appraisers whose names are contained  
3400 on the list of approved appraisers maintained by the Division of  
3401 State Lands of the Department of Environmental Protection in  
3402 accordance with s. 253.025(8) ~~253.025(6)(b)~~. In those instances  
3403 in which the department directly contracts for appraisal  
3404 services, it must also contract with an approved appraiser who  
3405 is not employed by the same appraisal firm for review services.

3406 (b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the  
3407 department may negotiate and enter into an option contract  
3408 before an appraisal is obtained. The option contract must state  
3409 that the final purchase price cannot exceed the maximum value  
3410 allowed by law. The consideration for such an option contract  
3411 may not exceed 10 percent of the estimate obtained by the  
3412 department or 10 percent of the value of the parcel, whichever  
3413 amount is greater.

3414 Section 42. Subsections (6) and (7) of section 957.04,  
3415 Florida Statutes, are amended to read:

3416 957.04 Contract requirements.—

3417 (6) Notwithstanding s. 253.025(9) ~~253.025(7)~~, the Board of  
3418 Trustees of the Internal Improvement Trust Fund need not approve  
3419 a lease-purchase agreement negotiated by the Department of  
3420 Management Services if the Department of Management Services  
3421 finds that there is a need to expedite the lease-purchase.

3422 (7) (a) Notwithstanding s. 253.025 or s. 287.057, whenever  
3423 the Department of Management Services finds it to be in the best  
3424 interest of timely site acquisition, it may contract without the  
3425 need for competitive selection with one or more appraisers whose

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3426 names are contained on the list of approved appraisers  
3427 maintained by the Division of State Lands of the Department of  
3428 Environmental Protection in accordance with s. 253.025(8)  
3429 ~~253.025(6)(b)~~. In those instances when the Department of  
3430 Management Services directly contracts for appraisal services,  
3431 it shall also contract with an approved appraiser who is not  
3432 employed by the same appraisal firm for review services.

3433 (b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the  
3434 Department of Management Services may negotiate and enter into  
3435 lease-purchase agreements before an appraisal is obtained. Any  
3436 such agreement must state that the final purchase price cannot  
3437 exceed the maximum value allowed by law.

3438 Section 43. Paragraphs (a) and (b) of subsection (12) of  
3439 section 985.682, Florida Statutes, are amended to read:

3440 985.682 Siting of facilities; criteria.—

3441 (12) (a) Notwithstanding s. 253.025 or s. 287.057, when the  
3442 department finds it necessary for timely site acquisition, it  
3443 may contract, without using the competitive selection procedure,  
3444 with an appraiser whose name is on the list of approved  
3445 appraisers maintained by the Division of State Lands of the  
3446 Department of Environmental Protection under s. 253.025(8)  
3447 ~~253.025(6)(b)~~. When the department directly contracts for  
3448 appraisal services, it must contract with an approved appraiser  
3449 who is not employed by the same appraisal firm for review  
3450 services.

3451 (b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the  
3452 department may negotiate and enter into an option contract  
3453 before an appraisal is obtained. The option contract must state  
3454 that the final purchase price may not exceed the maximum value

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3455 allowed by law. The consideration for such an option contract  
3456 may not exceed 10 percent of the estimate obtained by the  
3457 department or 10 percent of the value of the parcel, whichever  
3458 amount is greater.

3459 Section 44. Paragraph (b) of subsection (1) of section  
3460 1013.14, Florida Statutes, is amended to read:

3461 1013.14 Proposed purchase of real property by a board;  
3462 confidentiality of records; procedure.-

3463 (1)

3464 (b) Before ~~Prior to~~ acquisition of the property, the board  
3465 shall obtain at least one appraisal by an appraiser approved  
3466 pursuant to s. 253.025(8) ~~253.025(6)(b)~~ for each purchase in an  
3467 amount greater than \$100,000 and not more than \$500,000. For  
3468 each purchase in an amount in excess of \$500,000, the board  
3469 shall obtain at least two appraisals by appraisers approved  
3470 pursuant to s. 253.025(8) ~~253.025(6)(b)~~. If the agreed to  
3471 purchase price exceeds the average appraised value, the board is  
3472 required to approve the purchase by an extraordinary vote.

3473 Section 45. This act shall take effect July 1, 2016.



**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: CS/SB 1454

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Hutson

SUBJECT: Vessels

DATE: February 10, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	<b>Fav/CS</b>
2.			ACJ	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1454 revises what constitutes careless operation of a vessel and requires the issuance of safety inspection decals by law enforcement officers to operators of vessels that have been found, during a safety inspection initiated by a law enforcement officer, to be in compliance with the safety equipment carriage and use requirements. The bill prohibits law enforcement officers from stopping a vessel solely for the purpose of inspection safety equipment carriage requirements if the vessel has a properly displayed valid safety inspection decal, unless there is reasonable suspicion that a violation of the safety equipment carriage or use requirements is occurring or has occurred.

**II. Present Situation:**

**Reckless or Careless Operation of a Vessel**

A person who operates a vessel in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure any person is guilty of reckless operation of a vessel.<sup>1</sup> The penalty for committing reckless operation of a vessel is a misdemeanor of the first degree, which is punishable by maximum imprisonment of one year or a maximum fine of \$1,000.<sup>2</sup>

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<sup>1</sup> Section 327.33(1), F.S.

<sup>2</sup> Section 327.33(1), F.S.

A person who fails to operate a vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person is guilty of careless operation of a vessel. Careless operation of a vessel is a noncriminal violation, which is punishable by a civil penalty of \$50.<sup>3</sup>

### **Inspections, Enforcement, and Safety Decals**

The U.S. Constitution protects people from unreasonable searches and seizures by the government.<sup>4</sup> The Fourth Amendment provides that “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated....”<sup>5</sup> The extent to which an individual is protected by the Fourth Amendment depends on the location of the search or seizure. None of the similar safeguards that are applicable to stops of motor vehicles on less than a probable cause are necessary predicates to stop a vessel.<sup>6</sup>

Under Florida law, officers are authorized to cause any inspections to be made of all vessels in accordance with the Florida Vessel Safety Law, as well as the vessel titling, certificate, and registration requirements.<sup>7</sup> Additionally, the Fish and Wildlife Conservation Commission (FWC) or any other law enforcement agency is authorized to make any investigation necessary to secure information required to carry out and enforce the Florida Vessel Safety Law, as well as the vessel titling, certificate, and registration requirements.<sup>8</sup>

The following items are examples of what an officer may check for as part of safety inspection:

- Visible distress signals.
- Fire extinguishers.
- Navigation lights.
- Personal floatation devices
- Sound-producing devices.<sup>9</sup>

An officer is prohibited from boarding a vessel to make a safety inspection if the owner or operator is not aboard.<sup>10</sup> If the owner or operator is aboard, an officer is authorized to board a vessel with the consent or when the officer has probable cause or knowledge to believe that a violation of the Florida Vessel Safety Law is occurring.<sup>11</sup> An officer may board a vessel if the operator refuses or is unable to display the safety equipment required by law, if requested to do so by an officer, or when the safety equipment to be inspected is permanently installed and is not visible for inspection unless the officer boards the vessel.<sup>12</sup>

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<sup>3</sup> Sections 327.33(2) and 327.73(1)(h), F.S.

<sup>4</sup> U.S. CONST. amend. IV.

<sup>5</sup> *Id.*

<sup>6</sup> U.S. Government Publishing Office, *Amendment 4-Searches and Seizures*, pg. 1423 (Oct. 5, 2014) available at <https://www.congress.gov/content/conan/pdf/GPO-CONAN-REV-2014-10-5.pdf>.

<sup>7</sup> Section 327.70(1), F.S.

<sup>8</sup> Section 327.70(4), F.S.; s. 328.18, F.S.

<sup>9</sup> FWC, *Boating Regulations, Equipment and Lighting Requirements*, <http://myfwc.com/boating/regulations/#nogo> (last visited Feb. 10, 2016).

<sup>10</sup> Section 327.56, F.S.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

The Florida Vessel Safety Law, as well as the vessel titling, certificate, and registration requirements are required to be enforced by the following entities or officers:

- The Division of Law Enforcement of the FWC and its officers;
- The sheriffs of the various counties and their deputies;
- The municipal police officers; and
- Any other law enforcement officer described in s. 943.10, F.S.<sup>13</sup>

The United States Coast Guard offers Vessel Safety Checks (VSC) free of charge.<sup>14</sup> Boats that pass the examination are awarded a distinctive VSC Decal that alerts the Coast Guard, Harbor Patrol, and other law enforcement agencies that the boat was found to be in full compliance with all Federal and State boating laws for that year.<sup>15</sup> The decal is to be immediately affixed to a portion of the boat where it is readily visible to law enforcement authorities.<sup>16</sup>

**2014 Uniform Boating Citation Summary**

Citation	FWC	Other
<p><b><u>Negligent Operation of a Vessel</u></b></p> <ul style="list-style-type: none"> <li>• Reckless operation of a vessel</li> <li>• Careless operation of a vessel</li> <li>• Navigation rule violation resulting in an accident</li> <li>• Navigation rule violation not resulting in an accident</li> <li>• Failure to report an accident</li> </ul>	802	468
<p><b><u>Registration and Numbering</u></b></p> <ul style="list-style-type: none"> <li>• Operation of unregistered/unnumbered vessels</li> <li>• Application, certificate, number or decal violation</li> <li>• Special manufacturer and dealer numbers</li> <li>• Violation relating to vessel titling</li> <li>• Violation relating to Hull Identification Numbers</li> </ul>	1,052	416
<p><b><u>Safety Equipment and Regulations</u></b></p> <ul style="list-style-type: none"> <li>• Equipment and lighting requirements</li> </ul>	3,416	525

<sup>13</sup> Section 327.70, F.S.; s. 943.10, F.S., defines the term “law enforcement officer” as “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state...”

<sup>14</sup> U.S. Coast Guard Auxiliary, *Vessel Safety Check Website*, <http://wow.uscgaux.info/content.php?unit=V-DEPT&category=welcome> (last visited Feb. 9, 2016).

<sup>15</sup> U.S. Coast Guard, *Vessel Safety Check Manual*, pg. 2-4, 2-5 (Oct. 2014) available at [http://vdept.cgau.org/pdf-files/CIM\\_16796\\_8A\\_Printable\\_Version.pdf](http://vdept.cgau.org/pdf-files/CIM_16796_8A_Printable_Version.pdf).

<sup>16</sup> *Id.*

### III. Effect of Proposed Changes:

**Section 1** amends s. 327.33, F.S., to revise what constitutes careless operation of a vessel to only apply if a person is operating a vessel in an unreasonable or imprudent manner so as to endanger the life, limb, or property of another person outside of the vessel or endanger the life, limb, or property of any person due to vessel overloading or excessive speed.

**Section 2** amends s. 327.70, F.S., to:

- Require a law enforcement officer to issue a safety inspection decal to the operator of a vessel upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection initiated by the law enforcement officer.
- Provide that a safety inspection decal signifies that the vessel is deemed to have met the safety equipment carriage and use requirements as provided in chapter 327, F.S., at the time and location of the inspection.
- Provide the following display requirements for a safety inspection decal, if displayed:
  - Must be located within six inches of the vessel's properly displayed vessel registration decal; or
  - For non-motorized vessels which are not required to be registered, must be located on the forward half of the port side of the vessel above the waterline.
- Prohibit law enforcement officers from stopping a vessel solely for the purpose of inspecting safety equipment carriage and use requirements if the vessel has a properly displayed valid safety inspection decal, created or approved by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, except when there is a reasonable suspicion that a violation of the safety equipment carriage or use requirements is occurring or has occurred.
- Clarify that the intent of the subsection is not to restrict vessel stops for any other unlawful purpose.

The bill is effective July 1, 2016.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill requires the Fish and Wildlife Conservation Commission to create or approve safety inspection decals. The costs of creating or approving such decals is negative indeterminate at this time.

**VI. Technical Deficiencies:**

The bill clarifies that the intent is not to restrict vessel stops for any other unlawful purpose. This should be amended to say “lawful purpose.”

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 327.33 and 327.70.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Environmental Preservation and Conservation on February 9, 2016:**

The CS removes the revision as to what constitutes the reckless operation of a vessel and reinstates the authority of law enforcement officers to inspect vessels in accordance with chapters 327 and 328, F.S., and cause any investigation necessary to secure information required to carry out and enforce the provisions of chapters 327 and 328, F.S.

The CS requires a law enforcement officer, upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection initiated by a law enforcement officer, to issue a safety inspection decal to the operator of such vessel. The CS provides display requirements for the safety inspection decal, if displayed. The CS prohibits law enforcement officers from stopping a vessel solely for the purpose of inspecting safety equipment carriage requirements if the vessel has a properly displayed valid safety inspection decal, except when there is a reasonable suspicion that a violation of the safety equipment carriage or use requirements is occurring or has occurred.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

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The Committee on Environmental Preservation and Conservation (Hutson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 327.33, Florida Statutes, is amended to read:

327.33 Reckless or careless operation of vessel.—

(2) A Any person who operates any ~~operating a~~ vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, having regard for other



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11 waterborne traffic, posted speed and wake restrictions, and all  
12 other attendant circumstances so as not to endanger the life,  
13 limb, or property of another any person outside the vessel or  
14 endanger the life, limb, or property of any person due to vessel  
15 overloading or excessive speed. The failure to operate a vessel  
16 in a manner described in this subsection constitutes careless  
17 operation. However, vessel wake and shoreline wash resulting  
18 from the reasonable and prudent operation of a vessel ~~shall,~~  
19 absent negligence, does not constitute damage or endangerment to  
20 property. A Any person who violates the provisions of this  
21 subsection commits a noncriminal violation as defined in s.  
22 775.08.

23 Section 2. Subsections (2), (3), and (4) of section 327.70,  
24 Florida Statutes, are amended to read:

25 327.70 Enforcement of this chapter and chapter 328.—

26 (2) (a) The operator of a vessel, upon demonstrated  
27 compliance with safety equipment carriage and use requirements  
28 as provided in this chapter during a safety inspection initiated  
29 by a law enforcement officer, shall be issued a safety  
30 inspection decal signifying such compliance. The safety  
31 inspection decal, if displayed, must be located within 6 inches  
32 of the inspected vessel's properly displayed vessel registration  
33 decal and shall signify that the vessel is deemed to have met  
34 safety equipment carriage and use requirements as provided in  
35 this chapter at the time and location of inspection. For non-  
36 motorized vessels which are not required to be registered, the  
37 safety inspection decal, if displayed, must be located on the  
38 forward half of the port side of the vessel above the waterline.

39 (b) Law enforcement officers may not stop a vessel solely



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40 for the purpose of inspecting safety equipment carriage  
41 requirements when the vessel properly displays a valid safety  
42 inspection decal, created or approved by the Division of Law  
43 Enforcement of the Fish and Wildlife Conservation Commission,  
44 except when there is reasonable suspicion that a violation of a  
45 safety equipment carriage or use requirement has occurred or is  
46 occurring. Nothing herein is intended to restrict vessel stops  
47 for any other unlawful purpose.

48 (3) (a) Noncriminal violations of the following statutes may  
49 be enforced by a uniform boating citation mailed to the  
50 registered owner of an unattended vessel anchored, aground, or  
51 moored on the waters of this state:

52 1. Section 327.33(3)(b), relating to navigation rules.

53 2. Section 327.44, relating to interference with  
54 navigation.

55 3. Section 327.50(2), relating to required lights and  
56 shapes.

57 4. Section 327.53, relating to marine sanitation.

58 5. Section 328.48(5), relating to display of decal.

59 6. Section 328.52(2), relating to display of number.

60 (b) Citations issued to livery vessels under this  
61 subsection shall be the responsibility of the lessee of the  
62 vessel if the livery has included a warning of this  
63 responsibility as a part of the rental agreement and has  
64 provided to the agency issuing the citation the name, address,  
65 and date of birth of the lessee when requested by that agency.  
66 The livery is not responsible for the payment of citations if  
67 the livery provides the required warning and lessee information.

68 (4) ~~(3)~~ Such officers shall have the power and duty to issue





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69 such orders and to make such investigations, reports, and  
70 arrests in connection with any violation of the provisions of  
71 this chapter and chapter 328 as are necessary to effectuate the  
72 intent and purpose of this chapter and chapter 328.

73 ~~(5)~~(4) The Fish and Wildlife Conservation Commission or any  
74 other law enforcement agency may make any investigation  
75 necessary to secure information required to carry out and  
76 enforce the provisions of this chapter and chapter 328.

77 Section 3. This act shall take effect July 1, 2016.

78

79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete everything before the enacting clause  
82 and insert:

83 A bill to be entitled  
84 An act relating to vessels; amending s. 327.33, F.S.;  
85 revising provisions relating to careless operation of  
86 a vessel; amending s. 327.70, F.S.; requiring the  
87 issuance and use of a safety inspection decal under  
88 certain circumstances; prohibiting law enforcement  
89 officers from stopping a vessel for a specified  
90 purpose under certain circumstances; providing an  
91 exception; providing an effective date.

By Senator Hutson

6-01248-16

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1                   A bill to be entitled  
2           An act relating to vessels; amending s. 327.33, F.S.;  
3           revising provisions relating to reckless or careless  
4           operation of a vessel; amending s. 327.70, F.S.;  
5           deleting provisions authorizing law enforcement  
6           officers to inspect vessels; revising provisions  
7           relating to the authority of law enforcement officers  
8           to conduct certain investigations; providing an  
9           effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Subsections (1) and (2) of section 327.33,  
14 Florida Statutes, are amended to read:

15           327.33 Reckless or careless operation of vessel.—

16           (1) It is unlawful to operate a vessel in a reckless  
17 manner. A person ~~is guilty of reckless operation of a vessel~~ who  
18 operates any vessel, or manipulates any water skis, aquaplane,  
19 or similar device, in willful or wanton disregard for the safety  
20 of other persons or other property at a speed or in a manner as  
21 to endanger, or likely to endanger, life or limb, or damage the  
22 property of, or injure another ~~any~~ person outside the vessel is  
23 guilty of reckless operation of a vessel. Reckless operation of  
24 a vessel includes, but is not limited to, a violation of s.  
25 327.331(6). ~~A~~ Any person who violates a ~~provision of~~ this  
26 subsection commits a misdemeanor of the first degree, punishable  
27 as provided in s. 775.082 or s. 775.083.

28           (2) ~~A~~ Any person who operates any ~~operating a~~ vessel upon  
29 the waters of this state shall operate the vessel in a  
30 reasonable and prudent manner, having regard for other  
31 waterborne traffic, posted speed and wake restrictions, and all  
32 other attendant circumstances so as not to endanger the life,

6-01248-16

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33 limb, or property of another any person outside the vessel. The  
34 failure to operate a vessel in a manner described in this  
35 subsection constitutes careless operation. However, vessel wake  
36 and shoreline wash resulting from the reasonable and prudent  
37 operation of a vessel ~~shall~~, absent negligence, does not  
38 constitute damage or endangerment to property. A Any person who  
39 violates ~~the provisions of~~ this subsection commits a noncriminal  
40 violation as defined in s. 775.08.

41 Section 2. Subsections (1) and (4) of section 327.70,  
42 Florida Statutes, are amended to read:

43 327.70 Enforcement of this chapter and chapter 328.—

44 (1) This chapter and chapter 328 shall be enforced by the  
45 Division of Law Enforcement of the Fish and Wildlife  
46 Conservation Commission and its officers, the sheriffs of the  
47 various counties and their deputies, municipal police officers,  
48 and any other law enforcement officer as defined in s. 943.10,  
49 all of whom may order the removal of vessels deemed to be an  
50 interference or a hazard to public safety and, enforce the  
51 provisions of this chapter and chapter 328, ~~or cause any~~  
52 ~~inspections to be made of all vessels in accordance with this~~  
53 ~~chapter and chapter 328.~~

54 (4) The Fish and Wildlife Conservation Commission or any  
55 other law enforcement agency may make any investigation  
56 necessary to secure information required to carry out and  
57 enforce the provisions of this chapter and chapter 328 if  
58 probable cause exists.

59 Section 3. This act shall take effect July 1, 2016.

**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: CS/CS/SB 1318

INTRODUCER: Environmental Preservation and Conservation Committee; Agriculture Committee and Senator Dean

SUBJECT: Shellfish Harvesting

DATE: February 10, 2016      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Hinton</u>	<u>Rogers</u>	<u>EP</u>	<u>Fav/CS</u>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1318 makes changes to shellfish harvesting provisions by:

- Authorizing the harvesting of shellfish from a sovereign submerged land lease;
- Authorizing the Board of Trustees of the Internal Improvement Trust Fund (BOT) to permit the harvest of shellfish using a dredge or mechanical harvesting device in a submerged lands lease under certain conditions;
- Defining “shellfish” and “dredge or mechanical harvesting device;”
- Prohibiting the use of dredge or mechanical harvesting devices on public shellfish beds;
- Authorizing individuals to use one dredge or mechanical harvesting device per lease at any one time;
- Providing that violations of shellfish harvesting statutes, rules or lease conditions will result in revocation of the violator’s lease and denial of any future application to use sovereign submerged lands;
- Removes the following provisions relating to harvesting in Apalachicola Bay:
  - A prohibition on mechanical dredging of shellfish from Apalachicola Bay;
  - A requirement that the Fish and Wildlife Conservation Commission (FWC) set noncultured shellfish harvesting seasons;
  - An allowance for using means other than hand tongs to harvest in certain leased areas;
  - A reporting requirement; and
  - Conditions to be included in approvals for harvest of shellfish by dredge or other mechanical means;

- Removing a provision authorizing harvesting oysters from natural or public or private leased or granted grounds by hand tongs or by hand, scuba diving, free diving, leaning from vessels, or wading;
- Shifting the responsibility for setting the amount of oysters, clams, and mussels to be obtained for relaying or transplanting from the Department of Agriculture and Consumer Services (DACS) to FWC; and
- Removing a prohibition on dredging of dead shell deposits;
- Deleting the specific authorization for FWC to issue, except for in Apalachicola Bay, a special activity license costing \$25 for vessels or boats using a dredge or machinery in gathering clams or mussels.

The bill is effective July 1, 2016.

## II. Present Situation:

### History of Shellfishing

Shellfish, such as oysters, scallops, clams, and mussels occur throughout Florida waters. Evidence suggests that humans harvested shellfish as far back as 150,000 years ago. Native Americans hand collected clams and oysters in shallow coastal waters and later fished with rakes and tongs from canoes and skiffs to access deeper waters.<sup>1</sup>

### Shellfish Aquaculture

Over the past century, aquacultural cultivation of shellfish has increasingly replaced direct harvest of natural stocks.<sup>2</sup> Currently, there are two main approaches to commercial aquaculture cultivation for production in the United States. Some spatially-intensive, shallow-water operations cultivate hatchery-reared seed by using bags, cages, or nets to exclude predators. Other more spatially extensive operations rely on natural set or hatchery seed that are planted on leased beds, which are eventually dredge harvested.<sup>3</sup> Shellfish aquaculture often involves “planting” empty shells on the beds of submerged lands and “seeding” the shells with larva.<sup>4</sup> The shellfish grow to maturity and are then harvested. The University of Florida Institute of Food and Agricultural Sciences provides that in the case of hard clam aquaculture, benefits of clam farming include clearing suspended particles from water as they feed, removing nitrogen from coastal waters, and sequestering carbon from the atmosphere.<sup>5</sup>

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<sup>1</sup> National Oceanic and Atmospheric Administration (NOAA), *Technical memorandum NMFS-NE-220, Review of the Ecological Effects of Dredging in the Cultivation and Harvest of Molluscan Shellfish*, available at <http://www.nefsc.noaa.gov/publications/tm/tm220/> (last visited Feb. 4, 2016).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> University of Florida Institute of Food and Agricultural Sciences, *About the Industry*, available at <http://shellfish.ifas.ufl.edu/industry/> (last visited Feb. 4, 2016).

<sup>5</sup> University of Florida Institute of Food and Agricultural Sciences, *Environmental Benefits*, available at <http://shellfish.ifas.ufl.edu/environmental-benefits/> (last visited Feb. 4, 2016).

## Methods of Harvest

Contemporary on-bottom shellfish cultivation uses rake-like dredges to harvest planted shellfish seed or to collect naturally recruited stocks from leased beds.<sup>6</sup> The type of mechanical dredge used depends on the type of shellfish harvested. Oysters may be collected by dragging behind the boat a steel frame with bladed teeth and a collection bag or using a suction dredge. Clams may be collected by a hydraulic dredge which loosens the clams with high pressure jets and collects the clams in chain mesh bags. Hydraulic escalator dredges are also used to collect clams that dislodge the clams via water pressure. Harvesters collect scallops with a steel-framed structure with a cutting bar on the leading edge which rides above the surface of the substrate, kicking up sea scallops and collecting them into an attached bag.<sup>7</sup>

## Permitting

### *National Pollutant Discharge Elimination System (NPDES)*

The Clean Water Act prohibits anybody from discharging pollutants through a point source into a water of the United States unless they have an NPDES permit. The permit will contain limits on what may be discharged, monitoring and reporting requirements, and other provisions to ensure that discharges do not hurt water quality or people's health. In essence, the permit translates general requirements of the Clean Water Act into specific provisions tailored to pollutant discharging operations.<sup>8</sup>

Aquaculture is considered a point source, subject to industrial waste water rules under the Clean Water Act.<sup>9</sup> A NPDES permit is required for an aquaculture facility that produces more than 100,000 pounds of live weight per year and discharge 30 or more days from a farm, excluding rainfall events. Otherwise, following aquaculture effluent BMPs will suffice.<sup>10</sup>

### Requirements for Engaging in Aquaculture

To conduct aquaculture activities on sovereign submerged lands in Florida, an individual must obtain a lease from the BOT.<sup>11</sup> DACS accepts and reviews applications and provides recommendations to the BOT for consideration. The BOT may approve, approve with modifications, or deny the application.<sup>12</sup> Individuals may not remove oysters from natural or

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<sup>6</sup> National Oceanic and Atmospheric Administration (NOAA), *Technical memorandum NMFS-NE-220, Review of the Ecological Effects of Dredging in the Cultivation and Harvest of Molluscan Shellfish*, available at <http://www.nefsc.noaa.gov/publications/tm/tm220/> (last visited Feb. 4, 2016).

<sup>7</sup> *Id.*

<sup>8</sup> EPA, *National Pollutant Discharge Elimination System (NPDES): NPDES Frequent Questions*, available at <http://www.epa.gov/npdes/npdes-frequent-questions#pane-1> (last visited Feb. 5, 2016).

<sup>9</sup> Department of Agriculture and Consumer Services, *Aquaculture Best Management Practices Manual, September 2015* pg. 5, available at

[https://www.flrules.org/gateway/readRefFile.asp?refId=5760&filename=BMP%20RULE%20AND%20MANUAL\\_FINAL.docx](https://www.flrules.org/gateway/readRefFile.asp?refId=5760&filename=BMP%20RULE%20AND%20MANUAL_FINAL.docx) (last visited Feb. 4, 2016).

<sup>10</sup> *Id.*

<sup>11</sup> Sections 253.67 through 253.75 and 597.010, F.S.

<sup>12</sup> Fla. Admin. Code R. 18-21.021(1)(q).

artificial reefs by dredge or other mechanical devices, except in Apalachicola Bay on private grounds leased or granted by the state prior to July 1, 1989.<sup>13</sup>

Certified aquaculture activities that apply appropriate best management practices (BMPs) adopted by DACS are exempt from obtaining an ERP from the DEP or a WMD.<sup>14</sup> The following are examples of BMP requirements for aquaculture:

- Land-based facilities must be designed and operated in a manner which minimizes adverse impacts to the receiving waters, adjacent wetlands, and uplands.<sup>15</sup>
- Sediment removal and disposal must be conducted in a manner that eliminates or minimizes adverse impacts to the receiving waters.<sup>16</sup>
- Prior to commencement of the aquaculture activities on the approved grow-out site, post the grow-out boundaries to delineate the corners and perimeters, per the lease agreement.<sup>17</sup>
- No vessel of any description shall be moored on or adjacent to the grow-out premises for a period exceeding 24 hours, regardless of whether the vessel is periodically moved.<sup>18</sup>
- Culture materials placed on the grow-out area must be a suitable substrate for attachment of oyster larvae.<sup>19</sup>
- Shellfish farmers are permitted to sell only to a certified shellfish processor or must become a certified shellfish processor to sell shellfish for human consumption to a retailer or the consumer.<sup>20</sup>

An individual who engages in aquaculture must be certified by DACS.<sup>21</sup> A shellfish endorsement is not necessary for harvest from aquaculture leases pursuant to a certificate issued by DACS<sup>22</sup> or under an Apalachicola Bay Oyster Harvesting License issued by DACS.<sup>23</sup> A certificate is necessary for culturing shellfish on submerged lands leased from the State of Florida.<sup>24</sup>

Any other individuals who commercially harvest, possess, or sell shellfish must obtain a Saltwater Products License<sup>25</sup> and a shellfish endorsement from FWC.<sup>26</sup> Individuals may not commercially harvest bay scallops<sup>27</sup> or freshwater mussels.<sup>28</sup>

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<sup>13</sup> Section 597.010(18)(a), F.S.

<sup>14</sup> Section 373.406(8), F.S.

<sup>15</sup> Department of Agriculture and Consumer Services, *Aquaculture Best Management Practices Manual, September 2015* pg. 45 available at

[https://www.flrules.org/gateway/readRefFile.asp?refId=5760&filename=BMP%20RULE%20AND%20MANUAL\\_FINAL.docx](https://www.flrules.org/gateway/readRefFile.asp?refId=5760&filename=BMP%20RULE%20AND%20MANUAL_FINAL.docx) (last visited Feb. 4, 2016).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 46.

<sup>18</sup> *Id.* at 47.

<sup>19</sup> *Id.* at 47.

<sup>20</sup> *Id.* at 48.

<sup>21</sup> Section 597.004(1), F.S.

<sup>22</sup> Fla. Admin. Code R. 68B-27.018(1)(a).

<sup>23</sup> Fla. Admin. Code R. 68B-27.018(1)(c).

<sup>24</sup> FWC, *Aquaculture Certificate*, available at <http://myfwc.com/license/aquaculture-certificate/> (last visited Feb. 4, 2016).

<sup>25</sup> Section 379.361(2)(a), F.S.

<sup>26</sup> Fla. Admin. Code R. 68B-17.009, 68B-27.018(1)(a), and 68B-27.018(1)(a).

<sup>27</sup> Fla. Admin. Code R. 68B-18.004(2).

<sup>28</sup> Fla. Admin. Code R. 68A-23.015(3).

DACS provides that currently, all ch. 253, F.S., submerged land aquaculture leases prohibit the use of dredges or mechanical harvesting devices per Florida Statutes and Florida Administrative Code. Some ch. 379, F.S., shellfish leases<sup>29</sup> do allow the use of dredges or mechanical harvesting devices but only if the lease document specifically allows such harvesting devices.<sup>30</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 597.010, F.S., to make changes concerning shellfish regulation.

Concerning shellfish development, the bill directs DACS to cooperate with FWC and DEP to protect clam beds, oyster beds, shellfish grounds, and oyster reefs from damage or destruction resulting from improper cultivation, propagation, planting, or harvesting. The bill directs the Department of Health to cooperate with DACS and make available its laboratory testing facilities and apparatus. This revises a similar provision concerning oyster culture that is removed in the bill. The bill deletes the provision in current law that includes pollution control as a duty.

The bill removes provisions concerning responsibilities of DACS and FWC with respect to natural oyster and clam reefs and beds, assisting in protecting shellfish aquaculture products, and reporting to the Legislature with recommendations.

The bill defines:

- “Shellfish” as oysters, clams, mussels, and scallops; and
- “Dredge or mechanical harvesting device” as a dredge, scrape, rake, drag, or other device that is towed by a vessel or self-propelled and that is used to harvest shellfish. The term does not include handheld or hand drawn hydraulically or mechanically operated devices used to harvest hydraulically or mechanically operated devices used to harvest cultured clams from leased sovereign submerged lands.

The bill allows harvesting of shellfish from a sovereign submerged land lease to be authorized pursuant to ch. 253, F.S.

The bill allows the BOT to authorize the use of a dredge or mechanical harvesting device as a special lease condition of a sovereign submerged land lease issued under ch. 253, F.S., by the BOT if:

- The use of the dredge or mechanical harvesting device does not adversely impact the public health, safety, and welfare of adjacent natural resources; and
- Aquaculture BMPs have been adopted pursuant to ch. 120, F.S., which:
  - Describe the approved size and specifications of the dredge or mechanical harvesting device to be used;
  - Provide conditions for deploying and using an approved dredge or mechanical harvesting device; and

<sup>29</sup> Section 379.2525(2)(a), F.S., allows removing oysters from by dredge in Apalachicola Bay on private grounds leased or granted by the state prior to July 1, 1989, if the lease or grant specifically authorizes the use of implements other than hand tongs for harvesting. This mirrors language noted above in s. 597.010(18)(a), F.S.

<sup>30</sup> DACS, *Agency Analysis of SB 1318* (Jan. 19, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).



- Specify requirements for monitoring potential impacts at, and adjacent to, the sovereign submerged land lease site by the leaseholder.

The bill authorizes the use of the dredge or mechanical harvesting device for harvesting shellfish from a sovereign submerged land lease if it is an existing condition of a perpetual shellfish lease issued pursuant to former ch. 370, F.S.

The bill allows one dredge or mechanical harvesting device per lease to be possessed or operated at any time at a lease site. Additionally, an authorized dredge or mechanical harvesting device may not be used for taking shellfish for any purpose from public shellfish beds in waters of the state. The bill prohibits dredge or mechanical harvesting devices from 5 p.m. until sunrise on waters of the state.

The bill specifies that the provisions detailed above do not authorize harvesting shellfish from natural reefs and provides that violation of the provisions is a violation of the lease agreement and will result in the revocation of all leases held by the violator and denial of any future use of sovereign submerged land.

The bill removes the following provisions applicable to Apalachicola Bay:

- The bill removes a requirement for FWC to set the noncultured shellfish harvesting seasons in Apalachicola Bay by rule and removes a reporting requirement;
- The bill removes a provision providing that it is unlawful to use a dredge or any means or implement other than hand tongs in removing oysters from natural or artificial state reefs or beds. The bill removes a provision stating that this restriction applies to Apalachicola Bay for all shellfish harvesting, excluding private grounds leased or granted by the state prior to July 1, 1989, if the lease or grant specifically authorizes the use of implements other than hand tongs for harvesting;
- The bill removes the specific authorization for FWC to issue, except for in Apalachicola Bay, a special activity license costing \$25 for vessels or boats using a dredge or machinery in gathering clams or mussels;
- The bill removes a provision providing that approval by DACS to harvest shellfish by dredge or other mechanical means from privately held shellfish leases or grant in Apalachicola Bay must include, but not be limited to, the following conditions:
  - The use of any mechanical harvesting device other than ordinary hand tongs for taking shellfish for any purpose from public shellfish beds in Apalachicola Bay is unlawful;
  - The possession of any mechanical harvesting device on the waters of Apalachicola Bay from 5 p.m. until sunrise is unlawful;
  - Leaseholders or grantees must notify DACS no less than 48 hours prior to each day's use of a dredge or scrape in order for DACS to notify FWC that a mechanical harvesting device will be deployed;
  - Only two dredges or scrapes per lease or grant may be possessed or operated at any time; and
  - Each vessel used for the transport of deployment of a dredge or scrape shall prominently display the lease or grant number or numbers, in numerals which are at least 12 inches high and 6 inches wide, in such a manner that the lease or grant number or numbers are readily identifiable from both the air and the water.

- The bill removes a provision stating that violation of these conditions or of any other statutes, rules, or conditions referenced in the lease agreement is considered a violation of the license and will result in revocation of the lease or a denial of use or future use of a mechanical harvesting device; and
- Lastly, the bill removes a general provision providing that oysters may be harvested from natural or public or private leased or granted grounds by common hand tongs or by hand, by scuba diving, free diving, leaning from vessels, or wading and that in Apalachicola bay, this provision applies to all shellfish.

The bill shifts the responsibility for setting the amount of oysters, clams, and mussels to be obtained for relaying or transplanting from DACS to FWC.

The bill removes a prohibition on dredging dead shell deposits in the State.

**Section 2** provides an effective date of July 1, 2016.

#### **IV. Constitutional Issues:**

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The bill may have a positive impact on individuals or companies who engage in aquaculture by allowing the harvest of shellfish with a dredge or other mechanical device rather than harvesting shellfish by other less efficient methods.

##### **C. Government Sector Impact:**

None.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends 597.010 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.)

**CS/CS by Environmental Preservation and Conservation on February 9, 2016:**

The committee substitute:

- Amends the definition of shellfish by removing the word “aquaculture;”
- Removes a condition required for the BOT to authorize the use of a dredge or a mechanical harvesting device; and
- Provides that the use of a dredge or mechanical harvesting device for the harvesting of shellfish from a sovereign submerged land lease is authorized if such use was previously authorized as an existing condition of a perpetual shellfish lease issued pursuant to ch. 370, F.S.

**CS by Agriculture on February 1, 2016:**

The committee substitute:

- Repeals an outdated provision regarding shellfish development and replaces it with language regarding interagency coordination to protect shellfish beds, grounds, and reefs.
- Defines “dredge or mechanical harvesting device.”
- Specifies that best management practices must be used to dredge or mechanically harvest shellfish.
- Authorizes the use of only one dredge or mechanical harvesting device per lease to be possessed or operated at any one time.
- Prohibits the use of dredge or mechanical harvesting devices on public shellfish beds.
- Prohibits the possession of any dredges or mechanical devices on the waters of the state from 5 p.m. until sunrise.
- Prohibits harvesting shellfish from natural reefs.
- Removes the requirement that a harvester must notify the FWC 48 hours in advance of any dredging or mechanical harvesting activity and that each vessel display its lease number in 12-inch high numbers.
- Provides that violations of shellfish harvesting statutes, rules, or lease conditions will result in the revocation of all leases held by the violator and denial of any future use of sovereign submerged land.
- Authorizes, rather than requires, the department to designate areas for the taking of oysters and clams to be planted on public areas.
- Removes provisions relating to dredging of dead shells and oyster culture.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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371114

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

---

The Committee on Environmental Preservation and Conservation  
(Dean) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 70 - 101

and insert:

2. "Shellfish" means oysters, clams, mussels, and scallops.

(b) The harvesting of shellfish from a sovereign submerged  
land lease may be authorized pursuant to chapter 253.

(c) The Board of Trustees of the Internal Improvement Trust  
Fund may authorize the use of a dredge or a mechanical  
harvesting device as a special lease condition of a sovereign



371114

11 submerged land lease issued under chapter 253 if:

12 1. The use of the dredge or mechanical harvesting device  
13 does not adversely impact the public health, safety, or welfare  
14 of adjacent natural resources; and

15 2. Aquaculture best management practices have been adopted  
16 pursuant to chapter 120 which:

17 a. Describe the approved size and specifications of the  
18 dredge or mechanical harvesting device to be used.

19 b. Provide conditions for deploying and using an approved  
20 dredge or mechanical harvesting device.

21 c. Specify requirements for monitoring potential impacts  
22 at, and adjacent to, the sovereign submerged land lease site by  
23 the leaseholder.

24 (d) The use of a dredge or mechanical harvesting device for  
25 the harvesting of shellfish from a sovereign submerged land  
26 lease is authorized if such use was previously authorized as an  
27 existing condition of a perpetual shellfish lease issued  
28 pursuant to former chapter 370.

29 (e) Only one dredge or mechanical harvesting device per  
30 lease may be possessed or operated at any time at a lease site.

31 (f) A dredge or mechanical harvesting device authorized by  
32 this subsection may not be used for taking shellfish for any  
33 purpose from public shellfish beds in waters of the state, and  
34 such dredge or mechanical harvesting device may not be possessed  
35 on the waters of the state from 5 p.m. until sunrise.

36 (g) This subsection does not authorize the harvesting of  
37 shellfish from natural reefs.

38  
39 ===== T I T L E A M E N D M E N T =====



371114

40 And the title is amended as follows:  
41       Delete line 15  
42 and insert:  
43       sovereign submerged land leases under certain  
44       circumstances; limiting the number

By the Committee on Agriculture; and Senator Dean

575-02898-16

20161318c1

1                   A bill to be entitled  
2           An act relating to shellfish harvesting; amending s.  
3           597.010, F.S.; revising provisions directing the  
4           Department of Agriculture and Consumer Services, in  
5           cooperation with the Fish and Wildlife Conservation  
6           Commission and the Department of Environmental  
7           Protection, to protect specified shellfish beds,  
8           grounds, and reefs; defining the terms "dredge or  
9           mechanical harvesting devices" and "shellfish";  
10          providing for the harvesting of shellfish from  
11          sovereign submerged land leases; providing for the  
12          Board of Trustees of the Internal Improvement Trust  
13          Fund to authorize the use of dredges or mechanical  
14          harvesting devices as special lease conditions of  
15          sovereign submerged land leases; limiting the number  
16          of such dredges or mechanical harvesting devices per  
17          lease; prohibiting certain use and possession of such  
18          dredges or mechanical harvesting devices; providing  
19          penalties; removing provisions relating to shellfish  
20          harvesting seasons and removal of oysters, clams, or  
21          mussels from natural reefs; authorizing the  
22          department, rather than requiring, to designate areas  
23          for the taking of oysters and clams to be planted on  
24          public lands; deleting a provision allowing such  
25          takings to be planted on leases and grants; specifying  
26          that the commission, rather than the department, shall  
27          establish the amount of oysters, clams, and mussels  
28          that may be relayed or transplanted; removing  
29          provisions relating to dredging of dead shells and  
30          oyster culture; making technical changes; providing an  
31          effective date.  
32



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33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Subsections (14) and (17) through (25) of  
36 section 597.010, Florida Statutes, are amended to read:

37 597.010 Shellfish regulation; leases.-

38 (14) SHELLFISH DEVELOPMENT.-The department, in cooperation  
39 with the Fish and Wildlife Conservation Commission and the  
40 Department of Environmental Protection, shall protect all clam  
41 beds, oyster beds, shellfish grounds, and oyster reefs from  
42 damage or destruction resulting from improper cultivation,  
43 propagation, planting, or harvesting. To this end, the  
44 Department of Health is authorized and directed to cooperate  
45 with the department and to make available its laboratory testing  
46 facilities and apparatus.

47 ~~(a) The department shall improve, enlarge, and protect the~~  
48 ~~natural oyster and clam reefs and beds of this state to the~~  
49 ~~extent it may deem advisable and the means at its disposal will~~  
50 ~~permit.~~

51 ~~(b) The Fish and Wildlife Conservation Commission shall, to~~  
52 ~~the same extent, assist in protecting shellfish aquaculture~~  
53 ~~products produced on leased or granted reefs and beds.~~

54 ~~(c) The department, in cooperation with the commission,~~  
55 ~~shall provide the Legislature with recommendations as needed for~~  
56 ~~the development and the proper protection of the rights of the~~  
57 ~~state and private holders therein with respect to the oyster and~~  
58 ~~clam business.~~

59 (17) SHELLFISH HARVESTING FROM SOVEREIGN SUBMERGED LAND  
60 LEASES; USE OF DREDGE OR MECHANICAL HARVESTING DEVICE SEASONS;  
61 SPECIAL PROVISIONS RELATING TO APALACHICOLA BAY.-

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62 (a) As used in this subsection, the term:

63 1. "Dredge or mechanical harvesting device" means a dredge,  
64 scrape, rake, drag, or other device that is towed by a vessel or  
65 self-propelled and that is used to harvest shellfish. The term  
66 does not include handheld or handdrawn hydraulically or  
67 mechanically operated devices used to harvest cultured clams  
68 from leased sovereign submerged lands, and this subsection does  
69 not apply to such handheld or handdrawn devices.

70 2. "Shellfish" means aquaculture oysters, clams, mussels,  
71 and scallops.

72 (b) The harvesting of shellfish from a sovereign submerged  
73 land lease may be authorized pursuant to chapter 253.

74 (c) The Board of Trustees of the Internal Improvement Trust  
75 Fund may authorize the use of a dredge or mechanical harvesting  
76 device as a special lease condition of a sovereign submerged  
77 land lease issued under chapter 253 if:

78 1. The use of the dredge or mechanical harvesting device  
79 does not adversely impact the public health, safety, and welfare  
80 of adjacent natural resources.

81 2. The use of the dredge or mechanical harvesting device is  
82 an existing condition of a perpetual shellfish lease issued  
83 pursuant to former chapter 370.

84 3. Aquaculture best management practices have been adopted  
85 pursuant to chapter 120 which:

86 a. Describe the approved size and specifications of the  
87 dredge or mechanical harvesting device to be used.

88 b. Provide conditions for deploying and using an approved  
89 dredge or mechanical harvesting device.

90 c. Specify requirements for monitoring potential impacts

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91 at, and adjacent to, the sovereign submerged land lease site by  
92 the leaseholder.

93 (d) Only one dredge or mechanical harvesting device per  
94 lease may be possessed or operated at any time at a lease site.

95 (e) A dredge or mechanical harvesting device authorized by  
96 this subsection may not be used for taking shellfish for any  
97 purpose from public shellfish beds in waters of the state, and  
98 such dredge or mechanical harvesting device may not be possessed  
99 on the waters of the state from 5 p.m. until sunrise.

100 (f) This subsection does not authorize the harvesting of  
101 shellfish from natural reefs.

102  
103 A violation of this subsection is a violation of the lease  
104 agreement and will result in the revocation of all leases held  
105 by the violator and denial of any future use of sovereign  
106 submerged land.

107 ~~(a) The Fish and Wildlife Conservation Commission shall by~~  
108 ~~rule set the noncultured shellfish harvesting seasons in~~  
109 ~~Apalachicola Bay.~~

110 ~~(b) If the commission changes the harvesting seasons by~~  
111 ~~rule as set forth in this subsection, for 3 years after the new~~  
112 ~~rule takes effect, the commission, in cooperation with the~~  
113 ~~department, shall monitor the impacts of the new harvesting~~  
114 ~~schedule on the bay and on local shellfish harvesters to~~  
115 ~~determine whether the new harvesting schedule should be~~  
116 ~~discontinued, retained, or modified. In monitoring the new~~  
117 ~~schedule and in preparing its report, the following information~~  
118 ~~shall be considered:~~

119 ~~1. Whether the bay benefits ecologically from the new~~

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120 ~~harvesting schedule.~~

121 ~~2. Whether the new harvesting schedule enhances the~~  
122 ~~enforcement of shellfish harvesting laws in the bay.~~

123 ~~3. Whether the new harvesting schedule enhances natural~~  
124 ~~shellfish production, oyster relay and planting programs, and~~  
125 ~~shell planting programs in the bay.~~

126 ~~4. Whether the new harvesting schedule has more than a~~  
127 ~~short term adverse economic impact, if any, on local shellfish~~  
128 ~~harvesters.~~

129 ~~(18) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL~~  
130 ~~REEFS; LICENSES, ETC.; PENALTY.—~~

131 ~~(a) It is unlawful to use a dredge or any means or~~  
132 ~~implement other than hand tongs in removing oysters from the~~  
133 ~~natural or artificial state reefs or beds. This restriction~~  
134 ~~shall apply to all areas of Apalachicola Bay for all shellfish~~  
135 ~~harvesting, excluding private grounds leased or granted by the~~  
136 ~~state prior to July 1, 1989, if the lease or grant specifically~~  
137 ~~authorizes the use of implements other than hand tongs for~~  
138 ~~harvesting. Except in Apalachicola Bay, upon the payment of \$25~~  
139 ~~annually, for each vessel or boat using a dredge or machinery in~~  
140 ~~the gathering of clams or mussels, a special activity license~~  
141 ~~may be issued by the Fish and Wildlife Conservation Commission~~  
142 ~~pursuant to subsection (15) or s. 379.361 for such use to such~~  
143 ~~person.~~

144 ~~(b) Approval by the department to harvest shellfish by~~  
145 ~~dredge or other mechanical means from privately held shellfish~~  
146 ~~leases or grants in Apalachicola Bay shall include, but not be~~  
147 ~~limited to, the following conditions:~~

148 ~~1. The use of any mechanical harvesting device other than~~

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149 ~~ordinary hand tongs for taking shellfish for any purpose from~~  
150 ~~public shellfish beds in Apalachicola Bay shall be unlawful.~~

151 ~~2. The possession of any mechanical harvesting device on~~  
152 ~~the waters of Apalachicola Bay from 5 p.m. until sunrise shall~~  
153 ~~be unlawful.~~

154 ~~3. Leaseholders or grantees shall notify the department no~~  
155 ~~less than 48 hours prior to each day's use of a dredge or scrape~~  
156 ~~in order for the department to notify the Fish and Wildlife~~  
157 ~~Conservation Commission that a mechanical harvesting device will~~  
158 ~~be deployed.~~

159 ~~4. Only two dredges or scrapes per lease or grant may be~~  
160 ~~possessed or operated at any time.~~

161 ~~5. Each vessel used for the transport or deployment of a~~  
162 ~~dredge or scrape shall prominently display the lease or grant~~  
163 ~~number or numbers, in numerals which are at least 12 inches high~~  
164 ~~and 6 inches wide, in such a manner that the lease or grant~~  
165 ~~number or numbers are readily identifiable from both the air and~~  
166 ~~the water.~~

167  
168 ~~Any violation of this paragraph or of any other statutes, rules,~~  
169 ~~or conditions referenced in the lease agreement shall be~~  
170 ~~considered a violation of the license and shall result in~~  
171 ~~revocation of the lease or a denial of use or future use of a~~  
172 ~~mechanical harvesting device.~~

173 ~~(c) Oysters may be harvested from natural or public or~~  
174 ~~private leased or granted grounds by common hand tongs or by~~  
175 ~~hand, by scuba diving, free diving, leaning from vessels, or~~  
176 ~~wading. In Apalachicola Bay, this provision shall apply to all~~  
177 ~~shellfish.~~

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178 ~~(18)(19)~~ FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.—

179 (a) The department may ~~shall~~ designate areas for the taking  
180 of oysters and clams to be planted on ~~leases, grants, and~~ public  
181 areas. Oysters, clams, and mussels may be taken for relaying or  
182 transplanting at any time during the year so long as, in the  
183 opinion of the department, the public health will not be  
184 endangered. The amount of oysters, clams, and mussels to be  
185 obtained for relaying or transplanting shall be established by  
186 the Fish and Wildlife Conservation Commission. The area relayed  
187 or transplanted to, and relaying or transplanting time periods  
188 shall be established in each case by the department.

189 (b) Application for a special activity license issued  
190 pursuant to subsection (15) for obtaining oysters, clams, or  
191 mussels for relaying from closed public shellfish harvesting  
192 areas to open areas or certified controlled purification plants  
193 or for transplanting sublegal-sized oysters, clams, or mussels  
194 must be made to the department. In return, the department may  
195 assign an area and a period of time for the oysters, clams, or  
196 mussels to be relayed or transplanted to be taken. All relaying  
197 and transplanting operations shall take place under the  
198 direction of the department.

199 (c) Relayed oysters, clams, or mussels shall not be  
200 subsequently harvested for any reason without written permission  
201 or public notice from the department.

202 ~~(19)(20)~~ OYSTER AND CLAM REHABILITATION.—The board of  
203 county commissioners ~~of the several counties~~ may appropriate and  
204 expend such sums as it may deem proper for the purpose of  
205 planting or transplanting oysters, clams, oyster shell, clam  
206 shell, or cultch or to perform such other acts for the

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207 enhancement of the oyster and clam industries of the state, out  
208 of any sum in the county treasury not otherwise appropriated.

209 ~~(21) DREDGING OF DEAD SHELLS PROHIBITED.—The dredging of~~  
210 ~~dead shell deposits is prohibited in the state.~~

211 (20) ~~(22)~~ COOPERATION WITH UNITED STATES FISH AND WILDLIFE  
212 SERVICE.—The department shall cooperate with the United States  
213 Fish and Wildlife Service, under existing federal laws, rules,  
214 and regulations, and is authorized to accept donations, grants,  
215 and matching funds from the Federal Government in order to carry  
216 out its oyster resource and development responsibilities. The  
217 department is further authorized to accept any and all donations  
218 including funds, oysters, or oyster shells.

219 (21) ~~(23)~~ OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.—

220 (a) Except for oysters used directly in the half-shell  
221 trade, 50 percent of all shells from oysters and clams shucked  
222 commercially in the state shall be and remain the property of  
223 the department when such shells are needed and required for  
224 rehabilitation projects and planting operations, in cooperation  
225 with the Fish and Wildlife Conservation Commission, when  
226 sufficient resources and facilities exist for handling and  
227 planting such shells ~~shell~~, and when the collection and handling  
228 of such shells ~~shell~~ is practicable and useful, except that bona  
229 fide holders of leases and grants may retain 75 percent of such  
230 shells ~~shell~~ as they produce for aquacultural purposes. Storage,  
231 transportation, and planting of shells so retained by lessees  
232 and grantees shall be carried out under the conditions of the  
233 lease agreement or with the written approval of the department  
234 and shall be subject to such reasonable time limits as the  
235 department may fix. In the event of an accumulation of an excess

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236 of shells, the department is authorized to sell shells only to  
237 private growers for use in oyster or clam cultivation on bona  
238 fide leases and grants. No profit shall accrue to the department  
239 in these transactions, and shells are to be sold for the  
240 estimated moneys spent by the department to gather and stockpile  
241 the shells. Planting of shells obtained from the department by  
242 purchase shall be subject to the conditions set forth in the  
243 lease agreement or in the written approval as issued by the  
244 department. Any shells not claimed and used by private oyster  
245 cultivators 10 years after shells are gathered and stockpiled  
246 may be sold at auction to the highest bidder for any private  
247 use.

248 (b) If ~~Whenever~~ the department determines that it is  
249 unfeasible to collect oyster or clam shells, the shells become  
250 the property of the producer.

251 (c) If ~~Whenever~~ oyster or clam shells are owned by the  
252 department and it is not useful or feasible to use them in the  
253 rehabilitation projects, and if a ~~when no~~ leaseholder has not  
254 exercised his or her option to acquire them, the department may  
255 sell such shells for the highest price obtainable. Such ~~The~~  
256 shells ~~thus sold~~ may be used in any manner and for any purpose  
257 at the discretion of the purchaser.

258 (d) Moneys derived from the sale of shell shall be  
259 deposited in the General Inspection Trust Fund for shellfish  
260 programs.

261 (e) The department may publish notice, in a newspaper  
262 serving the county, of its intention to collect the oyster and  
263 clam shells and shall notify, by certified mail, each shucking  
264 establishment from which shells are to be collected. The notice



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265 shall contain the period of time the department intends to  
266 collect the shells in that county and the collection purpose.

267 ~~(24) OYSTER CULTURE. The department, in cooperation with~~  
268 ~~the Fish and Wildlife Conservation Commission and the Department~~  
269 ~~of Environmental Protection, shall protect all clam beds, oyster~~  
270 ~~beds, shellfish grounds, and oyster reefs from damage or~~  
271 ~~destruction resulting from improper cultivation, propagation,~~  
272 ~~planting, or harvesting and control the pollution of the waters~~  
273 ~~over or surrounding beds, grounds, or reefs, and to this end the~~  
274 ~~Department of Health is authorized and directed to lend its~~  
275 ~~cooperation to the department, to make available its laboratory~~  
276 ~~testing facilities and apparatus.~~

277 ~~(22)~~ (25) REQUIREMENTS FOR OYSTER OR CLAM VESSELS.—

278 (a) All vessels used for the harvesting, gathering, or  
279 transporting of oysters or clams for commercial purposes shall  
280 be constructed and maintained to prevent contamination or  
281 deterioration of shellfish. To this end, all such vessels shall  
282 have ~~be provided with~~ false bottoms and bulkheads fore and aft  
283 to prevent onboard shellfish from coming in contact with any  
284 bilge water. ~~No~~ Dogs or other animals are not ~~shall be~~ allowed  
285 at any time on vessels used to harvest or transport shellfish. A  
286 violation of ~~any provision of~~ this subsection will, at a  
287 minimum, ~~shall~~ result in ~~at least~~ the revocation of the  
288 violator's license.

289 (b) For the purpose of this subsection, "harvesting,  
290 gathering, or transporting of oysters or clams for commercial  
291 purposes" means to harvest, gather, or transport oysters or  
292 clams with the intent to sell and shall apply to a quantity of  
293 two or more bags of oysters per vessel or more than one 5-gallon

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294 bucket of unshucked hard clams per person or more than two 5-  
295 gallon buckets of unshucked hard clams per vessel.

296 Section 2. This act shall take effect July 1, 2016.

297



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Children, Families, and Elder Affairs, *Vice-Chair*  
Appropriations  
Appropriations Subcommittee on General Government  
Environmental Preservation and Conservation  
Finance and Tax

### SENATOR THAD ALTMAN

16th District

February 8, 2016

The Honorable Charles S. Dean  
325 Knott Building  
404 South Monroe St.  
Tallahassee, FL 32399-1100

Dear Chair Dean,

The purpose of this letter is to seek your permission to be excused from the scheduled Environmental Preservation and Conservation Committee meeting on February 9, 2016. Due to unforeseen circumstances, I will not be able to attend.

Should you have any questions concerning this matter, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman

CC: Ellen Rogers, Staff Director, 325 Knott Building  
Kim Bonn, Committee Administrative Assistant

TA/dw

#### REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

1168

Bill Number (if applicable)

214434

Amendment Barcode (if applicable)

Topic Springs Restoration

Name Ryan Smart

Job Title President

Address 308 N. Monroe St

Phone 850-222-6277

Street

Tallahassee

City

FL

State

32301

Zip

Email rsmart@1000ofa.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing 1000 Friends of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Amendment*

2/9/16

Meeting Date

1168

Bill Number (if applicable)

Topic Everglades & Springs

Amendment Barcode (if applicable)

Name Eric Draper

Job Title \_\_\_\_\_

Address 308 W Munro

Phone 2999 1028

Street

Tallahassee

City

State

Zip

Email edraper@audubon.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Audubon

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

SB 1168

Bill Number (if applicable)

Topic Legacy FL Act

Amendment Barcode (if applicable)

Name Jill Fidrych

Job Title The Nature Conservancy

Address Street

Phone

City

State

Zip

Email

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing The Nature Conservancy

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

# APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-9-10

Meeting Date

SB 1168

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Daniel Delisi

Job Title President, Delisi, Inc.

Address 15598 Bent Creek Rd.

Phone \_\_\_\_\_

Street

Wellington FL 33414

City

State

Zip

Email dani@delisi-inc.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing City of Sanibel

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

SB 1168

Bill Number (if applicable)

Topic Legacy Florida Bill

Amendment Barcode (if applicable)

Name Anna Upton

Job Title \_\_\_\_\_

Address 9005 Eagles Ridge Drive

Street

Phone (850) 228-6360

Tallahassee

City

FL

State

32312

Zip

Email anna@ahupton.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Everglades Foundation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

1168

Bill Number (if applicable)

Topic Water & Land Conservation

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title \_\_\_\_\_

Address 433 N Magnolia

Phone 339 6211

Tall FL 32303

Email rao@theriaquezlaw.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Fla League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

2-9-2015

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

Topic Legacy Florida

Amendment Barcode (if applicable)

Name James E. Harrell

Job Title Retired Physician

Address 1855 NW Eagle Pt

Phone 772.692.1217

Street

Southeast

FL

34994

Email

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing 591 IF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

Leyney R

Bill Number (if applicable)

Topic Leyney Florida

Amendment Barcode (if applicable)

Name Lana Reynolds

Job Title Family & Daycare Member

Address 3600 West Silver Bay

Phone 786-543-1924

Street

City

State

Zip

Hunter Street FL 33405

Email Conservation Concepts@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ISAAK Walter Lange / Everglades Coalition Board member

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-9-16

Meeting Date

SB 1168

Bill Number (if applicable)

Topic Everglades

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Job Title \_\_\_\_\_

Address 873 Kingsway Rd  
Street

Phone 850-320-4208

Tallahassee FL 32301  
City State Zip

Email stef.kunkel@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Conservancy of Southwest Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16  
Meeting Date

1168  
Bill Number (if applicable)

Topic Implementation of the Water & Land Conservation

Amendment Barcode (if applicable)

Name Monica Rodriguez

Job Title \_\_\_\_\_

Address 403 E. Park Avenue  
Street

Phone 850 766-6287

Tallahassee, FL 32309  
City State Zip

Email monica@browardfl.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

*Meeting Date*

SB 1168

*Bill Number (if applicable)*

Topic SB 1168 - Relating to Implementation of the Water and Land Conservation Constitutional Amendment

*Amendment Barcode (if applicable)*

Name Carol Bracy

Job Title Consultant

Address 403 E Park Avenue

Phone 850-577-0444

*Street*

Tallahassee

FL

32301

Email carol@ballardfl.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Martin County Board of County Commissioners

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb. 9, 2016  
Meeting Date

1168  
Bill Number (if applicable)

Topic Amendment 1 Implementation

Amendment Barcode (if applicable)

Name Burt Saunders

Job Title \_\_\_\_\_

Address 8889 Pelican Bay Blvd

Phone \_\_\_\_\_

Street

Naples FL 34108

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Lee County and the Village of Estero

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

TAB 2

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/6  
Meeting Date

SB 1470  
Bill Number (if applicable)  
954882  
Amendment Barcode (if applicable)

Topic CRUSTACEANS

Name JERRY SANSON

Job Title \_\_\_\_\_

Address PO Box 700  
Street

Phone 321 773-0212

Cocoa FL 32923  
City State Zip

Email FISHAWR@AOL.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Organized Fishermen of FLA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

SB 1192

Bill Number (if applicable)

755340

Amendment Barcode (if applicable)

Topic WASTE MANAGEMENT

Name KEYNA CORY

Job Title LOBBYIST

Address 110 E. COLLEGE AVE

Street

Phone 850-681-1065

TAWANASSEE

City

FL

State

32301

Zip

Email Keynacory@pacconsultants.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing NATIONAL WASTE & RECYCLING ASSN - FL CHAPTER

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/7/14  
Meeting Date

1192  
Bill Number (if applicable)

Topic waste management

Amendment Barcode (if applicable)

Name Charlie Latham

Job Title FLORIDA CHAIR

Address 6501 GREENLAND RD.

Phone 904-910-4004

Street

JACKSONVILLE, FL

City

32258

State

Zip

Email WLATHAM@WMA.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing NATIONAL WASTE + RECYCLING ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

TAB 4  
amendment

2/9  
Meeting Date

1290  
Bill Number (if applicable)

Topic State lands

Amendment Barcode (if applicable)

Name Eric Droper

Job Title \_\_\_\_\_

Address 308 N Monroe

Phone 850 999 1028

Street  
Tallahassee

Email edroper@audubon.org

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

amendment

Representing Audubon

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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TAB 4

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/10  
Meeting Date

1290  
Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

Name Andrew Ketchel

Job Title Director of Legislative Affairs

Address 3900 Commonwealth Blvd

Phone 8507457140

Tallahassee FL 32399

Email andrew.ketchel@dep.state.fl.us

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Department of Environmental Protection

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-9-16  
Meeting Date

SB 1290  
Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Job Title \_\_\_\_\_

Address 873 Kingsway Rd  
Street  
Tallahassee FL 32301  
City State Zip

Phone 850-320-4208

Email Stef.Kunkel@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Conservancy of Southwest Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

Feb 9 2016

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

1290

Bill Number (if applicable)

Topic State Laws

Amendment Barcode (if applicable)

Name JANET BRUNNAN

Job Title Director of Legislative Policy & Strategy

Address 286 E 5th Avenue

Phone 251-9406

Street

Tallah FL

City

State

Zip

Email JANET.BRUNNAN@FLORIDA.Senate.GOV

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Nature Conservancy

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

1290

Bill Number (if applicable)

Topic STATE LANDS

Amendment Barcode (if applicable)

Name DAVID COLLEN

Job Title

Address 1674 UNIVERSITY PKWY

Street

Phone 941-323-2404

SARASOTA

FL

34243

City

State

Zip

Email collenasea@

ast.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

7/9/16  
Meeting Date

1290  
Bill Number (if applicable)

Topic State Lands Bill

Amendment Barcode (if applicable)

Name Laura Reynolds

Job Title Foundry and Mgmt Member / Conservation Concepts

Address 3600 Hunter Street

Phone 784-543-1926

Street

West Palm Beach FL 33405

Email ConservationConceptsLLC@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ISAAC WORTHON LEASE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/15  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic SB 1240

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Robert Williams

Job Title Deputy General Council

Address 3900 Commonwealth Blvd

Phone \_\_\_\_\_

Street

Tallahassee

City

FL

State

32303

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing DEP

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

SB 1290

Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

Name Bob White

Job Title Chairman

Address 512 Southern Hills Ct.  
Street

Phone 321-403-4441

McLb. Fl. FL 32940  
City State Zip

Email rwhite345@hotmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Republican Liberty Caucus of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-9-16  
Meeting Date

1290  
Bill Number (if applicable)

Topic STATE LAWS

Amendment Barcode (if applicable)

Name JOHN HALLMAN

Job Title LEGISLATIVE AFFAIRS

Address PO BOX 2349  
Street

Phone 352-200-1530

BUSHWELL FL 33513  
City State Zip

Email John.Hallman@flsenate.gov J.Hallman@nbc

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing LIBERTY FIRST NETWORK

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02-09-16

Meeting Date

SB 1290

Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

Name JIM PHEND

Job Title N/A

Address 1625 Marcello Dr.

Phone 317-590-6488

Street

Melbourne

City

FL

State

32934

Zip

Email jphend@efl.or.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

9-Feb-16  
Meeting Date

1290  
Bill Number (if applicable)

Topic State Land

Amendment Barcode (if applicable)

Name Catherine Baer

Job Title Chair

Address 1421 Woodgate Way Phone \_\_\_\_\_  
Street

Tallahassee FL 32308 Email \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Tea Party Network

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

9 FEB 16

Meeting Date

1290

Bill Number (if applicable)

Topic State Land

Amendment Barcode (if applicable)

Name Stacey Selleck

Job Title Legislative Review Chair - LPF

Address 244 35TH AVE

Phone \_\_\_\_\_

Street

St. Pete \_\_\_\_\_

City

State

Zip

Email chair@pinellaslp.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Libertarian Party of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-9-16

Meeting Date

SB 1290

Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

Name Danielle Alexandre

Job Title Consultant

Address 9851 State Road 54

Phone

New Port Richey FL 34655

Email danielle@libertyfirst.org

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Liberty First Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-9-16

SB 1290

Meeting Date

Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

Name Alex Switzer

Job Title President

Address 9851 SR 54

Phone (813) 315-0513

Street

NPR

City

FL

State

34655

Zip

Email Alex.Switzer@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Liberty First Network

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



TAB 5

THE FLORIDA SENATE

APPEARANCE RECORD

2/9/2014  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1454  
Bill Number (if applicable)

Topic Vessels

Amendment Barcode (if applicable)

Name Phyllis L. Kopytko

Job Title Disabled since 1994 Boat Accident

Address 7732 Spingletree CT  
Street

Phone 904-363-6459

JACKSONVILLE FL 32256  
City State Zip

Email Kopytko@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self & others affected by Boat Accident

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

TAB 5

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/16  
Meeting Date

1454  
Bill Number (if applicable)

Topic DEAL -

Amendment Barcode (if applicable)

Name BONNIE BASTHAM

Job Title

Address 133 oak st # 15  
Street  
Tallahassee FL 32301  
City State Zip

Phone 850 933 7277

Email CapitalIdeas@ATT.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing BOAT VS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/16

Meeting Date

1454

Bill Number (if applicable)

Topic Vessels - in support

Amendment Barcode (if applicable)

Name Steven Webster

Job Title President

Address 122 S Calhoun St

Phone 850 391 7674

Street

Tallahassee FL 32301

Email swebster@mwcconsult.us

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Citizens For Florida's Waterways

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

TAB 6

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/16

Meeting Date

513 1318

Bill Number (if applicable)

Topic Shellfish Harvesting

Amendment Barcode (if applicable)

Name Patrick Bell

Job Title Lobbyist

Address P.O. Box 10242

Phone 850-544-0784

Street

Tallahassee FL

32302

Email pebell@earthlink.net

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Webb's Sea Food

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

# CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Environmental Preservation and Conservation Committee

Judge:

Started: 2/9/2016 1:38:05 PM

Ends: 2/9/2016 2:53:53 PM Length: 01:15:49

1:38:04 PM Meeting called to order  
1:38:20 PM Roll call  
1:38:21 PM Quorum present  
1:38:38 PM Senator Altman excused  
1:38:41 PM Pledge  
1:39:01 PM Opening remarks  
1:39:06 PM Tab 2 SB 1470 presented by Senator Latvala  
1:40:00 PM Amendment 954882 presented by Senator Latvala  
1:40:59 PM Jerry Sansom waives in support of the amendment  
1:41:18 PM Amendment 954882 adopted  
1:41:40 PM Senator Latvala recognized to close on the bill as amended  
1:42:00 PM Roll call on CS/SB 1470  
1:42:31 PM CS/SB 1470 reported favorably  
1:42:43 PM Tab 1 SB 1168 presented by Senator Negron  
1:43:07 PM Vice-Chair Simpson given the chair  
1:46:43 PM Senator Soto recognized with question for Senator Negron  
1:47:43 PM Senator Negron with response  
1:47:47 PM Amendment 214434 presented by Senator Dean  
1:48:27 PM Eric Draper waives in support of the amendment  
1:49:32 PM Amendment 214434 adopted  
1:49:41 PM Anna Upton with Everglades Foundation recognized to speak  
1:50:58 PM Jill Fidrych with the Nature Conservancy recognized to speak  
1:51:59 PM Daniel DeLis waives in support  
1:52:46 PM Rebecca O'Hara waives in support  
1:52:52 PM Burt Saunders waives in support  
1:53:06 PM Ryan Smart waives in support  
1:53:11 PM Carol Bracy waives in support  
1:53:32 PM Monica Rodriguez waive in support  
1:53:40 PM Lara Reynolds waives in support  
1:53:48 PM James Harrell waives in support  
1:53:57 PM Senator Hays recognized in debate  
1:54:42 PM Senator Negron recognized to close on the bill as amended  
1:56:28 PM Roll call on CS/SB 1168  
1:57:41 PM CS/SB 1168 reported favorably  
1:57:44 PM Chair returned to Senator Dean  
1:57:54 PM Tab 3 SB 1192 presented by Senator Hays  
1:58:10 PM Strike-all Amendment 755340 presented by Senator Hays  
1:58:31 PM Keyna Cory with Nat'l Waste and Recycling Assoc. recognized to speak  
2:00:13 PM Amendment 755340 adopted  
2:01:13 PM Charlie Latham waives in support of the bill  
2:01:35 PM Roll call on CS/SB 1192  
2:01:52 PM CS/SB 1192 reported favorably  
2:02:02 PM Tab 4 SB 1290 State Lands presented by Senator Simpson  
2:02:21 PM Amendment 294294 presented by Senator Soto  
2:03:11 PM Eric Draper recognized to speak on the amendment  
2:06:20 PM Robert Williams with DEP recognized for questions  
2:07:19 PM Senator Soto with question for Robert Williams  
2:07:25 PM Robert Williams with DEP with response for Senator Soto  
2:07:35 PM Senator Soto with follow-up question  
2:07:57 PM Robert Williams with response for Senator Soto  
2:08:04 PM Senator Soto with follow-up question  
2:08:23 PM Robert Williams with response for Senator Soto

2:08:32 PM Senator Soto with another follow-up question  
2:08:58 PM Robert Williams with response for Senator Soto  
2:09:31 PM Senator Simmons recognized in debate on the amendment  
2:09:52 PM Senator Smith recognized in debate on the amendment  
2:10:52 PM Senator Soto recognized in debate on the amendment  
2:11:37 PM Senator Soto withdraws Amendment 294294  
2:12:16 PM Andrew Ketchel with DEP waives in support  
2:12:46 PM Stephanie Kunkel with Conservancy of SW Florida recognized to speak  
2:13:43 PM Janet Bauman with The Nature Conservancy recognized to speak  
2:16:06 PM David Cullen with Sierra Club Florida recognized to speak  
2:17:12 PM Senator Soto with question for David Cullen  
2:18:36 PM Laura Reynolds recognized to speak  
2:21:51 PM Senator Simpson recognized to close on SB 1290  
2:22:50 PM Roll call on SB 1290  
2:23:07 PM SB 1290 reported favorably  
2:23:16 PM Tab 5 1454 Vessels presented by Senator Hutson  
2:23:41 PM Amendment 588856 presented by Senator Hutson  
2:23:57 PM Amendment 588856 adopted  
2:24:46 PM Phyllis Kopytko recognized to speak on the bill  
2:35:36 PM Senator Hays with question for Phyllis Kopytko  
2:36:37 PM Phyllis Kopytko with response for Senator Hays  
2:36:57 PM Senator Hays with follow-up question for Phyllis Kopytko  
2:37:58 PM Phyllis Kopytko with response for Senator Hays  
2:39:00 PM Senator Hutson with response  
2:39:12 PM Phyllis Kopytko with question  
2:39:54 PM Senator Hutson with response  
2:40:02 PM Senator Simmons with question  
2:42:33 PM Senator Hutson with response  
2:43:52 PM Bonnie Bastlam with Boat US recognized to speak  
2:45:04 PM Steven Webster with Citizens for Florida's Waterways recognized to speak  
2:46:38 PM Senator Soto with question for Steven Webster  
2:47:37 PM Steven Webster with response for Senator Soto  
2:47:45 PM Senator Soto with question for Senator Hutson  
2:48:32 PM Senator Hutson with response for Senator Soto  
2:48:53 PM Senator Dean with question  
2:49:52 PM Senator Hutson with response  
2:50:06 PM Roll call for CS/SB 1454  
2:50:55 PM CS/SB 1454 reported favorably  
2:51:03 PM Senator Simpson wishes to be shown voting affirmative on SB 1470  
2:51:26 PM Chair given to Vice-Chair Simpson  
2:51:36 PM Tab 3 CS/SB 1318 presented by Senator Dean  
2:51:46 PM Amendment 371114 presented by Senator Dean  
2:52:30 PM Amendment 371114 adopted  
2:52:52 PM Patrick Bell with Webb's Seafood waives in support  
2:53:08 PM Roll call on CS/CS/SB 1318  
2:53:25 PM CS/CS/SB 1318 reported favorably  
2:53:32 PM Chair turned back over to Senator Dean  
2:53:45 PM Meeting adjourned