

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 7, 1998

Revised: 04/10/98 _____

Subject: State lands

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Fav/l amendment</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill authorizes the Board of Trustees of the Internal Improvement Trust Fund (Trustees) to convey lands to Walton County for use as a new town at a price not to exceed the price paid by the Trustees for the land, including any applicable interest.

II. Present Situation:

Pursuant to s. 253.02, F.S., the Trustees hold title to most state lands, and may dispose of such lands only by a vote of at least five of the seven members.

On May 19, 1992, the Trustees authorized the purchase of approximately 18,367 acres of land in south Walton County from the Resolution Trust Corporation. The prime motivation for the acquisition was a 328 acre parcel known as Topsail Hill, considered perhaps the most outstanding assemblage of natural communities on the panhandle coast and ranked second on the CARL acquisition list. The circumstances of its purchase required that, in addition to Topsail Hill, the state purchase approximately 18,000 acres known as the Point Washington tract. Most of this tract had been ranked number 55 on the CARL acquisition list and appeared on the list for the first time that year. The source of funds for the acquisition was the Preservation 2000 (P-2000) program. The acquisition was opposed at the time by Walton County, which was concerned about the amount of county property being taken off the tax rolls and wished to acquire land in that area for a school. At the time the purchase was authorized, the Governor indicated a willingness to convey some part of the parcel to Walton County for its purposes in the future.

The 1993 Legislature created and funded the South Walton Conservation and Development Trust, which was to develop a pilot conservation and development plan for the southern portion of Walton County and was to address, among other things, the acquisition and disposition of public

lands. The plan was developed and included the creation of a new town center on state lands at the intersection of U.S. Highway 98 and U.S. Highway 331.

The 1995 Legislature provided for the South Walton County Ecosystem Demonstration Project to implement the pilot conservation and development plan. One of the goals of the project was to revise the county's comprehensive plan to incorporate the recommendations of the conservation and development plan, which was accomplished in 1996. The revised comprehensive plan includes provisions authorizing a new town center which would include both governmental and commercial uses.

The disposition of P-2000 lands is governed by the procedures set out in s. 253.034(6), F.S. However, before P-2000 lands can be determined to be of no further benefit to the public, as required under s. 253.034(6), F.S., s. 259.101(6), F.S., requires that the Trustees first determine that the lands no longer need to be preserved in furtherance of the intent of the P-2000 Act. No disposition of P-2000 lands may be made, however, if the disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the P-2000 Act to lose their exclusion from gross income for purposes of federal income taxation. Any funds realized from disposing of P-2000 lands must be deposited into the P-2000 Trust Fund and used for land acquisition.

After having made a determination under s. 259.101(6), F.S., to dispose of P-2000 lands, the Trustees must first offer the lands to the county in which the land is located. Section 253.111, F.S., provides a process for the sale of state lands to the counties, including a requirement under s. 253.111(3), F.S., that the price to be paid by a county is the appraised market value established by generally accepted professional standards for real estate appraisal.

On August 12, 1997, the Trustees determined that 420 acres, more or less, of state-owned land in Walton County no longer needed to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. This determination was subject to the following conditions:

1. All funds generated from the sale of any of the property would be added to those funds already identified for acquisitions in the Point Washington State Forest portion of the CARL project.
2. The DEP would expedite acquisitions in the Point Washington State Forest portion of the CARL project.
3. That any deed conveying the Town Center area include deed restrictions as outlined by the Land Acquisition and Management Advisory Council's (LAMAC's) conditions and recommendations to the Trustees.
4. That a working group be appointed to develop a more comprehensive plan than was presented through the original South Walton Conservation and Development Trust Plan and bring it back to the Trustees in the form of a recommendation.

5. That the determination should not be considered a precedent for the support of further dispositions of Preservation 2000 lands that were intended to be acquired as part of a planned CARL project.
6. That the LAMAC would establish disposition criteria for state-owned Preservation 2000 acquired lands and natural resource lands, prior to any further determinations (dispositions).

On December 5, 1997, the Land Acquisition and Management Advisory Council, pursuant to s. 253.034, F.S., recommended to the Trustees that the lands for the New Town Center be declared surplus.

Prior to any further action being taken on this issue, a legal challenge to the Trustees' decision to dispose of the 420 acres was filed by the Florida Wildlife Federation and the Florida Audubon Society. The essence of the lawsuit is that the 420 acres proposed for sale have the same environmental qualities they possessed when acquired, continue to provide a public benefit, and have no special attributes to distinguish them from the other 1800 acres in the parcel. The administrative hearing will not take place before the end of this regular legislative session.

III. Effect of Proposed Changes:

This bill authorizes the Trustees, notwithstanding s. 259.101(6), (7), and (8), F.S., to convey, under chapters 93-184, 95-334, and 95-275, L.O.F., the lands located in Walton County specifically identified as the New Town, consistent with the Walton County Comprehensive Plan, to Walton County at a price not to exceed the price paid by the Trustees for the lands, plus any applicable interest, if the disposition of the land would not have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the Florida Preservation 2000 Trust Act to lose their exclusion from gross income for purposes of federal income taxation. Any revenue derived from the disposal of the lands may not be used for any purpose except for deposit into the Florida Preservation 2000 Trust Fund for recredit to the share held under s. 259.101(3), F.S., in which the disposed of land is described.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

While there is no direct impact on the private sector, the bill could prove beneficial to some. Because the bill authorizes the sale of the parcel at the price paid for it by the state, rather than at its appraised value, Walton County could receive the land at a bargain price of under \$250 per acre. As the Walton County Comprehensive Plan envisions the sale of some New Town Center acreage for commercial development, it appears that the opportunity for a developer to realize financial benefits from the sale is quite real, as there could be a large profit margin for Walton County.

C. Government Sector Impact:

While the 420 acres proposed to be sold to Walton County have not been appraised, the DEP reports that in 18 sales of small parcels of comparable land in the area, most recently in 1997, the price per acre ranged from \$1,005 - \$11,429 per acre. Because of the potentially large difference between the possible sale price and the actual appraised value of the lands for the New Town Center, Walton County could benefit greatly from a sale to the county and reap further rewards by selling land for commercial development at appraisal prices.

The P-2000 Trust Fund will not receive appraised value for the lands as required under s. 253.034.111, F.S., and, as revenues from sales of P-2000 lands are required to be used for acquisition, the funds available for future purchases will be decreased.

VI. Technical Deficiencies:

If the bill is intended to permit the disposition of the land without the Trustees making a determination that the land no longer needs to be preserved in furtherance of the intent of the P-2000 Act, it does not do so; although the disposition could be made “notwithstanding s. 259.101(6), (7), and (8), F.S.,” it would be made “under chapters 93-184, 95-334, and 95-275, L.O.F.” Chapter 95-334, L.O.F., creates the provisions in s. 259.101(6), (7), and (8), F.S.

The bill authorizes the sale of the lands at the price paid plus any applicable interest. If the intent is to recapture the interest the funds used to purchase the lands would have earned had they been on deposit, the bill does not clearly state this intent. As drafted, this provision appears too vague to be given effect.

VII. Related Issues:

The sale of lands at the price paid for them by the state, rather than at appraised value as required under s. 253.111, F.S., would be a significant departure from the state's current practice. With the tremendous influx of new residents, Florida's land values can be expected to continue to rise. Land acquired by the state's past conservation programs may have been acquired at a fraction of its value in today's market. Enactment of this bill could establish a precedent which will be sought to be used by many local governments having needs most easily met by the use of state lands.

VIII. Amendments:

#1 by Natural Resources:

The amendment provides that the New Town Center shall be developed consistent with the October 31, 1996, South Walton New Town Master Plan of Development, incorporated in its entirety into the Walton County Comprehensive Plan and Land Development Code. (WITH TITLE AMENDMENT)