

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1296

SPONSOR: Senator Bronson and others

SUBJECT: Land Acquisition and Management

DATE: March 16, 2001 REVISED: 3/20/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Fav/1 Amendment</u>
2.	_____	_____	<u>TR</u>	_____
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill revises various provisions of law governing land acquisitions and management to:

- Provide that the condemning authority in an eminent domain proceeding must, prior to or concurrent with the authority’s making the written offer of compensation, provide the fee owner with copies of described statutes.
- Provide discretion to water management districts (WMDs), local governments, the Board of Trustees of the Internal Improvement Trust Fund (Trustees), and other state agencies to determine whether to reserve mineral interests when selling lands and to provide clarifying language with respect to the types of information to be given by landowners wanting a release of a reservation.
- Authorize WMDs to grant utility easements on district-owned lands for providing utility service, to grant the districts additional time to provide notification prior to executing lease agreements, to authorize districts to abandon easements, reservations, and right-of-way interests that are no longer needed, to authorize districts to cure title defects after a land sale is executed, and to authorize such districts to contract with private entities for management, improvement, or maintenance of land held by the district.

This bill amends ss. 73.015, 270.11, 373.056, 373.093, 373.096, 373.139, 373.1401, and 374.984, F.S.

II. Present Situation:

The South Florida WMD reports that there are several provisions of law that unnecessarily hinder its operations. They include:

- Section 73.015(1)(a), F.S., requires a condemning authority to advise the fee owner of his or her statutory rights under ss. 73.091, 73.092, and 73.015(1)(b) and (c) and 73.015(4), F.S., at the inception of a negotiation for acquisition. The district believes that “inception” is vague and that it would be preferable to provide the fee owner the actual statutes, rather than advise the owner of statutory rights and responsibilities, and to do so prior to or concurrent with the written offer of compensation.
- Section 270.11(1) and (3), F.S., require that the Trustees, local governments, WMD’s, and other agencies of the state reserve certain mineral rights when selling land. The district often has no interest in such reserved rights and releases the rights upon request. The district would prefer to have the ability not to reserve the rights and convey clear title.
- Section 373.056(4), F.S., authorizes WMDs to convey unneeded lands to the U.S. Government or other agencies. The statute does not authorize leases to such entities, nor does it authorize the granting of utility easements. Section 373.089, F.S., does authorize the sale of land or interests or rights in lands but requires a WMD to sell for the highest price obtainable, requires publication of the impending sale, and other requirements. The district would like to grant utility easements to obtain power to district property and convey leases under the less-restrictive s. 373.056(4), F.S.
- Section 373.093(2), F.S., requires notice by publication prior to the leasing by a WMD of lands or interests in land. The notice must be published no more than 45 days prior to the lease. The district wishes to extend the time period for publication prior to the execution of a lease to no more than 90 days.
- Section 373.096, F.S., authorizes a WMD to release unneeded canal easements, reservations, or right-of-way interests. The district wishes to be authorized to release any unneeded easement and to be able to release any easements or interest unilaterally, without the need for another party to accept the released interests on easements.
- Section 373.139(2) and (3)(a), F.S., authorize a WMD to acquire real property and easements but do not authorize the acquisition of any other interests in property. This section also authorizes a WMD to disclose appraisal reports to private landowners during acquisition negotiations for less-than-fee purchases if the district believes that disclosure will result in a sale. Otherwise, title information, appraisal reports, offers, and counteroffers are confidential until an option contract is executed. There are many instances when a third party works with or on behalf of WMD during land acquisitions.
- Section 373.1401, F.S., authorizes a WMD to contract for land management services only with governmental entities. There are, however, private sector land management services available.

- Section 374.984(6)(a), F.S., authorizes the Florida Inland Navigation District (FIND) to contract with the U.S. Army Corps of Engineers or other representative of the United States for its needs in operating the Atlantic Intracoastal Waterway. The FIND is not specifically authorized to contract with other parties or agencies for such assistance.

III. Effect of Proposed Changes:

Section 1. Section 73.015(1)(a), F.S., is amended to require that, effective July 1, 2000, a condemning authority must provide a copy of ss. 73.015, 73.091, and 73.092, F.S., to the fee owner prior to or concurrent with the condemning authority's making the written offer of compensation to the fee owner. Provisions requiring a condemning authority to advise the fee owner of his or her rights and responsibilities pursuant to ss. 73.015(b) and (c), F.S., and s. 73.015(4), F.S., at the inception of negotiation for acquisition are deleted.

Section 2. Section 270.11(1) and (2), F.S., are amended to authorize the Trustees, local governments, WMDs, or other agencies of the state not to reserve an undivided three-fourths interest in the minerals and an undivided one-half interest in petroleum associated with properties that are sold.

Section 3. Section 373.056(4), F.S., is amended to clarify that WMDs may lease WMD property under terms and conditions determined by the governing board and may grant utility easements on lands owned by such district to any private or public utility for the limited purpose of obtaining utility service to district property.

Section 4. Section 373.093(2), F.S., is amended to change the date of the initial publication of a WMD's intent to lease any land or interest in land from not less than 30 nor more than 45 days, to not less than 30 nor more than 90 days prior to execution of the lease.

Section 5. Section 373.096, F.S., is amended to authorize the governing board to unilaterally abandon or vacate easements, reservations, or right-of-way interests, or portions thereof, for which the district has no present or apparent future use. Such action by the board will be conclusive and will not require any other party to give its approval, acknowledge its acceptance, or take any other action, and the district will have no further obligations, liabilities, or responsibilities with respect to the abandoned or vacated easement, reservation, or right-of-way interests. This does not apply to the release of conservation easements, which may be released pursuant to s. 704.06, F.S.

Section 6. Section 373.139(2) and (3)(a), F.S., are amended to authorize a WMD to acquire title to interests in property other than real property and easements. The section also clarifies that eminent domain may only be used for acquiring real property for flood control and water storage or for curing title defects or encumbrances to real property owned by the district or to be acquired by the district from a willing seller.

This section also authorizes a WMD to disclose title information to private landowners during negotiations for acquisition using alternatives to fee simple techniques, if the WMD determines that the disclosure will cause a sale. In addition a WMD is authorized to disclose title information, appraisal information, offers, and counteroffers to a third party when the third party

is working with or on the behalf of the district in connection with land acquisitions. Also, a WMD may use, as its own, appraisals obtained by a third party provided the appraiser is selected from the district's list of approved appraisers and the appraiser is reviewed and approved by the district.

Section 7. Section 373(1401), F.S., is amended to authorize WMDs to contract with any private entity for real property improvement, management, and maintenance services.

Section 8. Section 374.984(6)(a), F.S., is amended to authorize the FIND to enter into contracts with any agency or party in conducting its affairs.

Section 9. The act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Section 6 of the bill authorizes the disclosure of information currently exempt from public records requirements.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Clearing clouds on titles due to the reservation of mineral and oil interests could benefit those acquiring former government lands in undetermined amounts and those acquiring lands, leases and easements could benefit from the less restrictive provisions in the bill. Such amounts, if any, cannot be determined at this time.

C. Government Sector Impact:

There is no significant fiscal impact on government, although the changes could result in greater efficiency in some operations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Natural Resources:

The amendment includes the following changes:

- Provisions requiring a condemning authority to provide specified statutes to a fee owner instead of advising the owner of his rights have been changed to make either the provision of the statutes or the advisement of rights discretionary for the condemning authority.
- Provisions authorizing WMDs to grant utility easements are revised to specify that the use is under such terms and conditions as the governing board determines and that the granting of such uses is in addition to other general law.
- The authorization for a WMD to unilaterally vacate or abandon easements, reservations, or rights-of-ways must be decided at a regularly scheduled meeting of the governing board. Also, an exception to these provisions for conservation easements has been deleted.
- Authorization for a WMD to disclose acquisition information to third parties when the third party is working with a WMD in a land acquisition effort now require the third party to have contracted for such services with the WMD and require the third party to maintain the confidentiality of the information.
- Provisions permitting a WMD to contract with a private entity for land management services are clarified to permit such contracts with a non-governmental person or entity.
(WITH TITLE AMENDMENT)