

By Senators Bronson, Villalobos, Campbell, Saunders, Lawson
and Jones

18-858A-01

See HB

1 A bill to be entitled
2 An act relating to land acquisition and
3 management; amending s. 73.015, F.S.; requiring
4 the condemning authority in an eminent domain
5 proceeding to notify the fee owner of certain
6 information and provide the fee owner with a
7 copy of certain statute sections prior to or
8 concurrent with the authority's making the
9 written offer of compensation to the fee owner;
10 amending s. 270.11, F.S.; providing discretion
11 to water management districts, local
12 governments, the Board of Trustees of the
13 Internal Improvement Trust Fund, and other
14 state agencies to determine whether to reserve
15 mineral interests when selling lands;
16 clarifying the types of information to be given
17 by landowners wanting a release of a
18 reservation; amending s. 373.056, F.S.;
19 authorizing water management districts to grant
20 utility easements on district-owned lands in
21 order to provide utility service; amending s.
22 373.093, F.S.; granting additional time to
23 water management districts to provide
24 notification prior to executing lease
25 agreements; amending s. 373.096, F.S.;
26 authorizing water management districts to
27 abandon easements, reservations, and
28 right-of-way interests that are no longer
29 needed; amending s. 373.139, F.S.; authorizing
30 water management districts to cure title
31 defects after a land sale is executed; allowing

1 the disclosure of title information to private
2 landowners under certain circumstances;
3 allowing the disclosure of title information,
4 appraisal information, offers, and
5 counteroffers to third parties working on the
6 district's behalf; authorizing the use of
7 third-party appraisals under certain
8 circumstances; amending s. 373.1401, F.S.;
9 authorizing water management districts to
10 contract with private entities for management,
11 improvement, or maintenance of land held by the
12 district; amending s. 374.984, F.S.;
13 authorizing the Board of Commissioners of the
14 Florida Inland Navigation District to contract
15 with additional entities for purposes of
16 improving and maintaining a specified portion
17 of the Intracoastal Waterway; providing an
18 effective date.

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

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22 Section 1. Paragraph (a) of subsection (1) of section
23 73.015, Florida Statutes, is amended to read:

24 73.015 Presuit negotiation.--

25 (1) Effective July 1, 2000, before an eminent domain
26 proceeding is brought under this chapter or chapter 74, the
27 condemning authority must attempt to negotiate in good faith
28 with the fee owner of the parcel to be acquired, must provide
29 the fee owner with a written offer and, if requested, a copy
30 of the appraisal upon which the offer is based, and must

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1 attempt to reach an agreement regarding the amount of
2 compensation to be paid for the parcel.

3 (a) Prior to or concurrent with the condemning
4 authority's making the written offer of compensation to the
5 fee owner ~~At the inception of negotiation for acquisition, the~~
6 ~~condemning authority must~~ provide a copy of this section and
7 ss. 73.091 and 73.092 to the fee owner and notify the fee
8 owner of the following:

9 1. That all or a portion of his or her property is
10 necessary for a project.

11 2. The nature of the project for which the parcel is
12 considered necessary, and the parcel designation of the
13 property to be acquired.

14 3. That, within 15 business days after receipt of a
15 request by the fee owner, the condemning authority will
16 provide a copy of the appraisal report upon which the offer to
17 the fee owner is based; copies, to the extent prepared, of the
18 right-of-way maps or other documents that depict the proposed
19 taking; and copies, to the extent prepared, of the
20 construction plans that depict project improvements to be
21 constructed on the property taken and improvements to be
22 constructed adjacent to the remaining property, including, but
23 not limited to, plan, profile, cross-section, drainage, and
24 pavement marking sheets, and driveway connection detail. The
25 condemning authority shall provide any additional plan sheets
26 within 15 days of request.

27 ~~4. The fee owner's statutory rights under ss. 73.091~~
28 ~~and 73.092.~~

29 ~~5. The fee owner's rights and responsibilities under~~
30 ~~paragraphs (b) and (c) and subsection (4).~~

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1 Section 2. Subsections (1) and (3) of section 270.11,
2 Florida Statutes, are amended to read:

3 270.11 Contracts for sale of public lands to reserve
4 certain mineral rights; prohibition on exercise of right of
5 entry in certain cases.--

6 (1) Unless the applicable agency chooses not to
7 reserve such interest ~~Except as otherwise provided by law~~, in
8 all contracts and deeds for the sale of land executed by the
9 Board of Trustees of the Internal Improvement Trust Fund or by
10 any local government, water management district, or other
11 agency of the state, there shall be reserved for such local
12 government, water management district, other agency of the
13 state, or the board of trustees and its successors an
14 undivided three-fourths interest in, and title in and to an
15 undivided three-fourths interest in, all the phosphate,
16 minerals, and metals that are or may be in, on, or under the
17 said land and an undivided one-half interest in all the
18 petroleum that is or may be in, on, or under said land with
19 the privilege to mine and develop the same.

20 (3) A local government, water management district, or
21 agency of the state may, at its discretion, sell or release
22 ~~such~~ reserved interest in any parcel of land, except that such
23 sale or release shall be made upon petition of the purchaser
24 for such interest and with ~~upon submission by the local~~
25 ~~government, water management district, or agency of the state~~
26 ~~which owns the parcel of~~ a statement of reasons justifying
27 such sale or release.

28 Section 3. Subsection (4) of section 373.056, Florida
29 Statutes, is amended to read:

30 373.056 State agencies, counties, drainage districts,
31 municipalities, or governmental agencies or public

1 corporations authorized to convey or receive land from water
2 management districts.--

3 (4) Any water management district within this chapter,
4 under such terms and conditions as the governing board of such
5 district may determine, shall have authority to convey or
6 lease to any other agency described herein or to the United
7 States Government, including its agencies, land or rights in
8 land owned by such district not required for its purposes and
9 may grant utility easements on lands owned by such district to
10 any private or public utility for the limited purpose of
11 obtaining utility service to district property, ~~under such~~
12 ~~terms and conditions as the governing board of such district~~
13 ~~may determine.~~

14 Section 4. Subsection (2) of section 373.093, Florida
15 Statutes, is amended to read:

16 373.093 Lease of lands or interest in land.--The
17 governing board of the district may lease any lands or
18 interest in land, including but not limited to oil and mineral
19 rights, to which the district has acquired title, or to which
20 it may hereafter acquire title in the following manner, as
21 long as the lease is consistent with the purposes for which
22 the lands or any interest in land was acquired:

23 (2) Before leasing any land, or interest in land
24 including but not limited to oil and mineral rights, the
25 district shall cause a notice of intention to lease to be
26 published in a newspaper published in the county in which said
27 land is situated and such other places as the board may
28 determine once each week for 3 successive weeks (three
29 insertions being sufficient), the first publication of which
30 shall be not less than 30 nor more than 90 ~~45~~ days prior to
31 the date the board executes the ~~any~~ lease, which said notice

1 shall set forth the time and place of leasing and a
2 description of the lands to be leased.

3 Section 5. Section 373.096, Florida Statutes, is
4 amended to read:

5 373.096 Releases.--Except for conservation easements
6 which may be released pursuant to s. 704.06,the governing
7 board of the district may release any ~~canal~~ easement,
8 reservation,or right-of-way interests,conveyed to it for
9 which it has no present or apparent future use under terms and
10 conditions determined by the board. In addition, the governing
11 board of the district may unilaterally abandon or vacate such
12 easements, reservations, or right-of-way interests, or
13 portions thereof, for which the district has no present or
14 apparent future use. Such action by the board shall be
15 conclusive and will not require any other party to give its
16 approval, acknowledge its acceptance, or take any other
17 action, and the district shall have no further obligations,
18 liabilities, or responsibilities with respect to the abandoned
19 or vacated easement, reservation, or right-of-way interests.

20 Section 6. Subsection (2) and paragraph (a) of
21 subsection (3) of section 373.139, Florida Statutes, are
22 amended to read:

23 373.139 Acquisition of real property.--

24 (2) The governing board of the district is empowered
25 and authorized to acquire in fee or less than fee title to
26 real property, and easements and other interests therein, by
27 purchase, gift, devise, lease, eminent domain, or otherwise
28 for flood control, water storage, water management,
29 conservation and protection of water resources, aquifer
30 recharge, water resource and water supply development, and
31 preservation of wetlands, streams, and lakes. Eminent domain

1 powers may be used only for acquiring real property for flood
2 control and water storage or for curing title defects or
3 encumbrances to real property owned by the district or to be
4 acquired by the district from a willing seller.

5 (3) The initial 5-year work plan and any subsequent
6 modifications or additions thereto shall be adopted by each
7 water management district after a public hearing. Each water
8 management district shall provide at least 14 days' advance
9 notice of the hearing date and shall separately notify each
10 county commission within which a proposed work plan project or
11 project modification or addition is located of the hearing
12 date.

13 (a) Title information, appraisal reports, offers, and
14 counteroffers are confidential and exempt from the provisions
15 of s. 119.07(1) until an option contract is executed or, if no
16 option contract is executed, until 30 days before a contract
17 or agreement for purchase is considered for approval by the
18 governing board. However, each district may, at its
19 discretion, disclose appraisal reports or title information to
20 private landowners during negotiations for acquisitions using
21 alternatives to fee simple techniques, if the district
22 determines that disclosure of such reports or title
23 information will bring the proposed acquisition to closure. In
24 the event that negotiation is terminated by the district, the
25 title information, appraisal report, offers, and counteroffers
26 shall become available pursuant to s. 119.07(1).

27 Notwithstanding the provisions of this section and s. 259.041,
28 a district and the Division of State Lands may share and
29 disclose title information, appraisal reports, appraisal
30 information, offers, and counteroffers when joint acquisition
31 of property is contemplated. A district and the Division of

1 State Lands shall maintain the confidentiality of such title
2 information, appraisal reports, appraisal information, offers,
3 and counteroffers in conformance with this section and s.
4 259.041, except in those cases in which a district and the
5 division have exercised discretion to disclose such
6 information. A district may disclose title information,
7 appraisal information, offers, and counteroffers to a third
8 party when the third party is working with or on the behalf of
9 the district in connection with land acquisitions. In
10 addition, a district may use, as its own, appraisals obtained
11 by a third party provided the appraiser is selected from the
12 district's list of approved appraisers and the appraiser is
13 reviewed and approved by the district.

14 Section 7. Section 373.1401, Florida Statutes, is
15 amended to read:

16 373.1401 Management of lands of water management
17 districts.--The governing board of each water management
18 district may contract with a federal or state agency, a
19 county, a municipality, or any other governmental entity,or
20 environmental nonprofit organization, or any other private
21 entity to provide for the improvement, management, or
22 maintenance of any real property owned by or under the control
23 of the district.

24 Section 8. Paragraph (a) of subsection (6) of section
25 374.984, Florida Statutes, is amended to read:

26 374.984 Purpose; powers and duties.--It is the purpose
27 and intent of this act that the board perform and do all
28 things which shall be requisite and necessary to comply with
29 the requirements and conditions imposed upon a "local
30 interest" by the Congress of the United States in the several
31 acts authorizing and directing the improvement and maintenance

1 of the Intracoastal Waterway from St. Mary's River to the
2 southernmost boundary of Dade County. Said acts include but
3 are not limited to: the Rivers and Harbors Act approved
4 January 21, 1927, as amended by the River and Harbor Act
5 approved July 3, 1930; the River and Harbor Act of June 20,
6 1938; and s. 107 of the Federal River and Harbor Act of 1960.
7 Pursuant thereto, the powers of the board shall include, but
8 not be limited to:

9 (6)(a) Contracting directly for, or entering into
10 agreement from time to time with the district engineer of the
11 Jacksonville, Florida, United States Army Corps of Engineers
12 district, or other agency or party ~~duly authorized~~
13 ~~representative of the United States~~, to contribute toward the
14 cost of dredging performed on the waterway ~~by the United~~
15 ~~States~~, to construct retaining bulkheads, dikes, and levees,
16 to construct ditches for the control of water discharged by
17 the dredges, and to do all other work and/or things which, in
18 the judgment of the board, shall be proper and necessary to
19 produce economies in meeting the conditions with respect to
20 right-of-way and dredged material management areas imposed
21 upon a "local interest" by the Congress of the United States
22 in the several acts authorizing and directing the improvement,
23 navigability, and maintenance of the Intracoastal Waterway
24 from St. Mary's River to the southernmost boundary of Dade
25 County.

26 Section 9. This act shall take effect upon becoming a
27 law.

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LEGISLATIVE SUMMARY

Revises various provisions of law governing land acquisition and management to:

1. Provide that the condemning authority in an eminent domain proceeding must notify the fee owner of described information prior to or concurrent with the authority's making the written offer of compensation and require the authority to provide the fee owner with copies of described statute sections.

2. Provide discretion to water management districts, local governments, the Board of Trustees of the Internal Improvement Trust Fund, 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.

3. Authorize water management districts 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.

4. Authorizes the Board of Commissioners of the Florida Inland Navigation District to contract with additional entities for purposes of improving and maintaining the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Dade County.

(See bill for details.)