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DATE: February 11, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: HB 1075
RELATING TO: Rural Land Protection
SPONSOR(S): Representative(s) Dockery
TIED BILL(S): HB 1077

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3) FISCAL POLICY & RESOURCES
 - (4) COUNCIL FOR READY INFRASTRUCTURE
 - (5)
-

I. SUMMARY:

This bill creates section 215.619, F.S., bonds for rural land protection, and provides for the proceeds of these bonds to be deposited into the Conservation and Recreation Lands Program Trust Fund within the Department of Agriculture and Consumer Services for implementing s. 570.71, F.S., the Rural Lands and Family Protection Act. The bill authorizes the Department to use the bond proceeds for the acquisition of conservation easements and rural land protection easements and for funding agricultural protection agreements and resource conservation agreements pursuant to section 570.71, Florida Statutes.

The bill authorizes issuance of bonds not to exceed \$1 billion over 10 years commencing on July 1, 2002, in an amount not to exceed \$100 million in any fiscal year. The bill states that the duration of each series of bonds issued may not exceed 20 annual maturities. If the maximum issuance is exercised, the estimated debt service cost over a 10-year period will be \$478.5 million. The issuance of these bonds is subject to annual appropriation.

The bill also provides that documentary stamp taxes, if remaining after mandatory expenditures, will be distributed to the Rural Land Program Trust Fund to pay debt service or to make other payments required on the bonds for rural land protection.

This bill will take effect on July 1, 2002, if HB 1077 or similar legislation creating the Rural Lands Program Trust Fund is adopted and becomes law.

The Committee on Natural Resources and Environmental Protection on February 6, 2002 approved HB 1075 along with one amendment traveling with the bill (please see amendments section).

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

Expands current efforts regarding the rural and family lands protection act.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

B. PRESENT SITUATION:

1. The Rural and Family Lands Protection Act

The Rural and Family Lands Protection Act was created during the 2001 regular session by CS for SB 1922. Section 570.71, F.S., was part of the Act and authorized the Department of Agriculture and Consumer Services (department) to do the following:

- allocate moneys to acquire perpetual, less-than-fee interest in land, i.e. conservation easements and rural protection easements;
- to enter into agricultural protection agreements; and
- to enter into resource conservation agreements conforming with listed public purposes

The section further authorized the department to accept applications beginning July 1, 2002 for project proposals to purchase these easements and enter into these agreements.

Conservation easements are defined in s. 704.06, F.S., as a right or interest in real property which is appropriate to retain the following:

- land or water areas in their natural, scenic, open, agricultural, or wooded state;
- suitable habitats for fish, plants, or wildlife;
- structural integrity or physical appearances of sites of historical, architectural, archeological, or cultural significance; or
- existing land uses which prohibits or limits specific activities.

Rural-lands protection easements are described in s. 570.71(3), F.S., as a perpetual right or interest in agricultural land to retain such land in its current state and to prevent the subdivision and conversion of the land to other uses. This easement prohibits only the following:

- construction of buildings, roads, signs, billboards or other advertising, utilities or other above ground structures, except those structures and unpaved roads necessary for agricultural operations, or structures needed for other permitted activities, or linear facilities (described in s. 704.06(11), F.S.);
- subdivision of the property;
- dumping or placing of trash, waste, or offensive materials;

- activities that affect the natural hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, except those required for environmental restoration; federal, state, or local regulatory programs; or best management practices.

Conservation and rural land protection easements will be paid by a lump-sum payment at the time the easement is entered into.

Resource conservation agreements are described in s. 570.71(4), F.S. Such agreements are contracts for services that actively improve habitat and water restoration or conservation on lands. These contracts are with landowners who are performing such services over and above that which is already required by law, or which provide recreational opportunities. These agreements are for five or more years and are no longer than ten years. In order to be eligible to enter into a resource conservation agreement the landowner must enter into a conservation or rural lands protection easement.

Agriculture protection agreements are agreements with landowners who agree to prohibit:

- construction of buildings, roads, billboards, or other advertising, utilities, or structures, except those structures and unpaved roads necessary for agricultural operations on the land or structures necessary for other permitted activities, or linear facilities;
- subdivision of the property;
- dumping or placing of trash, waste, or offensive materials; and
- activities that affect the natural hydrology of the land, or detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat.

These agricultural protection agreements have terms of 30 years and will have payments to the landowners. The parties must agree that the state has the right to buy a conservation or rural protection easement at the end of the 30-year term or prior to the landowner selling the property, whichever is later. If the landowner offers to sell the easement and the state does not timely purchase the easement, the landowner is released from the agricultural agreement. The price of the easement will be established in the agreement. The landowner may sell the land prior to the expiration of the agreement as long as the property remains subject to the agreement and the buyer becomes successor in interest to the agreement. Landowners may be paid up to 50% of the purchase price at the time of the agreement and remaining payments on the balance are to be equal payments over the term of the agreement.

Section 570.71(12), F.S., authorizes the department to use the following funding sources to implement s. 570.71, F.S.:

- state funds;
- federal funds;
- other governmental entities;
- nongovernmental organizations;
- or private individuals.

These funds are to be deposited into the Conservation and Recreation Lands Program Trust Fund within the department. However, no more than 10% of any funds used for this act may be expended for resource conservation and agricultural protection agreements.

The department, in consultation from the Department of Environmental Protection (DEP), the water management districts, DCA, and the Florida Fish and Wildlife Commission has the authority to adopt rules to establish an application process, a process and criteria for setting funding priorities giving preference to ranch and timber lands managed using sustainable practices, an appraisal process, and a process for title review and approval of rules by the Board of Trustees of the Internal Improvement Trust Fund.

Section 570.71(14), F.S., directs the department with consultation with the DEP, the Fish and Wildlife Conservation Commission, and the water management districts to conduct a study to determine and prioritize needs. In conducting this study the department may contract with the Florida Natural Areas Inventory for an analysis of the geographic distribution of certain natural resources or land-uses that have been previously identified by conservation and recreation land acquisition programs for acquisition. This needs assessment will locate areas where existing privately owned ranch and timber lands containing resources can be preserves or protected through this act. The department was directed to report the findings of this study to the Governor, the Speaker of the House and the Senate President by December 31, 2001.

2. Documentary Stamp Tax Distribution

Section 201.15, F.S., outlines the programs that documentary stamp taxes are distributed to. Section 201.15(1), F.S., provides that sixty-two and sixty-three hundredths percent are distributed to:

- The debt service on, debt service reserve funds, rebate obligations, or other amounts payable regarding Preservation 2000 and Florida Forever bonds. These monies are paid into the State Treasury and credited to the Land Acquisition Trust fund for these bonds. This section caps the amount transferred to the trust fund for these bonds.
- The remainder of the monies are paid to the credit of the Land Acquisition Trust Fund and may be used for lawful purposes.
- The remainder is to be distributed to the State Treasury and credited to the General Revue Fund or to the Ecosystem Management and Restoration Trust Fund or to the Marine Resources Conservation Trust Fund.

3. Conservation and Recreation Lands Program Trust Fund

Section 570.207, F.S., created the Conservation and Recreation Lands Program Trust Fund within the department to provide for the management of conservation and recreation lands by the department. Monies are distributed to this trust fund pursuant to s. 570.71(12), F.S., from the listed funding sources for the implementation of the Rural and Family Lands Protection Act.

C. EFFECT OF PROPOSED CHANGES:

1. Bonds for Rural Protection

This bill creates s. 215.619, F.S., to provide for the issuance of bonds for use as an additional funding source for the Rural and Family Lands Protection Act. These bonds are not to exceed \$1 billion in aggregate and may be issued for ten years, beginning on July 1, 2002. The bonds may not exceed \$100 million each fiscal year and are subject to the provisions of s. 570.71, F.S. (The Rural and Family Lands Protection Act). Each series of bonds may not exceed 20 annual maturities.

The bill further provides that the state covenants with the bond holders that it will not take any action adversely affecting the rights of the holders as long as there are outstanding bonds. These actions include, but are not limited to, a reduction in the portion of documentary stamp taxes distributable to the Rural Lands Program Trust Fund for payment of debt service. The bonds are payable from the Rural Lands Program Trust Fund and do not constitute a pledge of the full faith and credit of the state.

Also, the bill directs the Department of Agriculture and Consumer Services to request the Division of Bond Finance of the State Board of Administration to issue the rural land protection bonds

pursuant to the State Bond Act. The bill specifies that there shall be no sale, disposition, lease, easement, license, or other use of any land, water areas, or related property interests acquired or improved with proceeds of rural protection bonds that would cause any portion of the interest of the bonds to become included in gross income for federal income tax purposes. The bill requires the initial series of bonds to be validated and provides that any complaint for validation of bonds issued is to be filed only in the circuit court of the county where the seat of state government is situated. The notice required is to be published only where the complaint is filed and the complaint and order of the circuit court will be served only on the state attorney of the circuit court where the action is pending.

The proceeds of the bonds, minus the cost of issuance, the costs of funding accounts, and other costs, are to be deposited into the Conservation and Recreation Lands Program Trust Fund of the Department of Agriculture and Consumer Services.

2. Documentary Stamp Tax Distribution

Section 201.15(1), F.S., governing the distribution of sixty-two and sixty-three hundredths percent of the remaining documentary stamp taxes is amended to include the Rural Land Program Trust Fund of the Department of Agriculture and Consumer Services in s. 201.15(1)(c), F.S. This would allow remaining monies, if available after the Preservation 2000, Florida Forever, and other listed bond programs have been funded pursuant to s. 201.15(1)(a), F.S., to be paid to the Rural Land Program Trust Fund. The bill also effectively places first among the list of possible funds included in 201.15(c), F.S. (General Revenue, Ecosystem Management and Restoration Trust Fund, or Marine Conservation Trust Fund) the payment of any debt service due on any rural protection bond or to make any other required payments pursuant to bond documents authorizing issuance. The amount of documentary stamp taxes funding the issuance of rural land protection bonds is subject to annual appropriation.

3. Conservation and Recreation Lands Program Trust Fund

This bill amends 570.207, F.S., to authorize the department to utilize proceeds from bonds for rural protection deposited into the conservation and recreation lands program trust fund and any other source the Legislature determines fit for the acquisition of conservation and rural land protection easements and for funding agricultural protection and resource conservation agreements under s. 570.71, F.S.

4. The Rural and Family Lands Protection Act

This bill amends s. 570.71(12), F.S., to add rural land protection bonds to the list of funding sources available to implement the act.

The bill also amends s. 570.70, F.S., to include the results of the study conducted by the department to determine and prioritize needs for implementing s. 570.71, F.S.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would provide an additional funding source to pay landowners for conservation easements, rural protection easements, agricultural protection agreements and conservation agreements.

D. FISCAL COMMENTS:

The projected 2002-2003 revenues generated from documentary stamp taxes are \$1.3 billion. This bill under s. 201.15(c), F.S., would expend a portion of the sixty-two and sixty-three hundredths percent of documentary stamp taxes if any funds remain after the mandatory expenditures described in s. 201.15(a), F.S., to pay for the debt service cost and to make any other payments required pursuant to the bond documents authorizing issuance for bonds for rural land protection.

The debt service cost for the bonds for rural land protection is projected to be as follows¹:

Year 1- \$8.7 million
Year 2- \$17.4 million
Year 3- \$26.1 million
Year 4- \$34.8 million
Year 5- \$43.5 million
Year 6- \$52.2 million
Year 7- \$60.9 million
Year 8- \$69.6 million
Year 9- \$78.3 million
Year 10-\$87.0 million

Thus, over a 10-year period, up to \$478.5 million that would otherwise be available in the General Revenue fund would be used for the debt service of these bonds.

¹ These numbers were derived with the assistance of Ed Montanaro, Coordinator, Office of Economic and Demographic Research, by calculating the annual debt service payments on a bond with a 20 year period at 6% on a \$100 million principal.

The issuance of these bonds is subject to annual appropriation.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 6, 2002, the Committee on Natural Resources and Environmental Protection adopted an amendment stating that the Legislature determines that the issuance of rural land protection bonds is in the best interest of the state and should be implemented. This statement is in accordance with s. 215.98(1), F.S. and allows the bonds to exceed the 6% target debt ratio.

VI. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

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AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

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