

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1303 Lake Co./Lake Harris Boundary
SPONSOR(S): Johnson
TIED BILLS: **IDEN./SIM. BILLS:** Ident. SB 1594

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	_____	<u>Grayson</u>	<u>Highsmith-Smith</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill adjusts the boundary between Lake Harris and Little Lake Harris in Lake County resulting in the transfer of approximately 700 acres of submerged sovereignty held by the Board of Trustees of the Internal Improvement Trust Fund into private ownership.

The bill appears to contain an exception from general law regarding the conveyance of sovereign submerged lands.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill. (See section I.B. "EFFECT OF PROPOSED CHANGES:".)

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

This bill adjusts the boundary between Lake Harris and Little Lake Harris in Lake County resulting in the transfer of approximately 700 acres of submerged sovereignty held by the Board of Trustees of the Internal Improvement Trust Fund into private ownership.

Aerial Photo Description

Included with this analysis is an aerial photograph¹ which depicts Lake Harris to the top left hand side of the photograph and Little Lake Harris to the bottom right hand side of the photograph. According to a representative of the Department of Environmental Protection², the area at issue is depicted on the photograph as that area outlined in the center of the photograph. The effect of the bill is to move the present boundary line of Lake Harris from the line depicted on the photograph as the Present Boundary of Lake Harris to the State Road 19 Bridge; thereby transferring approximately 700 acres from sovereign submerged ownership to private ownership.

Background

In 1925, the Legislature divested the state of all right, title and interest to all lands covered by water lying in front of any tract as far as to the edge of the channel to Lake Harris and Lake Griffin in Lake County.

This bill affects approximately 700 acres of sovereignty lands which are in Little Lake Harris. The effect of the bill is to further divest the state of these 700 acres by adding them to the area divested by the 1925 enactment. This divestment would also result in removing these lands from lands available to the public for its use.

According to the Department of Environmental Protection³, it appears that there are eight separate riparian owners to this portion of Little Lake Harris that would obtain ownership to the submerged lands by virtue of this bill. Currently, the Board of Trustees of the Internal Improvement Trust Fund (Trustees) have three of the eight riparian owners under lease for use of sovereignty submerged lands. Two of those three are private groups and one is a governmental entity, the Ocklawaha Basin Recreation & Water Conservation Authority that received a fee waiver from the Trustees.

¹ Department of Environmental Protection, received 4/4/03.

² Scott Woolam, Division of State Lands, 4/9/03.

³ Department of Environmental Protection, Draft Bill Analysis 2003, 3/27/03.

Background – Sovereignty Lands

The Board of Trustees of the Internal Improvement Trust Fund (Trustees), as an agency of Florida Government, was created in 1855. The title to all sovereignty tidal and submerged bottom lands, except submerged lands previously conveyed by deed or statute to private interests, is vested in the Board of Trustees of the Internal Improvement Trust Fund.⁴ The sovereignty tidal and submerged bottom lands which are presently vested in Board of Trustees include all islands, sandbars, shallow banks, and small islands made as a result of the dredging by the United States of any channel and similar or other islands, sandbars, and shallow banks located in the navigable waters of the state, including all coastal and intracoastal waters, and all submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams.

The Board of Trustees of the Internal Improvement Trust Fund may sell islands and submerged lands if determined by the Board to be in the public interest, upon such prices, terms, and conditions as the Board sees fit.⁵ An application to purchase such islands and lands must be filed with the Board, in compliance with the form required by it, to show clearly what is intended to be accomplished in any proposed development and the manner in which the development will be accomplished.⁶ Prior to any such sale, the Board must determine to what extent the sale of such islands and lands and their ownership by private persons or their conveyance to political subdivisions or public agencies would interfere with the conservation of fish, marine and other wildlife, or other natural resources.⁷ In addition, the Board may not sell or convey an interest in the islands or lands to any applicant who does not also have before the Board (1) an application for approval of a fill permit, and (2) a permit or application for a permit to dredge fill material from beneath the navigable waters of the state in the event the applicant intends to secure such fill material.

Current Law

Art. X, s.11, State Constitution, provides:

SECTION 11. Sovereignty lands.--The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

Section 253.12(1), F.S. provides:

Except submerged lands heretofore conveyed by deed or statute, the title to all sovereignty tidal and submerged bottom lands, including all islands, sandbars, shallow banks, and small islands made by the process of dredging any channel by the United States Government and similar or other islands, sandbars, and shallow banks located in the navigable waters, and including all coastal and intracoastal waters of the state and all submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams, is vested in the Board of Trustees of the Internal Improvement Trust Fund...

Section 253.12(2)(a), F.S., provides:

⁴ *Graham v. Edwards*, 472 So. 2d 803, 10 Fla. L. Weekly 1663 (Fla. Dist. Ct. App. 3d Dist. 1985).

⁵ Section 253.12(2)(a), F.S.

⁶ Section 253.12(3), F.S.

⁷ Section 253.12(2)(a), F.S.

The Board of Trustees of the Internal Improvement Trust Fund may sell and convey such islands and submerged lands if determined by the board to be in the public interest, upon such prices, terms, and conditions as it sees fit. However, prior to consummating any such sale, the board shall determine to what extent the sale of such islands or submerged lands and their ownership by private persons or the conveyance of such islands or submerged lands to political subdivisions or public agencies would interfere with the conservation of fish, marine and other wildlife, or other natural resources, including beaches and shores, and would result in destruction of oyster beds, clam beds, or marine productivity, including, but not limited to, destruction of marine habitats, grass flats suitable as nursery or feeding grounds for marine life, and established marine soils suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life, and if so, in what respect and to what extent, and it shall consider any other factors affecting the public interests.

Department of Environmental Protection

The Division of State Lands, Department of Environmental Protection, serves as the administrative arm of the Governor and Cabinet, sitting in their role as the Trustees of the Internal Improvement Trust Fund.

According to the analysis of the Department of Environmental Protection,⁸ The bill would redefine the existing boundary between Lake Harris and Little Lake Harris in Lake County, as the State Road 19 Bridge, for the purpose of establishing a new southeast boundary for Lake Harris. The effect of this would be to give away state-owned land to private riparian owners.

Exemption From General Law

This bill results in the conveyance of sovereign submerged lands in a manner other than that provided by general law, specifically s. 253.12(2)(a), F.S.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

C. SECTION DIRECTORY:

Section 1. Provides a Legislative declaration that it is necessary to clarify ch. 10811 (1925), L.O.F., and adjusts a boundary between Lake Harris and Little Lake Harris in Lake County, removing approximately 700 acres from State ownership.

Section 2. Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 22, 2003.

WHERE?

The Daily Commercial, a daily newspaper of general circulation in Lake County.

B. REFERENDUM(S) REQUIRED? Yes No

⁸ Department of Environmental Protection, Draft Bill Analysis 2003, 3/27/03.

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

There do not appear to be any technical drafting issues.

Other Comments

None.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.