

By Senator Lynn

7-1070-03

See HB 883

1 A bill to be entitled
2 An act relating to environmental property
3 acquisition and development; amending s.
4 163.3177, F.S.; requiring the Department of
5 Community Affairs to develop a pilot project
6 with a water management district and a
7 feasibility study to develop a pilot project in
8 certain counties for certain rural land
9 stewardship or alternatives to fee simple land
10 acquisition purposes; requiring reports to the
11 Legislature; amending s. 195.092, F.S.;
12 authorizing local government taxing authorities
13 to contest certain property assessor actions
14 relating to property assessments of tax-exempt
15 nongovernmental entities; authorizing local
16 government taxing authorities to establish
17 agreements for services to be provided by
18 certain tax-exempt nongovernmental entities for
19 the purpose of maintaining tax-exempt status;
20 amending ss. 259.032 and 373.59, F.S.; revising
21 certain agency responsibilities and procedures
22 under certain payment in lieu of taxes
23 provisions under the Conservation and
24 Recreation Lands Trust Fund and the Water
25 Management Lands Trust Fund; amending s.
26 259.105, F.S.; requiring the Department of
27 Environmental Protection to develop an economic
28 impact analysis for certain state land
29 acquisitions under the Florida Forever Act
30 relating to effects upon local ad valorem tax
31 rolls; requiring estimates of revenues received

1 as payments in lieu of taxes and other benefits
2 of acquisition; providing an effective date.

3

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

5

6 Section 1. Paragraph (d) of subsection (11) of section
7 163.3177, Florida Statutes, is amended to read:

8 163.3177 Required and optional elements of
9 comprehensive plan; studies and surveys.--

10 (11)

11 (d)1. The department, in cooperation with the
12 Department of Agriculture and Consumer Services, shall provide
13 assistance to local governments in the implementation of this
14 paragraph and rule 9J-5.006(5)(1), Florida Administrative
15 Code. Implementation of those provisions shall include a
16 process by which the department may authorize up to five local
17 governments to designate all or portions of lands classified
18 in the future land use element as predominantly agricultural,
19 rural, open, open-rural, or a substantively equivalent land
20 use, as a rural land stewardship area within which planning
21 and economic incentives are applied to encourage the
22 implementation of innovative and flexible planning and
23 development strategies and creative land use planning
24 techniques, including those contained in rule 9J-5.006(5)(1),
25 Florida Administrative Code.

26 2. The department shall encourage participation by
27 local governments of different sizes and rural
28 characteristics. It is the intent of the Legislature that
29 rural land stewardship areas be used to further the following
30 broad principles of rural sustainability: restoration and
31 maintenance of the economic value of rural land; control of

1 urban sprawl; identification and protection of ecosystems,
2 habitats, and natural resources; promotion of rural economic
3 activity; maintenance of the viability of Florida's
4 agricultural economy; and protection of the character of rural
5 areas of Florida.

6 3. A local government may apply to the department in
7 writing requesting consideration for authorization to
8 designate a rural land stewardship area and shall describe its
9 reasons for applying for the authorization with supporting
10 documentation regarding its compliance with criteria set forth
11 in this section.

12 4. In selecting a local government, the department
13 shall, by written agreement:

14 a. Ensure that the local government has expressed its
15 intent to designate a rural land stewardship area pursuant to
16 the provisions of this subsection and clarify that the rural
17 land stewardship area is intended.

18 b. Ensure that the local government has the financial
19 and administrative capabilities to implement a rural land
20 stewardship area.

21 5. The written agreement shall include the basis for
22 the authorization and provide criteria for evaluating the
23 success of the authorization including the extent the rural
24 land stewardship area enhances rural land values; control
25 urban sprawl; provides necessary open space for agriculture
26 and protection of the natural environment; promotes rural
27 economic activity; and maintains rural character and the
28 economic viability of agriculture. The department may
29 terminate the agreement at any time if it determines that the
30 local government is not meeting the terms of the agreement.

31

1 6. A rural land stewardship area shall be not less
2 than 50,000 acres and shall not exceed 250,000 acres in size,
3 shall be located outside of municipalities and established
4 urban growth boundaries, and shall be designated by plan
5 amendment. The plan amendment designating a rural land
6 stewardship area shall be subject to review by the Department
7 of Community Affairs pursuant to s. 163.3184 and shall provide
8 for the following:

9 a. Criteria for the designation of receiving areas
10 within rural land stewardship areas in which innovative
11 planning and development strategies may be applied. Criteria
12 shall at a minimum provide for the following: adequacy of
13 suitable land to accommodate development so as to avoid
14 conflict with environmentally sensitive areas, resources, and
15 habitats; compatibility between and transition from higher
16 density uses to lower intensity rural uses; the establishment
17 of receiving area service boundaries which provide for a
18 separation between receiving areas and other land uses within
19 the rural land stewardship area through limitations on the
20 extension of services; and connection of receiving areas with
21 the rest of the rural land stewardship area using rural design
22 and rural road corridors.

23 b. Goals, objectives, and policies setting forth the
24 innovative planning and development strategies to be applied
25 within rural land stewardship areas pursuant to the provisions
26 of this section.

27 c. A process for the implementation of innovative
28 planning and development strategies within the rural land
29 stewardship area, including those described in this subsection
30 and rule 9J-5.006(5)(1), Florida Administrative Code, which
31 provide for a functional mix of land uses and which are

1 applied through the adoption by the local government of zoning
2 and land development regulations applicable to the rural land
3 stewardship area.

4 d. A process which encourages visioning pursuant to s.
5 163.3167(11) to ensure that innovative planning and
6 development strategies comply with the provisions of this
7 section.

8 e. The control of sprawl through the use of innovative
9 strategies and creative land use techniques consistent with
10 the provisions of this subsection and rule 9J-5.006(5)(1),
11 Florida Administrative Code.

12 7. A receiving area shall be designated by the
13 adoption of a land development regulation. Prior to the
14 designation of a receiving area, the local government shall
15 provide the Department of Community Affairs a period of 30
16 days in which to review a proposed receiving area for
17 consistency with the rural land stewardship area plan
18 amendment and to provide comments to the local government.

19 8. Upon the adoption of a plan amendment creating a
20 rural land stewardship area, the local government shall, by
21 ordinance, assign to the area a certain number of credits, to
22 be known as "transferable rural land use credits," which shall
23 not constitute a right to develop land, nor increase density
24 of land, except as provided by this section. The total amount
25 of transferable rural land use credits assigned to the rural
26 land stewardship area must correspond to the 25-year or
27 greater projected population of the rural land stewardship
28 area. Transferable rural land use credits are subject to the
29 following limitations:

30 a. Transferable rural land use credits may only exist
31 within a rural land stewardship area.

1 b. Transferable rural land use credits may only be
2 used on lands designated as receiving areas and then solely
3 for the purpose of implementing innovative planning and
4 development strategies and creative land use planning
5 techniques adopted by the local government pursuant to this
6 section.

7 c. Transferable rural land use credits assigned to a
8 parcel of land within a rural land stewardship area shall
9 cease to exist if the parcel of land is removed from the rural
10 land stewardship area by plan amendment.

11 d. Neither the creation of the rural land stewardship
12 area by plan amendment nor the assignment of transferable
13 rural land use credits by the local government shall operate
14 to displace the underlying density of land uses assigned to a
15 parcel of land within the rural land stewardship area;
16 however, if transferable rural land use credits are
17 transferred from a parcel for use within a designated
18 receiving area, the underlying density assigned to the parcel
19 of land shall cease to exist.

20 e. The underlying density on each parcel of land
21 located within a rural land stewardship area shall not be
22 increased or decreased by the local government, except as a
23 result of the conveyance or use of transferable rural land use
24 credits, as long as the parcel remains within the rural land
25 stewardship area.

26 f. Transferable rural land use credits shall cease to
27 exist on a parcel of land where the underlying density
28 assigned to the parcel of land is utilized.

29 g. An increase in the density of use on a parcel of
30 land located within a designated receiving area may occur only
31

1 through the assignment or use of transferable rural land use
2 credits and shall not require a plan amendment.

3 h. A change in the density of land use on parcels
4 located within receiving areas shall be specified in a
5 development order which reflects the total number of
6 transferable rural land use credits assigned to the parcel of
7 land and the infrastructure and support services necessary to
8 provide for a functional mix of land uses corresponding to the
9 plan of development.

10 i. Land within a rural land stewardship area may be
11 removed from the rural land stewardship area through a plan
12 amendment.

13 j. Transferable rural land use credits may be assigned
14 at different ratios of credits per acre according to the land
15 use remaining following the transfer of credits, with the
16 highest number of credits per acre assigned to preserve
17 environmentally valuable land and a lesser number of credits
18 to be assigned to open space and agricultural land.

19 k. The use or conveyance of transferable rural land
20 use credits must be recorded in the public records of the
21 county in which the property is located as a covenant or
22 restrictive easement running with the land in favor of the
23 county and either the Department of Environmental Protection,
24 Department of Agriculture and Consumer Services, a water
25 management district, or a recognized statewide land trust.

26 9. Owners of land within rural land stewardship areas
27 should be provided incentives to enter into rural land
28 stewardship agreements, pursuant to existing law and rules
29 adopted thereto, with state agencies, water management
30 districts, and local governments to achieve mutually agreed
31

1 upon conservation objectives. Such incentives may include, but
2 not be limited to, the following:

3 a. Opportunity to accumulate transferable mitigation
4 credits.

5 b. Extended permit agreements.

6 c. Opportunities for recreational leases and
7 ecotourism.

8 d. Payment for specified land management services on
9 publicly owned land, or property under covenant or restricted
10 easement in favor of a public entity.

11 e. Option agreements for sale to government, in either
12 fee or easement, upon achievement of conservation objectives.

13 10. The department shall report to the Legislature on
14 an annual basis on the results of implementation of rural land
15 stewardship areas authorized by the department, including
16 successes and failures in achieving the intent of the
17 Legislature as expressed in this paragraph. It is further the
18 intent of the Legislature that the success of authorized rural
19 land stewardship areas be substantiated before implementation
20 occurs on a statewide basis.

21 11. The department, in cooperation with the Department
22 of Agriculture and Consumer Services, the Fish and Wildlife
23 Conservation Commission, at least one water management
24 district, the Office of Tourism, Trade, and Economic
25 Development, the Rural Lands Stewardship Council, and
26 Enterprise Florida, Inc., shall:

27 a. Develop a pilot project with one water management
28 district that adheres to the intent and guidelines established
29 for rural land stewardship area programs, or uses an
30 alternative to fee simple acquisitions for properties
31 currently considered for fee simple purchases, and report to

1 the President of the Senate and the Speaker of the House of
2 Representatives on the status of the project prior to the 2004
3 Regular Session of the Legislature.

4 b. Undertake a feasibility study to develop a pilot
5 project in one rural county and in one urbanizing county
6 pursuant to the intent and guidelines established for rural
7 land stewardship area programs as an alternative to fee simple
8 purchases in its land acquisition programs and report to the
9 President of the Senate and the Speaker of the House of
10 Representatives on activities necessary to establish such
11 projects prior to the 2004 Regular Session of the Legislature.

12 Section 2. Subsection (6) is added to section 195.092,
13 Florida Statutes, to read:

14 195.092 Authority to bring and maintain suits.--

15 (6)(a) Any local government taxing authority shall
16 have the authority to bring and maintain such actions as may
17 be necessary to contest the validity of any rule, regulation,
18 order, directive, or determination of the property assessor
19 within the county where the taxing authority is located
20 relating to disapproval of any part of an assessment roll or a
21 determination of assessment levels regarding the tax-exempt
22 status of nongovernmental entities.

23 (b) The governing body of any county government,
24 municipal government, school district, or any other local
25 government with taxing authority is authorized to establish
26 services in lieu of tax agreements with tax-exempt
27 nongovernmental entities under which the tax-exempt entities
28 agree to provide a service for the local government or
29 residents of the local government at no cost or a reduced cost
30 as a condition for maintaining their tax-exempt status.

31

1 Section 3. Paragraph (d) of subsection (12) of section
2 259.032, Florida Statutes, is amended to read:

3 259.032 Conservation and Recreation Lands Trust Fund;
4 purpose.--

5 (12)

6 (d) The payment amount shall be based on the average
7 amount of actual taxes paid on the property for the 3 years
8 preceding acquisition. Vouchers ~~Applications~~ for payment in
9 lieu of taxes shall be prepared by the lead agency designated
10 in subsection (9) with management responsibilities for the
11 eligible property on behalf of the local government and shall
12 be made no later than January 31 of the year following
13 acquisition. The department shall coordinate the agencies
14 activities to ensure that vouchers for payments are prepared
15 and submitted for all local governments that qualify for
16 payment in lieu of taxes. No payment in lieu of taxes shall be
17 made for properties which were exempt from ad valorem taxation
18 for the year immediately preceding acquisition. If property
19 which was subject to ad valorem taxation was acquired by a
20 tax-exempt entity for ultimate conveyance to the state under
21 this chapter, payment in lieu of taxes shall be made for such
22 property based upon the average amount of taxes paid on the
23 property for the 3 years prior to its being removed from the
24 tax rolls. The department shall certify to the Department of
25 Revenue those properties that may be eligible under this
26 provision. Once eligibility has been established, that county
27 or local government shall receive 10 consecutive annual
28 payments for each tax loss, and no further eligibility
29 determination shall be made during that period.

30
31

1 For the purposes of this subsection, "local government"
2 includes municipalities, the county school board, mosquito
3 control districts, and any other local government entity which
4 levies ad valorem taxes, with the exception of a water
5 management district.

6 Section 4. Subsection (21) is added to section
7 259.105, Florida Statutes, to read:

8 259.105 The Florida Forever Act.--

9 (21) An economic impact analysis that identifies
10 impacts from proposed acquisition to affected local
11 governments shall be developed by the department with the
12 assistance of the water management districts, the Office of
13 Trade, Tourism, and Economic Development, Enterprise Florida,
14 Inc., and Visit Florida. The analysis shall be conducted when
15 the value of the proposed acquisition in combination with the
16 value of existing state and water management district
17 properties within the affected county would represent more
18 than 10 percent of the total assessed value of the ad valorem
19 tax rolls of affected local governments within the county,
20 including the county government. At a minimum, the analysis
21 shall contain an estimate of the amount of assessed value
22 removed from county ad valorem tax rolls, an estimate of the
23 amount of revenue that affected governments would receive in
24 payments in lieu of taxes pursuant to s. 259.032(12), and a
25 list of other benefits that affected local governments would
26 receive as a result of the state's purchase of the proposed
27 acquisition. At the department's discretion, the Regional
28 Economic Models, Inc., model used by Enterprise Florida, Inc.,
29 and the Office of Tourism, Trade, and Economic Development may
30 be used. A copy of the department's completed analysis and

31

1 list of benefits received shall be provided to all affected
2 local governments.

3 Section 5. Paragraph (d) of subsection (10) of section
4 373.59, Florida Statutes, is amended to read:

5 373.59 Water Management Lands Trust Fund.--

6 (10)

7 (d) The payment amount shall be based on the average
8 amount of actual taxes paid on the property for the 3 years
9 preceding acquisition. Vouchers ~~Applications~~ for payment in
10 lieu of taxes shall be prepared by the appropriate water
11 management districts on behalf of local governments within
12 each of their respective districts with lands that qualify for
13 payment in lieu of taxes and shall be made no later than
14 January 31 of the year following acquisition. No payment in
15 lieu of taxes shall be made for properties which were exempt
16 from ad valorem taxation for the year immediately preceding
17 acquisition. If property that was subject to ad valorem
18 taxation was acquired by a tax-exempt entity for ultimate
19 conveyance to the state under this chapter, payment in lieu of
20 taxes shall be made for such property based upon the average
21 amount of taxes paid on the property for the 3 years prior to
22 its being removed from the tax rolls. The water management
23 districts shall certify to the Department of Revenue those
24 properties that may be eligible under this provision. Once
25 eligibility has been established, that governmental entity
26 shall receive 10 consecutive annual payments for each tax
27 loss, and no further eligibility determination shall be made
28 during that period.

29 Section 6. This act shall take effect upon becoming a
30 law.

31