

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 728

SPONSOR: Senator Dockery and others

SUBJECT: Rural Land Protection

DATE: April 7, 2003

REVISED: 4/10/03

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable</u>
2.	<u>Molloy</u>	<u>Kiger</u>	<u>NR</u>	<u>Favorable</u>
3.	<u>Fournier</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/1 amendment</u>
4.	<u> </u>	<u> </u>	<u>AGG</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill provides for the distribution of certain excise taxes on documents to the Rural Lands Program Trust Fund of the Department of Agriculture and Consumer Services (Department) to pay debt service due on any rural land protection bond. It authorizes the Division of Bond Finance at the State Board of Administration to issue rural land protection bonds at the request of the Department. The bill provides certain conditions, provides for the deposit of bond proceeds into the Conservation and Recreation Lands Program Trust Fund at the Department, and provides that the proceeds can be used to acquire conservation easements, rural lands protection easements, or agricultural protection easements, and to fund resource conservation agreements on agricultural lands.

The bill also provides conclusions of a study conducted by the Department, in consultation with the Department of Environmental Protection and the Florida Fish & Wildlife Conservation Commission, concerning the loss of ranch and forest lands, the natural resource attributes of agricultural lands, and rural lands program objectives to protect lands by limiting subdivision and conversion of agricultural lands currently providing economic and other benefits to the state.

This bill amends sections 201.15, 570.207, 570.70, and 570.71 of the Florida Statutes.

This bill creates section 215.6195 of the Florida Statutes.

II. Present Situation:

The Rural and Family Lands Protection Act (Act) was enacted by the 2001 Legislature in CS/SB 1922 (ss. 60-63 of ch. 2001-279, L.O.F.).

Pursuant to s. 570.70(5), F.S., the purpose of the Act is to bring under public protection lands that serve to limit subdivision and conversion of agricultural and natural areas that provide economic, open space, water, and wildlife benefits by acquiring land or related interests in land such as perpetual, less-than-fee acquisitions, agricultural protection agreements, and resource conservation agreements and innovative planning and development strategies in rural areas.

Section 570.71, F.S., authorizes the Department of Agriculture and Consumer Services (department), on behalf of the Board of Trustees of the Internal Improvement Trust Fund (Trustees) to acquire perpetual, less-than-fee interests in land, to enter into agricultural protection agreements, and to enter into resource conservation agreements for the following public purposes:

- Promotion and improvement of wildlife habitat;
- Protection and enhancement of water bodies, aquifer recharge areas, wetlands, and watersheds;
- Perpetuation of open space on lands with significant natural areas; or
- Protection of agricultural lands threatened by conversion to other uses.

To accomplish these purposes, beginning July 1, 2002, the department may:

1. Purchase conservation easements, as defined in s. 704.06, F.S. Payment will be a lump-sum payment at the time the easement is created.
2. Purchase rural-lands protection easements, which are a perpetual right or interest in agricultural land which is appropriate to retain the land in predominantly its current state and to prevent the subdivision and conversion of the land into other uses. Payment will be a lump-sum payment at the time the easement is created. This right or interest in property may prohibit only the following:
 - Construction or placing of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities described in s. 704.06(11), F.S.;
 - Subdivision of the property;
 - Dumping or placing of trash, waste, or offensive materials; and
 - Activities that affect the natural hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish or wildlife habitat, except those required for environmental restoration; federal, state, or local government regulatory programs; or best management practices.

3. Fund resource conservation agreements, which are contracts for services which provide annual payments to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above that which is already required by law or which provide recreational opportunities. They will be for a term of not less than 5 years and not more than 10 years. Property owners will become eligible to enter into a resource conservation agreement only upon entering into a conservation easement or rural lands protection easement. Payments for the agreements will be paid annually over the term of the agreement.
4. Fund agricultural protection agreements, which are for terms of 30 years and will provide payments to landowners having significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner. For the length of the agreement, the landowner must agree to prohibit:
 - Construction or placing of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities described in s. 704.06(11), F.S.;
 - Subdivision of the property;
 - Dumping or placing of trash, waste, or offensive materials; and
 - Activities that affect the natural hydrology of the land, or that detrimentally affect water conservation, erosion control, soil conservation, or fish or wildlife habitat.

As part of the agricultural protection agreement, the parties must agree that the state will have a right to buy a conservation easement or rural land protection easement at the end of the 30-year term. The landowner may transfer or sell the property before the expiration of the 30-year term, but only if the property is sold subject to the agreement and the buyer becomes the successor in interest to the agricultural protection agreement. Upon mutual consent of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement. Landowners entering into an agricultural protection agreement may receive up to 50 percent of the purchase price at the time the agreement is entered into, and remaining payments on the balance will be equal annual payments over the term of the agreement.

Although no funds were made available to implement the Act, the department is authorized to use any funding made available by the state, federal government, other governmental entities, nongovernmental organizations, and private individuals. No more than 10 percent of any funds made available to implement this act shall be expended for resource conservation agreements and agricultural protection agreements.

The department, in consultation with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, and the water management districts was directed to conduct a study to determine and prioritize needs for implementing the act. The study has been completed and recommends that priority be given to protecting significant species habitat, areas providing groundwater recharge, and areas containing natural floodplain. Although the study indicates a

need for \$1.46 billion over a ten-year period to keep pace with the development of agricultural lands, the department has recommended that the program be phased in, beginning with funding of no less than \$25 million in the first year. The department reports that such an appropriation would be sufficient to pursue and protect approximately 14,000 acres while providing \$1.25 million for resource conservation agreements. A phased funding approach, the department reports, will allow sufficient time to: develop rules and a process for evaluating properties; solicit and evaluate properties, contract for land acquisition services, and procure appraisals. Such an initial appropriation will also allow the department to begin pursuing matching federal funds. Once the program is fully operational and easements have been acquired, the department reports that it will be in a position to reevaluate its forecast model based on actual experience and seek an appropriate level of funding to assure that the program's long term goals and objectives are met.

Section 201.15, F.S., provides for the distribution of sixty-two and sixty-three hundredths of the excise tax on documents. These distributions are used to fund debt service on Preservation 2000 and Florida Forever bonds and the Land Acquisition Trust Fund. After \$30 million is provided for beach restoration and \$2 million for marine mammal care, any remaining funds are paid into the General Revenue Fund. Documentary stamp tax proceeds are estimated to be approximately \$1.3 billion in FY 2002-2003.

Pursuant to s. 570.207(1), F.S., the Conservation and Recreation Lands Program Trust Fund has been created within the Department, to be used for the management of conservation and recreation lands.

The 2001 Legislature enacted s. 215.98(1), F.S., which states in part "...The Legislature declares that it is the policy of this state to exercise prudence in undertaking the authorization and issuance of debt. In order to implement this policy, the Legislature desires to authorize the issuance of additional state tax-supported debt only when such authorization would not cause the ratio of debt service to revenue available to pay debt service on tax-supported debt to exceed 6 percent. If the six percent target debt ratio will be exceeded, the authorization of such additional debt must be accompanied by a legislative statement of determination that such authorizations and issuance is in the best interest of the state and should be implemented. The Legislature shall not authorize the issuance of additional state tax-supported debt if such authorization would cause the designated benchmark debt ratio of debt service to revenues available to pay debt service to exceed seven percent unless the Legislature determines that such additional debt is necessary to address a critical state emergency."

It appears that the state's current debt ratio slightly exceeds six percent. Increases in Public Education Capital Outlay (PECO) borrowing and transportation spending could further increase the ratio. In addition, the Auditor General recently reported that, based on the six percent target debt ratio, no future debt capacity is expected to be available until 2008.

III. Effect of Proposed Changes:

Section 1. Amends s. 201.15(1)(d), F.S., to authorize the deposit of documentary stamp tax revenue into the Rural Lands Program Trust Fund of the Department of Agriculture and Consumer Services, pursuant to s. 215.619, F.S., which authorizes the issuance of rural land

protection bonds. (This reference appears to be an error; s. 215.6195, F.S., authorizes the issuance of rural land protection bonds.) Any such funds must first be used to pay debt service due on outstanding rural land protection bonds or to make any other payments required pursuant to the bond documents authorizing the issuance, before being used for other purposes.

Section 2. Creates s. 215.6195, F.S., to authorize the Division of Bond Finance at the State Board of Administration to issue rural land protection bonds in an amount not exceeding \$1 billion over a 10- year period. Beginning July 1, 2003, bonds may be issued annually, in an amount not to exceed \$100 million in any fiscal year, subject to the provisions of s. 570.71, F.S., and pursuant to s. 11(e), Art. VII of the State Constitution. The duration of each series of bonds issued may not exceed 20 annual maturities. In actual practice, no bonds can be issued unless the first year's debt service is appropriated by the Legislature, but the bill is silent on this point.

This section provides that the state will not take any action that will materially and adversely affect the rights of rural land protection bondholders so long as such bonds are outstanding, including, but not limited to, reducing the portion of documentary stamp taxes distributable to the Rural Lands Program Trust Fund for payment of debt service.

Rural lands program bonds issued pursuant to this section are payable from documentary stamp taxes distributed to the Rural Lands Program Trust Fund pursuant to s. 201.15(1)(d), F.S. Such bonds will not constitute a general obligation of, or a pledge of the full faith and credit of the state. The Department is directed to request the Division of Bond Finance to issue the rural land protection bonds, and the Division will issue such bonds pursuant to the State Bond Act. Bond proceeds, less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, will be deposited into the Department's Conservation and Recreation Lands Program Trust Fund as provided in s. 570.71, F.S.

This section prohibits any sale, disposition, lease, easement, license, or other use of any land, water areas, or related property interests acquired or improved with proceeds of rural land protection bonds which would cause all or any portion of the interest of such bonds to lose the exclusion from gross income for federal income tax purposes.

The initial series of rural land protection bonds will be validated in addition to any other bonds required to be validated pursuant to s. 215.82, F.S. Any complaint for validation of bonds issued pursuant to this section may be filed only in the circuit court of the county where the seat of state government is situated; the notice required to be published by s. 75.06, F.S., may be published only in the county where the complaint is filed; and the complaint and order of the circuit court may be served only on the state attorney of the circuit in which the action is pending.

Section 3. Amends s. 570.207(1), F.S., to authorize the Department to use rural land protection bond proceeds, and any other funds deposited into its Conservation and Recreation Lands Program Trust Fund for the purposes of the Act, to acquire conservation and rural land protection easements and to fund agricultural protection and resource conservation agreements.

Section 4. Amends s. 570.70, F.S., to include in existing legislative findings the results of the study required by s. 570.71(14), F.S.

Section 5. Amends s. 570.71(12), F.S., to authorize the Department to use rural land protection bonds to implement the Act.

Section 6. Provides that this Act shall take effect July 1, 2003, if SB 730, or similar legislation, to create the Rural Lands Program Trust Fund, is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The sale of bonds authorized by this bill, if the debt service is appropriated by the Legislature, would have the following impact on General Revenue. After FY 2013-14, the impact on General Revenue will remain (\$89) million annually through FY 2022-03, after which it will decrease each year until FY 2033-34.

General Revenue Impact				
Fiscal Year	Cash	Recurring	Nonrecurring	
FY 2003-04	-1.5	-8.9	7.4	
FY 2004-05	-10.4	-17.8	7.4	
FY 2005-06	-19.3	-26.7	7.4	
FY 2006-07	-28.2	-35.6	7.4	
FY 2007-08	-37.1	-44.5	7.4	
FY 2008-09	-46.0	-53.4	7.4	
FY 2009-10	-54.9	-62.3	7.4	
FY 2010-11	-63.8	-71.2	7.4	
FY 2011-12	-72.7	-80.1	7.4	
FY 2012-13	-81.6	-89.0	7.4	
FY 2013-14	-89.0	-89.0	0.0	

B. Private Sector Impact:

Agricultural landowners who elect to participate in the program could receive undetermined amounts of money. They could also have available appraisal services, consulting foresters, title services, environmental services and non-profit organizations for establishing base-line information of the condition of the property, and implementation of resource conservation and agricultural protection agreements. In addition, since the property will stay in agriculture or silviculture, the local work forces in those industries could remain unaltered.

C. Government Sector Impact:

This bill creates certain costs for the Department of Agriculture and Consumer Affairs. These costs cannot be funded by bond proceeds, and would require an additional appropriation. The department estimates that the bill would create the following costs and revenues:

	Fund	FY 2003-04	FY 2004-05	FY 2005-06
OPERATING COSTS:				
Non-Recurring Costs:				
Division of Forestry –				
OPS Support	GR	15,080	15,457	15,834
OCO Professional Packages (3)		4,500	0	0
OCO Computer Upgrades		6,000	0	0
4x4 Utility Vehicles (2)		26,000	26,000	0
Uniforms (2)		1,000	0	0
Division of Administration –				
OCO Professional Packages (3)	GR	0	4,500	0
AGMIC –				
Application modification of existing imaging system	GR	0	25,000	0
Total Non-Recurring Costs:		\$52,580	\$70,957	\$15,834
Total Non-Recurring Revenues:		0	0	0
Recurring Costs:				
Division of Forestry –				
Senior Acq. Review Agent (1)	GR	55,082	56,184	57,307
Senior Appraiser (1)		58,390	59,558	60,749
Administrative Assistant II (1)		41,437	42,265	43,111
Division of Administration –				

Senior Attorney (1)	GR	0	90,000	91,800
Prof. Accountant Supervisor (1)		0	61,566	62,797
Prof. Accountant Specialist (1)		0	55,082	56,184
Expenses –				
Division of Forestry:				
Professional Expense Pkgs. (3)	GR	29,745	29,745	29,745
Division of Administration:				
Professional Expense Pkgs. (3)	GR	0	29,745	29,745
Travel associated with rule development, establishment of application process and prioritizing projects		5,000	5,000	5,000
Other –				
Division of Forestry:				
Travel	GR	5,000	5,000	5,000
Public Workshops and Hearings		5,000	2,500	2,500
Uniform Allowances		200	200	200
Additional Supplies		4,000	4,000	5,000
Vehicle Maintenance		500	1,000	1,500
Brochures/Printing Services		7,500	4,000	2,500
Fixed Capital Outlay of up to \$100 million per bond issue	CARLTF	100,000,000	100,000,000	100,000,000
Total Recurring Costs by Fund:	GR	\$211,854	\$445,845	\$453,138
	CARLTF	\$100,000,000	\$100,000,000	\$100,000,000
RECURRING REVENUES:				
(Up to)	CARLTF	100,000,000	100,000,000	100,000,000
	RLPTF	10,000,000	20,000,000	30,000,000
TOTAL OPERATING COSTS:				
	GR	\$264,434	\$516,802	\$468,972
	CARLTF	\$100,000,000	\$100,000,000	\$100,000,000
TOTAL REVENUES:				
(Up to)	CARLTF	\$100,000,000	\$100,000,000	\$100,000,000
	RLPTF	10,000,000	\$20,000,000	\$30,000,000

Notes on Operating Costs and Revenues:

Salaries and benefits were entered at 10 percent above minimum, except for the Senior Attorney which is listed at mid-range, and increased 2 percent for the second and third years in anticipation of salary increases. This is to ensure the ability to recruit qualified staff.

The Department of Agriculture and Consumer Services has an existing land acquisition program and land acquisition staff and has been involved with conservation easements throughout the state. It also has access to several conservation easement documents to assist with standard contract development. The Act provides for the authorization of up to \$100,000,000 in bond revenue to implement the Act. The program will not generate revenue to the department, with the exception of those funds generated from the issuance of the bonds and/or those funds deposited into the Conservation and Recreation Land Program Trust Fund. The department will develop and administer an application and selection process for lands before purchasing these perpetual easements, develop and implement a process for the mapping, appraisal, contracting, and approval of agreements by the appropriate body, development and implement management plans, and ensure landowner compliance with the perpetual easements. The Division of Forestry has expertise with all of these elements and will function as contract managers. General Revenue will pay for personnel, administrative and operating costs, computer hardware and software requirements, vehicles and field equipment, and educational material for marketing the program. The production of actual work products such as maps, appraisals, environmental assessments, closing services, easement documentation reports, etc., will be privatized with outside vendors. Costs for acquisition and post acquisition related services will be funded from the proceeds of the bond issuance or from funds placed in the department’s Conservation and Recreation Lands Program Trust Fund.

	Fund	FY 2003-04	FY 2004-05	FY 2005-06
NON -OPERATING COSTS:				
Administrative/Indirect		0	0	0
General Revenue Service Charge		0	0	0
Transfers to State Board of Administration – Debt Service		10,000,000	20,000,000	30,000,000
Total Non-Operating Costs:		\$10,000,000	\$20,000,000	\$30,000,000
TOTAL OF COSTS (All Funds)		\$110,264,434	\$120,516,802	\$130,468,972
TOTAL REVENUES (All Funds) (Up To)		\$110,000,000	\$120,000,000	\$130,000,000

Notes on Non-Operating Costs:

The amount transferred to the State Board of Administration for debt service is dependent upon the debt service requirements developed. Debt services are estimated at 10 percent of bonds issued, not to exceed 20 annual maturities.

The amount of Document Excise Tax revenue received in the Rural Lands Protection Trust Fund is dependent upon the debt service requirements developed by the State Board of Administration after bond issuance.

VI. Technical Deficiencies:

There is an incorrect reference to s. 215.619, F.S. in Section 1. The correct reference is 215.6195, F.S.

This bill does not provide in clear language that bonds may not be issued unless the Legislature appropriates an amount equal to the first year's debt service.

This bill provides that the proceeds from the sale of bonds issued for rural land protection shall be deposited into the Conservation and Recreation Lands Program Trust Fund of the Department of Agriculture and Consumer Services. The purpose of the trust fund, however, as provided in s. 570.207, F.S., is to provide for the management of conservation and recreation lands by the department. This bill does not amend that purpose.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Finance and Taxation:

Changes a reference to s. 215.619, F.S., to s. 215.6195, F.S., which authorizes the Division of Bond Finance at the State Board of Administration to issue rural land protection bonds.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
