

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1425 w/CS State Lands

**SPONSOR(S):** Spratt

**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Natural Resources</u>	<u>15 Y, 0 N w/CS</u>	<u>Camechis</u>	<u>Lotspeich</u>
2) <u>Public Safety &amp; Crime Prevention</u>	<u></u>	<u>Whittier</u>	<u>De La Paz</u>
3) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

HB 1425 w/ CS requires state land managing agencies to evaluate and utilize inmates to assist in management or restoration activities on managed lands under certain circumstances; increases the opportunity for private purchase of certain state-owned lands in small counties; and removes the 10-year limitation on payments in lieu of taxes to counties from the state and water management districts by providing for perpetual payment.

The fiscal impact of the bill is indeterminate with the exception of the payment in lieu of taxes revisions. Currently, state and water management district payments in lieu of taxes total approximately \$2 million per year, which will continue and increase as additional lands are purchased by state governmental entities.

## 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:

##### PAYMENT IN LIEU OF TAXES

###### **Current Situation**

Land owned by the federal government, state government, counties, and municipalities are generally exempt from ad valorem property taxes levied by county governments. Publicly owned lands include such areas as parks and other recreational facilities, conservation and wildlife preservations, property underlying government office buildings, flood plains, airports, and roads. Approximately 7 million of Florida's 34.5 million acres, or one in every five acres, are publicly owned: 2,125,331 acres or 30.4 percent are federally owned; 2,269,375 acres or 32.4 percent are state owned; 1,668,423 acres or 23.8 percent are owned by water management districts (WMDs); 553,279 or 7.9 percent are owned by counties; 213,744 acres or 3.1 percent are owned by municipalities; and various special districts and other non-private entities own the remaining 168,720 acres or 2.4 percent of public lands.

The Legislative Committee on Intergovernmental Relations (LCIR) adopted a 2002-03 interim project to identify impacts from publicly owned property on local governments and examine federal and state programs designed to compensate local governments for loss in ad valorem tax revenues. According to the LCIR report, some local governments contend that all beneficiaries do not share equally in the costs for publicly-owned lands. Rather, a disproportionate share of the cost is borne by local governments with federal and state lands within their jurisdictions. Local governments incur two types of costs for having state-owned property within their boundaries: loss of tax base (tax base burden) and expense in the provision of services to state-owned properties (impact burden). Some local governments also cite costs associated with the loss of future development prospects of state owned lands. It is important to note that many local governments may also accrue economic benefits to varying extents.

The LCIR concluded that, without an elaborate cost-benefit analysis within each local setting, it is difficult to accurately assess the net impact to each local government. In general, cash reimbursement programs do not fully compensate local governments for the amount of tax money that would have been generated from federal and state-owned properties were they not tax-exempt.

Section 259.032(12), F.S., requires the state to make payments-in-lieu of taxes to local governments for lands purchased by the state using Preservation 2000 or Florida Forever funds. The payment is based upon the average amount of taxes paid on the property for the 3 years prior to its being removed from the tax rolls. However, counties or local governments may only receive 10 annual payments for each tax loss. Eligible local governments include counties with populations of 150,000 or less and local governments within those counties.

Section 373.59, F.S., requires water management districts to make payments in lieu of taxes for certain properties acquired after January 1, 2000. Section 373.5905, F.S., requires water management districts to reinstate PILT payments to local governments that received payment in the past but limits PILT payments to a total of 10 payments for each tax loss.

According to the LCIR report, local governments raise numerous issues regarding the adequacy of the current state PILT program. These concerns include: a cumbersome annual application process; an inadequate basis for determining PILT payments; an inadequate limit of 10 PILT payments; restriction of the PILT program to state and WMD lands acquired only under Preservation 2000 and its successor Florida Forever which primarily is limited to undeveloped properties; restriction of local government eligibility to counties with populations of 150,000 or less and local governments within those counties; and a negative impact from government land acquisitions on future development potential for the county.

Since its inception, PILT payments have increased from \$60,048 in FY1993-94 to \$1,187,644 in FY2001-02, reflecting the increase in eligible acreage. In FY2001-02, 22 local governments in Florida participated in the PILT program including: 16 county governments, 3 school boards, one mosquito district, one hospital district, and one fire district. In FY2001-02, the total local government revenue loss of \$89.9 million attributed to public ownership of lands was only slightly offset by the state payments of \$2.1 million, resulting in a deficit of \$87.8 million.

### **Effect of Proposed Changes**

Sections 259.032(12), 373.59, and 373.5905, F.S., are amended to eliminate the 10-year limit on PILT payments to allow local governments to receive payments into perpetuity for lands purchased by the state and water management districts.

## **UTILIZATION OF INMATE SERVICES FOR STATE LAND MANAGEMENT**

### **Current Situation**

Section 946.40, F.S., permits the Department of Corrections (DOC) to enter into agreements with state agencies that wish to utilize the services of inmates of correctional institutions and camps when the DOC determines that such services will not be detrimental to the welfare of the inmates and the interests of the state in a program of rehabilitation. The budget of the DOC may be reimbursed from the budget of any state agency for the services of inmates and personnel of the DOC as determined by agreement between the DOC and the head of an agency.

Section 253.034, F.S., requires managers of conservation and nonconservation lands to submit a land management plan to the DEP at least every 10 years and update the plan under certain circumstances.

Section 259.032, F.S., directs managing agencies of lands purchased with funds from the Conservation and Recreation Lands Trust Fund to enter into contracts or interagency agreements with other governmental entities for the purpose of conducting land management activities.

### **Effect of Proposed Changes**

Section 946.40, F.S., is amended to require the DOC to enter into agreements with agencies responsible for managing state lands for the purpose of utilizing inmates to perform state land management activities, including services related to restoration, grounds maintenance, removal of invasive plant species, and forestry management if: the state agency submits a request for such

assistance; the DOC determines that such services will not be detrimental to the welfare of the inmates and the interests of the state in a program of rehabilitation; and the DOC determines that inmates are available.

The DOC's budget must be reimbursed from the budget of the requesting agency for the services of inmates and personnel of the DOC in an amount determined by agreement between the DOC and the requesting agency. If the requesting agency determines that use of inmate services for land management purposes is not cost-effective, the state agency is not required to enter into an agreement with the DOC.

Section 253.034(13), F.S., is created to require lead land managing agencies to utilize inmates of the DOC to assist in management or restoration activities on managed lands if, after consulting with the DOC, the managing agency determines that such use is cost-effective and logistically practicable. This subsection also allows inmates to perform management and restoration activities on lands subject to a conservation easement granted to the state if the landowner submits a written request for assistance and the managing agency determines, after consultation with the DOC, that the requested assistance relates solely to the performance of management activities and that inmate assistance is cost-effective and logistically feasible.

Lastly, ss. 253.34(5) and 259.032(7) and (10), F.S., are amended to require managing agencies to evaluate the potential use of inmates to assist in the initial management or restoration of newly acquired state conservation and nonconservation lands to determine if such use is cost-effective and logistically practicable.

## **SURPLUSING STATE LANDS IN SMALL COUNTIES**

### **Current Situation**

Pursuant to s. 253.034(8)(c) and 373.089(5), F.S., in any county having a population of 75,000 or less, or a county having a population of 100,000 or less that is contiguous to a county having a population of 75,000 or less, in which more than 50 percent of the lands within the county boundary are owned by a governmental entity, lands titled in the name of the state or a state agency which are not essential or necessary to meet conservation purposes may, upon request of a public or private entity, be made available for purchase through the state's surplusings process. Currently, less than 5 counties in Florida meet these criteria.

Rights-of-way for existing, proposed, or anticipated transportation facilities are exempt from the requirements. Priority consideration must be given to buyers, public or private, willing to return the property to productive use so long as the property can be reentered onto the county ad valorem tax roll. Property acquired with matching funds from a local government may not be made available for purchase without the consent of the local government.

### **Effect of Proposed Changes**

This bill amends s. 253.034(8)(c), F.S., to reduce the percentage of lands that must be owned by a governmental entity from 50 to 30 percent, thereby increasing the opportunities for private or public entities to request the surplusings of state-owned lands that are not essential or necessary to meet conservation purposes. According to the DEP, the number of counties in Florida that meet these criteria will not be more than six.

This bill also amends s. 373.089(5), F.S., to apply the same percentage reduction to water management districts for lands that are not essential or necessary to meet the purposes identified in s. 373.139, F.S., which include flood control, water storage, water management, conservation and

protection of water resources, aquifer recharge, water resource and water supply development, and preservation of wetlands, streams, and lakes.

#### C. SECTION DIRECTORY:

- Section 1. Amends s. 253.034, F.S., requiring state land managing agencies to evaluate and utilize inmates to assist in management or restoration activities on managed lands in certain circumstances; revising a limitation on the availability of certain lands for purchase through the state lands surplus process.
- Section 2. Amends s. 259.032, F.S., directing land managing agencies to make certain evaluations concerning the potential use of inmates to assist in the initial management or restoration of specified property; extending the state's payment in lieu of taxes program.
- Section 3. Amends s. 373.089, F.S., revising a limitation on the availability of certain lands for purchase through the state lands surplus process.
- Section 4. Amends s. 373.59, F.S., revising a provision pertaining to water management district payments in lieu of taxes.
- Section 5. Amends s. 373.5905, F.S., extending the water management districts payment in lieu of taxes program.
- Section 6. Amends s. 946.40, F.S., requiring interagency agreements for use of inmate services in certain state land management activities.
- Section 7. Reenacts s. 159.075, F.S.
- Section 8. Reenacts s. 253.036, F.S.
- Section 9. Reenacts s. 259.036, F.S.
- Section 10. Reenacts s. 259.04, F.S.
- Section 11. Reenacts s. 259.105, F.S.
- Section 12. Reenacts s. 253.034, F.S.
- Section 13. Reenacts s. 944.053, F.S.
- Section 14. Reenacts s. 946.002, F.S.
- Section 15. Reenacts s. 946.503, F.S.
- Section 16. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

**Payments in Lieu of Taxes:** Sections 259.032(12), 373.59, and 373.5905, F.S., are amended to eliminate the 10-year limit on PILT payments in order to allow local governments to receive payments into perpetuity for state owned lands, including lands owned by water management districts. The state agencies required to make PILT provided the following information as a basis for estimating the fiscal impact of this revision:

Agency <sup>1</sup>	Annual Payment
DEP	\$1,308,877 (FY02-03) paid from CARL trust fund
SFWMD	\$ 8,000 current, \$40,000-\$50,000 projected
St. Johns River WMD	\$40,000 current
Suwannee River WMD	\$254,387 (FY03-04 payments)
SWFWMD	\$331,960 (FY04-05 payments)

**Utilization of Inmate Labor:** The use of inmate labor services should only occur if the state land managing agency determines that inmate services are cost-effective. If inmate service is found to be a more cost-effective method of managing state lands, management costs should decrease. However, the amount of the reduction is indeterminate at this time.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

**Payment in Lieu of Taxes:** The revisions to ss. 259.032(12), 373.59, and 373.5905, F.S., provide that counties in which state or water management district lands are located will receive perpetual payments in lieu of taxes rather than receiving only 10 annual payments. Therefore, this bill has a positive fiscal impact on local governments, which are eligible to receive payments in lieu of taxes.

**Surplusing Provision:** The revisions to ss. 253.034(8) and 373.089(5), F.S., may increase sales of certain state owned lands to private entities and the reintroduction of those lands on the tax rolls of counties with small populations, thereby resulting in an indeterminate positive fiscal impact on county ad valorem tax revenues.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

**Surplusing Provision:** The revisions to ss. 253.034(8) and 373.089(5), F.S., increases the opportunity for private entities to purchase state lands that are not essential or necessary for conservation purposes in counties with small populations.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

<sup>1</sup> The NFWFMD did not provide fiscal information.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to impact the rulemaking authority of any state agency.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 25, 2004, the Committee on Natural Resources adopted a “strike-all” amendment to the bill, which deleted the amendment to s. 259.041(11)(b), F.S., regarding conservation easements, clarified the requirement for water management districts to provide perpetual payments in lieu of taxes, and removed juveniles committed to the Department of Juvenile Justice from the provisions regarding the use of inmate labor for state land management functions. This analysis has been revised to reflect the “strike-all” amendment.