

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1833 (PCB NR 04-03) w/CS Public Records (Land Valuation)
SPONSOR(S): Spratt
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2158

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--------------------------------|----------------------|-------------------|------------------|
| 1) <u>Natural Resources</u> | <u>13 Y, 0 N</u> | <u>Perkins</u> | <u>Lotspeich</u> |
| 2) <u>State Administration</u> | <u>5 Y, 0 N w/CS</u> | <u>Williamson</u> | <u>Everhart</u> |
| 3) _____ | _____ | _____ | _____ |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

This bill creates a public records exemption for any written valuation of land determined to be surplus and for related documents used to form the valuation. This bill provides for expiration of, exceptions to, and for future review and repeal of the exemption. It also provides a statement of public necessity.

The bill may provide a positive fiscal impact on revenue received from the disposal of state-owned lands by authorizing land value information to remain confidential and exempt, thereby giving the state the ability to maximize the potential sale price.

This bill requires a two-thirds vote of the members present and voting for passage.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1833b.sa.doc
DATE: April 16, 2004

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:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Board of Trustees of the Internal Improvement Trust Fund (Board) determine which lands titled in the Board may be surplus. The sale price of such lands are determined by an appraisal of the property, or when the estimated value of the land is less than \$100,000, a comparable sales analysis or broker's opinion of value, and the price paid by the state to originally acquire the lands. Currently, the Department of Environmental Protection (DEP) must disclose appraisal information on state-owned lands that are being disposed of when requested to do so pursuant to a public records request. DEP's ability to maximize the potential sale price of such land appears to be hampered by the disclosure of land value information.

Effect of Bill

The bill creates a public records exemption for a written valuation of land determined to be surplus, and related documents used to form the valuation or which pertain to the valuation. The exemption expires two weeks before the contract or agreement regarding surplus land purchase, exchange, or disposal is first considered for approval by the Board.

The Board may, notwithstanding this exemption, disclose appraisals, valuations, or valuation information about surplus land during negotiations for the sale, disposal, or exchange of the land based on the following:

- To facilitate closure of the marketing or bidding process associated with the sale or exchange of land;
- If the passage of time has made the conclusions of value invalid; or
- When negotiations or marketing efforts concerning the land are concluded.

This bill provides for future review and repeal of the exemption on October 2, 2009, pursuant to the Open Government Sunset Review Act of 1995. It also provides a statement of public necessity.

C. SECTION DIRECTORY:

Section 1 amends s. 253.034(6)(g), F.S., creating a public records exemption for certain information relating to valuation of land.

Section 2 provides a statement of public necessity.

Section 3 provides a July 1, 2004, effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The state should receive an increase in revenue from having a stronger negotiating position in the disposal of state lands that are no longer needed.

2. Expenditures:

The public records law in general creates a significant, although unquantifiable, increase in government spending. Government employees must locate requested records, and must examine every requested record to determine if a public records exemption prohibits release of the record. There is likely no marginal fiscal impact to a single public records exemption; the location and examination process remains whether or not a particular public records exemption exists.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not affect local governments.

2. Expenditures:

None. This bill does not affect local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown. The private purchaser of state-owned land may pay more for state lands by not having access to appraisal information.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect municipal or county government.

2. Other:

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, this bill requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DEP Comments

The provisions of this bill allowing the exemption of valuation information for disposals and exchanges of state lands from public record requests makes good business sense and parallels the similar provisions already in statute regarding valuation information for state land acquisition.

Public Records

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may, however, provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act of 1995 provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes: 1) Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption; 2) Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or, 3) Protecting trade or business secrets.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 14, 2004, the Committee on State Administration adopted two amendments to HB 1833 and reported the bill favorably with CS. The bill as filed provided for expiration of the public records exemption two weeks before the associated agreement is considered for approval by the board. The bill with CS provides that the exemption also expires two weeks before a contract is first considered for approval. The bill with CS also clarifies that certain information may be disclosed during the marketing effort or bidding process associated with the *disposal* of land, in addition to the sale or exchange of land.