

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.)

Prepared By: Environmental Preservation Committee

BILL: CS/SB 1226

INTRODUCER: Environmental Preservation Committee and Senator Dockery

SUBJECT: Land Acquisition

DATE: March 14, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Molloy</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>GE</u>	_____
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	<u>WM</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute provides for the one-time transfer of \$310 million of documentary stamp tax revenues to the Florida Forever Trust Fund to be used for the acquisition of the Babcock Crescent B Ranch in Lee and Charlotte counties, and authorizes the use of funds deposited into the Conservation and Recreation Lands Trust Fund for the management and improvement of the property. The committee substitute provides that the acquisition of the Babcock Crescent B Ranch is a conservation acquisition under the Florida Forever program and designates the Fish and Wildlife Conservation Commission (FWC) and the Department of Agriculture and Consumer Services (DACS) as the lead managing agencies. The committee substitute also authorizes the creation of the Babcock Ranch citizen support organization to be organized and operated for the benefit of the Babcock Crescent B Ranch with the approval of the FWC and the Division of Forestry at the DACS.

This committee substitute substantially amends sections 201.15, 259.032, and 259.1051, Florida Statutes, and creates ss 259.1052 and 259.10521, Florida Statutes.

II. Present Situation:

Babcock Crescent B Ranch

The Babcock Crescent B Ranch covers an area of 143 square miles and is comprised of 81,499 acres in Charlotte County and 9,862 acres in northwest Lee County. The Ranch contains cypress domes, extensive wet (mesic) flatwoods and wet prairies in a block that straddles the Telegraph Swamp, provides habitat for endangered species, and is a high water-recharge area for southwest Florida. The Babcock Ranch is a Florida Forever Group A project which was added to the acquisition list in 2001.

The Ranch is owned by the Babcock family and operated by the Babcock Florida Company, a for-profit corporation registered in Florida and based in Pittsburgh, Pennsylvania. Until around 1940, the primary activity on the Babcock property was the timber business, particularly the harvesting and sale of longleaf pitch pine to South Africa to be used in shoring up and bracing diamond mines. The Babcock Florida Company, created in 1940 as a result of the merger of the Babcock Carrier Florida Company and the Charlotte-Lee County Land Company, replanted to replenish the timber harvested from the ranch and also began cattle operations under the leadership of Fred Babcock, the son of Edward Vose Babcock, the original owner of what is now the Crescent B Ranch.

Today, the business of the Babcock Ranch includes tenant farms for watermelon and tomatoes on about 4,000 acres; 1,000 acres of sod farming, 2,000 acres of permitted mining activities, and 20,000 acres of improved pasture land. Public access to 6,000 acres covering 6 miles is provided through guided eco-tours conducted by Babcock Wilderness Adventures, Inc.. Hunting activities are authorized on 61,000 acres through 22 annual private hunting leases covering an average of 5,000 acres per lease. Prescribed burning activities are conducted on about 25,000 acres, and 72,000 acres are in native vegetation and are grazed rotationally.

State's Purchase of the Babcock Crescent B Ranch

The Babcock Crescent B Ranch was added to the Florida Forever priority list in 2001 and approved for acquisition by the Board of Trustees of the Internal Improvement Trust Fund in January, 2002. At that time, the estimated assessed taxable value of the property was \$52.5 million, and all of the ranch was identified for acquisition under the Florida Forever program.

In July 2005, Kitson & Partners, a Palm Beach real estate development firm, announced that it was purchasing the ranch from the Babcock family for an undisclosed sum of money under four conditions:

- The State of Florida, Lee County, and Kitson & Partners would execute a sales contract for approximately 73,400 acres of the ranch. Kitson & Partners would retain ownership of approximately 18,200 acres.
- Kitson & Partners, Lee County, Charlotte County, and the state would execute a 4-party Interlocal Agreement to guide the preservation and development of the ranch in a mutually cooperative way
- Charlotte County would adopt changes to its local comprehensive plan to allow Kitson & Partners to develop approximately 17,800 acres of the retained acreage as a self-sustaining community containing:
 - 19,500 residential units
 - 6 million square feet of commercial space
 - 664,067 square feet of industrial space
 - 600 hotel units
 - 72 holes of golf
- Kitson & Partners would buy and merge into the Babcock Florida Company.

State of Florida

On November 22, 2005, the Board of Trustees of the Internal Improvement Trust Fund approved the Agreement for Sale and Purchase for the state to purchase approximately 67,000 acres of the

Babcock Crescent B Ranch for a total purchase price of \$310 million. Under the Agreement, the following terms and conditions apply:

- The total purchase price for the property, including the Lee County portion, is \$350 million.
- Payment is as follows:
 - \$5 million - Department of Agriculture and Consumer Services
 - \$5 million - Fish and Wildlife Conservation Commission
 - \$40 million - Lee County
 - \$300 million - Board of Trustees of the Internal Improvement Trust Fund
- Property will be purchased in five phases:
 - Phase I - \$100 million
 - Phase II thru Phase V - \$62.5 million in each phase
- Phase I closing is to take place on or before April 1, 2006 if funding is secured, but not later than July 31, 2006. Seller must have merged into Babcock Florida Company by Phase I closing.
- Should Kitson & Partners not merge into Babcock Florida Company for any reason, there is no liability or obligation to follow through on the sale of the property to the state.
- Seller and purchaser agree to enter into a Management Agreement which requires, among other provisions, that the seller manage cattle and wildlife on the property, and the creation of a land management plan to be approved by the Board of Trustees.
- Water resources:
 - Town and Country Utility Company currently located on the ranch will be wholly owned by seller.
 - The Public Service Commission Certificate No. 613W for Town and Country will be released and terminated as each phase closes.
 - Water service leases entered into between Town and Country Utility and the Babcock Florida Company will terminate as each phase closes.
 - Prior to the closing of each phase where the takedown parcel includes a surface water control structure, the parties will agree on the range of seasonal control elevations for surface water, and agree on the party responsible for operating, maintaining, and managing the water control structure.
 - The Board of Trustees may grant proprietary authorization for the use of state-owned lands so long as the proposed use is compatible and consistent with the purpose for which the property is acquired.
 - When Charlotte County demonstrates the need and demand for a public water supply beyond current capacity and has obtained a consumptive use permit:
 - The county may apply for use of the state property to sink wells, and install pipelines and utilities as necessary.
 - The initial consumptive use application is expected to be for 10 mgd (million gallons per day), but application can be for more.
 - County has access to the property solely for purposes of conducting studies to apply for the consumptive use permit.
 - Staff of the Division of State Lands will accept and process the application for use of state lands from Charlotte County.
 - No well site may be located in Lee County.
 - Water use must be for public water supply purposes.

- Pipelines to transfer water across Telegraph Swamp must be co-located along existing water control structures or immediately adjacent thereto.
- Charlotte County must pay a consideration to the Board of Trustees for the placement of water wells.
 - Nothing in the contract assures Charlotte County that a consumptive use permit will be issued.
- Authorizations for uses of the state property may only be granted by the Board of Trustees and the ability to authorize use may not be delegated by the Board.

Lee County

On November 15, 2005, the Lee County Board of County Commissioners executed the Agreement for Sale and Purchase which committed the county to a purchase of \$40 million for property which will be titled in the county's name. On Tuesday, February 28, 2006, the Lee County Board of County Commissioners voted to spend \$41.5 million instead of the original \$40 million in order to acquire all of the ranch property that is located within Lee County (approximately 5,620 acres) so that none of the property within the county will be owned by the state. It is unclear how this affects the Agreement for Sale and Purchase which has already been signed and approved by the Board of Trustees.

Citizen Support Organizations

A variety of public-private nonprofit entities have been authorized in statute to assist state government in the performance of activities that benefit the public. A citizen support organization (CSO), which is one type of these authorized entities, is created by private citizens and receives a letter of approval from a department if the CSO meets certain statutory requirement.

Sections 20.2251 and 258.015, F.S., authorize CSOs which are associated with the Department of Environmental Protection, while s. 372.0215, F.S., provides that the FWC can establish a CSO (the Wildlife Foundation of Florida, Inc.) to provide support for programs of the commission. These authorized CSOs are required to be Florida not-for-profit corporations incorporated under the provisions of chapter 617, F.S., and approved by the Department of State, and can be organized and operated to conduct programs and activities; raise funds; and request and receive grants, gifts, and bequests of money, among other things, for the direct or indirect benefit of the entity they are created under.

Audits of Citizen Support Organizations

Section 215.981, F.S., requires that each CSO with annual expenditures in excess of \$100,000, created or authorized pursuant to law, and created, approved, or administered by a state agency, other than a university, district board of trustees of a community college, or district school board, shall provide for an annual financial audit of its accounts and records. The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General pursuant to s. 11.45(8), F.S., and the state agency that created, approved, or administers the CSO, and must be submitted within 9 months after the end of the fiscal year to the Auditor General and to the state agency that created, approved or administers the CSO. An exception to the audit requirement is provided for CSOs for the DEP with annual expenditures of less than \$300,000.

III. Effect of Proposed Changes:

Section 1. Amends s. 201.15 (1) (e) and (2) (a), F.S., to provide for the distribution of documentary stamp tax revenues to the Florida Forever Trust Fund.

Amends s. 201.15 (11), F.S., to provide that for the 2006-2007 fiscal year and prior to the deposit of documentary stamp tax revenues into the General Revenue Fund, \$310 million shall be paid to the State Treasury to the credit of the Florida Forever Trust Fund to purchase the Babcock Crescent B Ranch.

Amends s. 201.15 (13), F.S., to delete outdated provisions requiring that the Acquisition and Restoration Council review the distribution of funds to the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund.

Section 2. Amends s. 201.15 (1)(e) and (2)(a), F.S., effective July 1, 2007, to repeal provisions authorizing the distribution of documentary stamp tax revenues to the Florida Forever Trust Fund.

Amends s. 201.15 (11), F.S., effective July 1, 2007, to repeal the transfer of \$310 million of documentary stamp tax revenues to the Florida Forever Trust Fund.

Amends s. 201.15 (13), F.S., effective July 1, 2007, to conform to changes made in ch. 2005-92, Laws of Florida.

Section 3. Amends s. 259.032, F.S., to provide that the Board of Trustees of the Internal Improvement Trust Fund may not designate the lead managing agencies for purposes of the Babcock Crescent B Ranch acquisition. Provides that state agency land management responsibilities for the ranch may not be delegated to local governments or soil and water conservation districts. Provides that the individual management plan for the ranch must be adopted and in place no later than two years from the date the state acquires the ranch. Clarifies that land management funds deposited into the Conservation and Recreation Lands Trust Fund are available for the management of the ranch.

Section 4. Amends s. 259.1051, F.S., to expand the purposes for which funds deposited into the Florida Forever Trust Fund can be distributed by the Department of Environmental Protection (DEP) to include the Babcock Crescent B Ranch acquisition. Provides that funds deposited into the trust fund for the purchase of the ranch do not have to be distributed within 90 days of receipt.

Section 5. Creates s. 259.1052, F.S., to:

- Establish that the purchase of the Babcock Crescent B Ranch is a conservation acquisition under the Florida Forever program.
- Establish that the ranch constitutes a unique land mass with significant scientific, cultural, historical, recreational, ecological, wildlife, fisheries, and productive values.

- Establish that the acquisition of the ranch represents a unique opportunity to assist in preserving the largest private and undeveloped single-ownership tract of land in Charlotte County.
- Recognize Lee County as the state's partner in the acquisition of the ranch.
- Authorize the acquisition of the state's portion of the Babcock Crescent B Ranch in order to protect and preserve for future generations the scientific, scenic, historic, and natural values of the ranch, including rivers and ecosystems; to protect and preserve the archaeological, geological, and cultural resources of the ranch; to provide for species recovery; and to provide opportunities for public recreation.
- Encourage the use of documentary stamp tax revenues for the purchase of the state's portion of the ranch so that the purchase can be completed in one transaction on or before July 31, 2006.
- Designate the FWC and the DACS as the lead managing agencies responsible for the management ranch.
- Authorize DEP to distribute \$310 million of funds deposited into the Florida Forever Trust Fund in one payment, representing payment in full, for the acquisition of the Babcock Crescent B Ranch.
- Define the "state's portion of the Babcock Ranch".

Section 6. Creates s. 259.10521, F.S., to:

- Authorize the creation of the Babcock Ranch citizen support organization as:
 - A Florida not-for-profit corporation created under the provisions of chapter 617, F.S.
 - A corporation organized and operated to conduct programs and activities for the direct or indirect benefit of the Babcock Crescent B Ranch.
 - A corporation determined by the FWC and the Division of Forestry at the DACS to be consistent with the state's goals in acquiring the ranch, and to be in the best interests of the state.
 - A corporation approved in writing by the FWC and the Division of Forestry to be operating for the direct or indirect benefit of the ranch.
- Authorize the FWC and the Division of Forestry to permit the appropriate use of fixed property and facilities of the ranch so long as the use is directly in keeping with the purposes of the organization, and doesn't unreasonably interfere with public recreational opportunities.
- Authorize the FWC and the Division of Forestry to establish by rule conditions with which the organization must comply for use of the fixed property or facilities of the ranch.
- Requires the organization to provide equal membership and employment opportunities.
- Establish that incentives for partnerships with private organizations to produce additional revenue to enhance the use and potential of the ranch are in the public interest.
- Authorizes the annual appropriation of funds from the Land Acquisition Trust Fund for matching grants for capital improvement facility development at the ranch at individual sites or for projects affecting the overall ranch system.
 - Matching grants to be 60 percent private funds and 40 percent state funds.
- Provides the FWC and the Division of Forestry with rulemaking authority.

Section 7. Provides that except as expressly provided, the bill will take effect upon becoming a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

This bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:**Acquisition Funding:**

This committee substitute provides for the transfer of \$310 million of documentary stamp tax revenues to the Florida Forever Trust Fund to be used to purchase the Babcock Crescent B. Ranch.

Interim Land Management Funding

Interim land management funding for activities on the ranch is estimated to be \$1.9 million for both the FWC and the DACS. Funding for land management activities on state lands is provided through the Conservation and Recreation Lands Trust Fund, and this committee substitute provides that those funds can be expended for the management of the ranch.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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