

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government –

The bill potentially reduces the number of steps required to sell or exchange surplus state land, thereby delivering unused government land back to county tax rolls.

The bill requires the Division of State Lands to contract with the Florida Natural Areas Inventory at Florida State University for certain mapping and inventory services.

B. EFFECT OF PROPOSED CHANGES:

Ownership, Management, and Inventory of State Lands

Current Situation

Art. IV, s. 4 of the State Constitution, establishes the Governor, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture as the Board of Trustees (BOT) of both the Internal Improvement Trust Fund and the Land Acquisition Trust Fund. The BOT is charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by, or which may inure to, the state or any of its agencies, except as otherwise provided by law.¹ Section 253.02, F.S., provides that the board may not sell, transfer, or otherwise dispose of any lands the title to which is vested in the BOT except by a vote of at least three of the four trustees.

Statutory provisions governing the acquisition and disposal of lands by the state are contained in Chapters 253 and 259, F.S. The Department of Environmental Protection (DEP) is directed to provide administrative staff to the BOT, and the Division of State Lands (Division) within DEP performs staff duties and functions related to the acquisition, administration, and disposition of lands which are titled in the name of the BOT.²

Concurrent with the Division's support of the BOT, the Acquisition and Restoration Council (ARC)³ is responsible for evaluating, selecting, and ranking land acquisition projects, and can add or delete projects from the master acquisition list.⁴ At least once a year, the list approved by ARC is submitted to the BOT for approval.⁵ The BOT can remove projects from the list but may not add projects and may not reprioritize the list.⁶ The ARC is supported by Division staff. Under current statutes, the roles of the Division and the ARC are sometimes unclear in relation to conservation lands vs. non-conservation lands.⁷

¹ Section 253.02, F.S.

² Section 253.002, F.S.

³ The ARC is created in s. 259.035, F.S., and consists of nine members – four appointees of the Governor, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Agriculture and Consumer Affairs, the Executive Director of the Florida Fish and Wildlife Conservation Commission, the Director of the Division of Historical Resources at the Department of State, and the Secretary of the Department of Community Affairs.

⁴ Section 259.035(4) – (6), F.S.

⁵ *Id.*

⁶ See generally s. 259.041, F.S.

⁷ Broadly speaking, the term “conservation lands” means any lands purchased by the state under its land-acquisition programs described in Chapter 259, F.S. These programs include Florida Preservation 2000 and Florida Forever programs. “Non-conservation lands” are, by definition, all other state lands.

Changes

The bill clarifies the obligations of the BOT, Division, and ARC, and streamlines BOT's authority to sell or exchange state land. The bill identifies sales and exchanges as two separate methods of state land disposal, and clarifies sections in which the distinction between a sale and an exchange is required.

The Division is authorized to review all requests to sublease non-conservation lands, all land management plans for non-conservation lands, and all requests to sell or exchange nonconservation lands owned by the state. Similarly, the bill removes all responsibilities relating to non-conservation lands from the ARC, and clarifies that ARC will review all requests to sublease conservation lands, all land management plans for conservation lands, and all requests to sell or exchange conservation lands owned by the state.

The bill authorizes the Division to contract with the Florida Natural Areas Inventory⁸ in order to improve the inventory requirements contained in Chapter 253, F.S.⁹ In an additional attempt to improve the inventory status, the bill directs the Department of Revenue to share current tax roll data used to prepare the BOT inventory with the Division for use in compiling an additional inventory of all state, federal, water management district, and local government lands.¹⁰ The BOT's annual inventory of all publicly owned lands in the state must include a summary of all surplus lands sold and exchanged by the state each year, and must indicate if those lands were acquired or managed by the state for conservation purposes or if they were non-conservation lands.

Surplus Lands

Current

The disposal of surplus state lands is controlled by statutory and constitutional¹¹ provisions which provide for the sale or exchange of state lands. To dispose of non-conservation lands, the BOT must determine that the property is no longer needed.¹² To dispose of conservation lands, the BOT must determine that the property is no longer needed for the conservation purposes for which it was acquired,¹³ and in cases where conservation land is exchanged, the exchange must result in a net positive conservation benefit to the state.¹⁴ In all cases, the surplus of state lands requires an affirmative vote of at least three of the members of the BOT.¹⁵ All property sold or exchanged by the BOT first must be offered to the county in which the property is located.¹⁶

Section 253.0341, F.S., creates an expedited surplus process for local governments to submit a surplus request directly to the BOT. The BOT may make a determination to surplus non-conservation lands without a recommendation of the ARC or the Division, and must consider the local government request within 60 days of receipt.¹⁷ Local government requests for the state to surplus conservation lands must be reviewed by the ARC for a recommendation on the request, and a final determination

⁸ The FNAI is a non-profit organization administered by Florida State University, and is a member of The Nature Conservancy's international network of environmental programs. On its website at www.fnai.org, the group describes its primary mission as "gathering, interpreting, and disseminating information critical to the conservation of Florida's biological diversity." Funding to the FNAI is provided through contracts and grants including work for DEP, the Florida Fish and Wildlife Conservation Commission, and other state and federal agencies.

⁹ See ss. 253.034(8)(a) and 253.03(8)(a), F.S.

¹⁰ The Department of Revenue currently is directed to share this data with the President of the Senate and the Speaker of the House of Representatives.

¹¹ Art. X, s. 18, Constitution of the State of Florida (adopted November 1998).

¹² Section 253.034(6), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 253.034(6)(f), F.S. This requirement is waived when the request to surplus is made under s. 253.034(6)(j), F.S.

¹⁷ Section 253.0341, F.S.

must be made by the BOT within 120 days of receipt of the request.¹⁸ Local governments purchasing surplus property for less than appraised value must retain the title for at least ten years.¹⁹ Lands may be purchased by county governments for purposes of building internal improvements such as public schools, libraries, fire or police substations.²⁰

Surplus requests may be made by any public or private entity or person and are submitted to the lead managing agency for review prior to review by the ARC.²¹ Requests for surplus submitted by an entity other than a local government are guided by the provisions of s. 253.034(6), F.S.

Changes

The bill revises the state's surplus process to provide that conservation lands determined by the BOT as eligible for sale or exchange are reclassified as nonconservation lands.

All lands determined by the BOT as eligible for sale are designated as surplus land and may be sold by an affirmative vote of at least three BOT members. Lands deemed eligible for exchange must be exchanged by a vote of at least three BOT members. Non-conservation lands not included in any agency's land use plan are deemed surplus and are recommended for sale or exchange, unless (i) the Division issues a written justification detailing the reason for retaining the land, or (ii) an agency revises its land use plan to incorporate the parcel at issue.

The bill clarifies that conservation land exchanges must result in a net positive conservation benefit to the state, and expands the purposes for which a local government may use surplus or exchanged property. These additional uses include affordable housing projects or programs, or to meet the capital improvements element or a concurrency requirement of a local comprehensive land use plan.

With regard to public requests to sell or exchange state lands, the bill requires that requests be submitted in writing by the public or private entity or person making the request and that denial of a request for the sale or exchange of state lands be made in writing and include the reason for denial. The Division must keep records of all requests for the sale or exchange of state lands and keep records of approvals or denials of those requests. The lead managing agency must submit a copy of the request for sale or exchange of state lands to the Division for its records.

C. SECTION DIRECTORY:

Section 1 amends s. 253.002, F.S., providing additional definitions.

Section 2 amends 253.025, F.S., correcting a cross-reference.

Section 3 amends s. 253.03, F.S., providing additional requirements for the Division's obligation to inventory state lands.

Section 4 amends s. 253.034, F.S., streamlining and clarifying provisions regarding surplus lands and the duties of the BOT, the Division, and the ARC.

Section 5 amends 253.0341, F.S., clarifying processes relating to the sale or exchange of surplus land to county or local governments.

Section 6 amends 253.42, F.S., adding additional public purposes for which local governments may accept state surplus land.

¹⁸ *Id.*

¹⁹ Section 253.034(6)(g)2., F.S.

²⁰ Section 253.034(6)(f), F.S.

²¹ Section 253.034(6)(j), F.S.

Section 7 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not directly create, modify, amend, or eliminate a state revenue source. If the legislation results in additional sales of surplus lands, the state would be the recipient of such funds.

2. Expenditures:

The bill does not create, modify, amend, or eliminate a state expenditure.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not directly create, modify, amend, or eliminate a local revenue source. Local governments may see a slight increase in the local property tax base if more surplus state lands are returned to the general public.

2. Expenditures:

The bill does not create, modify, amend, or eliminate a local expenditure.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill conforms the Board's current authority to proscribe rules relating to the Division of State Land to language changes made throughout the bill. The authority is not substantively broadened or lessened.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.