

The Florida Senate
PROFESSIONAL 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: Community Affairs Committee

BILL: CS/CS/SB 1486

INTRODUCER: Community Affairs Committee, Environmental Preservation and Conservation Committee, and Senators Oelrich and Constantine

SUBJECT: Florida Springs Stewardship Act

DATE: April 24, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	Fav/CS
2.	Molloy	Yeatman	CA	Fav/CS
3.			GA	
4.				
5.				
6.				

I. Summary:

The committee substitute for CS/SB 1486 (the bill) creates the Florida Springs Stewardship Act, provides legislative intent recognizing the importance of springs in the state, establishes definitions, and provides for the creation and expiration of the Florida Springs Stewardship Task Force (task force), the appointment of members to the task force, and duties and responsibilities of the task force, including reporting requirements.

The bill authorizes 2 or more counties, or at least one county and one or more municipalities, to enter into an interlocal agreement establishing a tax increment area that will generate revenue for the purchase of conservation lands. It also allows a water management district in which the conservation lands are located to enter into the interlocal agreement if the district contributes funds for the purchase. The bill provides minimum requirements for the interlocal agreement. Notwithstanding the provisions of s. 197.552, F.S., all provisions of a conservation easement shall survive and are enforceable after the issuance of a tax deed.

The bill creates sections 369.401, 369.402, 369.403, and 369.404 in part IV, chapter 369 of Florida Statutes, amends s. 704.06, Florida Statutes, and creates an unnumbered section of Florida law.

II. Present Situation:

Florida's Springs and the Florida Springs Initiative¹

Florida has more than 700 recognized springs - 33 first magnitude springs with a flow of more than 100 cubic feet per second that discharge more than 64 million gallons of water per day; 191 second magnitude springs with an average flow of 10 to 100 cubic feet per second that discharge from 6 to more than 64 million gallons of water per day; 151 third magnitude springs with a flow of 1 to 10 cubic feet per second that discharge 600,000 to 6.46 million gallons of water per day. Spring discharges, primarily from the Floridan Aquifer, are used to determine ground water quality and the degree of human impact on the spring's watershed. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, and flow and length of time in the aquifer all contribute to ground water chemistry. The Florida Springs Task Force was created in 1999 to recommend strategies for protecting and restoring Florida's springs. The multi-agency task force produced a report in November of 2000 entitled "*Florida's Springs, Strategies for Protection and Restoration*" which was the basis of the Florida Springs Initiative. The report identified management strategies such as coordinated land use planning and ordinances that protect spring recharge basins, funding and implementing best management practices, and the acquisition of spring recharge basins to protect springs from land use practices that reduce water quality and quantity. The report also identified regulation strategies to protect spring flow, and a funding mechanism for implementing the strategies contained in the report. The report suggested the creation of a Springs Protection and Restoration Trust Fund funded by a 25-cent increase in automobile tags.

Under the Florida Springs Initiative, the Legislature has provided at least \$2.5 million each year since 2001 to support projects for springs restoration, research and protection.

Tax Increment Financing

Currently, tax increment financing is used as a tool to fund redevelopment. The Community Redevelopment Act, codified in part III of ch. 163, F.S., allows a county or municipality to create a community redevelopment agency (CRA) to carry out redevelopment of slum or blighted areas. CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund utilizing revenues derived from tax increment financing (TIF). TIF uses the incremental increase in ad valorem tax revenue within a designated redevelopment area to finance redevelopment projects within that area.²

As property tax values in the redevelopment area rise above an established base, tax increment is generated by applying the current millage rate to that increase in value and depositing that amount into a trust fund.³ Each taxing authority must annually appropriate an amount representing the "increment revenues" and deposit it in a redevelopment trust fund. These revenues are used to back bonds issued to finance redevelopment projects.

¹ See Bulletin No. 66, *Springs of Florida*, Florida Geological Survey, <http://www.dep.state.fl.us/geology/geologictopics/springs/bulletin66.htm>

² See David Cardwell and Harold R. Bucholz, "Tax-Exempt Redevelopment Financing in Florida," *Stetson Law Review*, Summer, 199, at 667.

³ See *id.*

Conservation Lands

Florida Forever provides \$300 million in funding for land acquisition each fiscal year to the: Department of Environmental Protection for the Division of State Lands, Division of Recreation and Parks, Rails to Trails, and the Florida Recreation Development Assistance Program; Florida Fish and Wildlife Conservation Commission; Department of Community Affairs for the Florida Communities Trust; Department of Agriculture and Consumer Services for the Division of Forestry; and the water management districts. In addition to state land acquisition efforts, there are numerous local government initiatives to acquire conservation lands. However, these funding sources are not always sufficient to acquire conservation lands that may be available for purchase and which could provide additional recreational opportunities for residents in the surrounding area, as well as ecotourism opportunities.

III. Effect of Proposed Changes:

Section 1. Creates the Florida Springs Stewardship Act in part IV of ch. 369, F.S., as follows:

- Section 369.401, F.S., provides a short title.
- Section 369.402, F.S., establishes the following legislative findings:
 - Florida's springs are valuable resources that provide recreational and tourism opportunities, and provide great financial benefit to local economies.
 - Florida's springs provide critical habitat for endangered or threatened species of plants and animals.
 - The flow and water quality of Florida's springs are direct reflections of the state's aquifer system.
 - Cooperative efforts are the best mechanism to identify best management practices to protect, restore, and preserve Florida's springs.
 - Florida's citizens want to be good stewards of the state's resources and, if made aware through educational programs, will implement best management practices into their daily activities.
- Section 369.403, F.S., defines the following terms:
 - Seep – A place where the water table aquifer intersects the land surface and flows onto the land.
 - Spring – means a point where groundwater is discharged onto the earth's surface, including under any surface water of the state, excluding seeps.
 - Zone of influence – the geographic area that contributes most directly to the water quantity and quality of a spring.
- Section 369.404, F.S., creates the Florida Springs Stewardship Task Force, consisting of nine members to be appointed by August 1, 2007. Appointees are:
 - One representative from the Department of Environmental Protection.
 - One representative from the Department of Agriculture and Consumer Services.
 - One representative from the Department of Community Affairs

- One representative from the water management district with the greatest number of first magnitude springs within its jurisdiction (Suwannee River Water Management District.)
- Two members appointed by the President of the Senate, one of whom shall be a representative of the development community, and one of whom shall be a representative of a local chamber of commerce.
- Two members appointed by the Speaker of the House of Representatives, one of whom shall be a locally elected county or municipal official, and one of whom shall be a representative of the environmental community.
- One member appointed by the Commissioner of Agriculture who shall be a representative of the agricultural community.

The task force shall:

- Collect and inventory all existing data identifying zones of influence for each of Florida's first magnitude springs and identifying land uses in these areas.
- Identify and compile a list of existing best management practices for identified land uses and other water pollutant controls.
- Identify any and all existing and reasonably expected funding sources available to implement best management practices that protect first magnitude springs.
- Propose a priority list of projects for the funding.
- Receive public input and testimony regarding issues related to springs protection, restoration, and preservation.
- Propose a program of increased emphasis on education and outreach that encourages the implementation of best management practices for agricultural and nonagricultural land uses and other water pollutant controls, including specific provisions for cost-share assistance in implementing best management practices as well as recognition of agricultural and nonagricultural landowners who participate in the best management practices program.
- Submit a report summarizing the data collected, public input and testimony, and the findings and proposals of the task force to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2008.

The task force expires January 31, 2008.

Section 2 amends subsection (4) of s. 704.06, F.S., to provide that notwithstanding the provisions of s. 197.552, F.S., all provisions of a conservation easement shall survive and are enforceable after the issuance of a tax deed.

Section 3 creates an unnumbered section of Florida law to establish a process for at least two or more counties, or at least one county and one or more municipalities, to establish a tax increment area that will generate revenue for the purchase of conservation lands. The local governments must enter into an interlocal agreement that, at a minimum, shall:

- Identify the boundaries of the tax increment area;
- Identify the real property to be acquired as conservation lands within the tax increment area;

- Establish the percentage of tax increment financing for each jurisdiction in the tax increment area;
- Identify the governing body of the jurisdiction to administer a separate reserve account in which the tax increment revenues will be deposited;
- Require tax increment revenues not used to purchase conservation lands by a date certain to be refunded in an amount proportionate to the parties' payment into the separate reserve account;
- Provide for an annual audit of the separate reserve account;
- Designate an entity to hold title to the conservation lands;
- Provide for a continuing management plan for conservation lands purchased using tax increment revenues; and
- Identify the entity that will manage these conservation lands.

The bill allows a water management district in which the conservation lands are located to enter into the interlocal agreement if the district contributes funds towards the purchase of those lands. The Department of Community Affairs is required to review the boundary of the tax increment area to determine whether the proposed purchase of conservation lands will benefit property owners within the boundary and serve a public purpose. Before any of the identified conservation lands are purchased, the Department of Environmental Protection must determine whether the purchase is sufficient to provide additional recreational and ecotourism opportunities for residents in the tax increment area.

The bill limits the tax increment financing for conservation lands to no more than 50 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S.⁴ The percentage shall be set annually. The bill provides for the establishment of a separate reserve account for each tax increment area which shall be administered pursuant to the terms of the interlocal agreement. The tax increment revenues in the separate reserve account may only be used to acquire conservation lands identified for purchase in the interlocal agreement. Each party to the interlocal agreement must approve, by resolution, the purchase price for the conservation lands.

Unless otherwise provided in the interlocal agreement, a taxing authority that does not pay the tax increment funds into the trust fund by January 1 must pay 1 percent on the amount of the unpaid funds for each month the tax increment funds are outstanding. Public bodies and taxing authorities listed under s. 163.387, F.S., and special districts levying ad valorem taxes in the tax increment area are exempt from paying any tax increment funds under this section.⁵

Also, the tax increment revenues may be bonded but those bonds are payable solely out of those revenues deposited in the separate reserve account. These revenue bonds do not constitute a debt, liability, or obligation of the local government, the state, or any of its political subdivisions.

⁴ Section 163.387(1)(a), F.S., provides that a tax increment shall be determined as the difference between the amount of ad valorem taxes levied each year by each taxing authority, excluding any debt service millage, on real property in a tax increment area and the amount of ad valorem taxes which would have been produced by the rate on which the tax is levied for each year by or for each taxing authority on the total assessed value using the most recent assessment roll for the property prior to the creation of the tax increment area.

⁵ Section 163.3187(2)(c), F.S., exempts certain special districts, library districts, neighborhood improvement districts, metropolitan transit authorities, and water management districts from paying a tax increment for redevelopment.

Finally, the bill provides legislative findings regarding the impact of an inadequate supply of conservation lands and the public purpose served in acquiring such lands.

Section 4 establishes legislative findings regarding conservation lands.

Section 5. Provides that the act shall take effect July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

Conservation lands purchased using the funds generated by a tax increment financing area created under the bill may have a positive fiscal impact on the surrounding communities because recreational opportunities are an amenity to potential homebuyers. These conservation lands may provide ecotourism opportunities which would provide a direct economic benefit.

C. Government Sector Impact:

The bill authorizes 2 or more counties, or at least one county and one or more municipalities, to enter into an interlocal agreement establishing a tax increment area that will generate revenue for the purchase of conservation lands. The tax increment authorized by the bill shall be determined annually, but may not exceed 50 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S.

VI. Technical Deficiencies:

This bill contains several technical deficiencies. The task force created in the bill is not housed with any agency or local government entity for staffing purposes. The representatives of the state

agencies and the water management district are not appointed by anyone. No one entity is assigned with the responsibility of assisting the task force with collecting and compiling the data for reporting purposes as required under the bill. The task force is required to receive public input and testimony but when, where and how this will be accomplished is not specified. No mechanism is provided for the task force to record public input and testimony for public records purposes. No per diem or travel expenses for task force members are provided.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
