

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: Finance and Tax Committee

BILL: CS/CS/SB 2134

INTRODUCER: Environmental Preservation and Conservation Committee, Community Affairs Committee and Senator Constantine

SUBJECT: Tax Increment Financing

DATE: April 20, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	Fav/CS
2.	Kiger		EPCC	Fav/CS
3.	Fournier	Johansen	FT	Favorable
4.			GA	
5.				
6.				

I. Summary:

The committee substitute for committee substitute (CS) 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 CS provides minimum requirements for the interlocal agreement.

The Department of Community Affairs is required to review the boundary of a tax increment area established under this CS 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 tax increment authorized by the CS shall be determined annually, but may not exceed 95 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S. Tax increment revenues are to be paid into a separate reserve account. These tax increment revenues may be spent to purchase the identified conservation lands only if all parties to the interlocal agreement approve the purchase price. There is an interest penalty for failure to pay the tax increment revenues into the separate reserve account as required by the interlocal agreement. The tax increment revenues may be bonded, but revenue bonds are payable solely out of revenues pledged to and deposited in the separate reserve account. This CS also provides legislative findings.

This CS creates a new section of the Florida Statutes.

II. Present Situation:

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.¹

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.² 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.

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:

The CS establishes 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;

¹ See David Cardwell and Harold R. Bucholz, “Tax-Exempt Redevelopment Financing in Florida,” *Stetson Law Review*, Summer, 199, at 667.

² See *id.*

- 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.

In addition, the CS 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. However, the water management districts may only utilize their ad valorem revenues when participating in these agreements. The CS requires the Department of Community Affairs 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 CS limits the tax increment financing for conservation lands to no more than 95 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S.³ The percentage shall be set annually. The CS 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.⁴

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.

³ 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.

⁴ 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, this CS provides legislative findings regarding the impact of an inadequate supply of conservation lands and the public purpose served in acquiring such lands.

The CS takes effect July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

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

C. Government Sector Impact:

The CS 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 CS shall be determined annually, but may not exceed 95 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S.

The CS limits the water management districts by specifying that only ad valorem revenues may be used when participating in the interlocal agreements.

VI. Technical Deficiencies:

None.

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.
