

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: CS/CS/SB 542

INTRODUCER: General Government Appropriations Committee, Environmental Preservation and Conservation Committee, and Senator Saunders

SUBJECT: Land Acquisition

DATE: April 10, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	Fav/CS
2.	Kynoch	DeLoach	GA	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill make numerous changes concerning the state’s land acquisition and land management programs. Included in these are the following:

- Increasing the bonding authorization for the Florida Forever program from \$3 billion to \$5.3 billion and extending the debt retirement dates to 2040 to conform to this change. Providing that certain financial analysis be performed after 2010 before the issuance of any new Florida Forever bonds.
- Changing appraisal procedures to conform to recent recommendations from the Auditor General.
- Providing additional specific requirements for information that shall be contained in land management plans.
- Requiring that a study be undertaken to determine the potential and value of using state lands for assisting in efforts to address climate change issues.
- Permitting the Florida Fish and Wildlife Conservation Commission (FWC) to utilize lands, for which they act as lead manager, for the purpose of providing protection to listed species.

The FWC is also required to provide a report to the Legislature concerning their experiences with this provision. Additionally, the provision is scheduled to sunset in 2014.

- Changing a requirement that “up to” 1.5 percent of the total funds ever deposited into the Florida Forever Trust Fund and the Preservation 2000 Trust Fund to read “not less than” subject to annual evaluation by the Legislature.
- Directing the Land Management Uniform Accounting Council to develop recommendations for formulas or methodologies to be used for disbursing interim land management funds.
- Providing additional requirements for gubernatorial appointees to the Acquisition and Restoration Council (ARC).
- Directing the ARC to develop rules that establish specific criteria and numeric performance measures to be utilized when developing the annual Florida Forever acquisition list. Such rules shall be subject to Legislative review.
- Providing additional reporting criteria to be used by all agencies when developing annual land management cost data.
- Creating a requirement that any acquisition of \$100 million or more shall be submitted to and approved by the Legislative Budget Commission.
- Changing the current Florida Forever distribution formula to reduce from 35 percent to 30 percent the amount allocated to the water management districts and establish five percent of the annual Florida Forever distribution to the Department of Agriculture and Consumer Services for the purpose of implementing the Rural and Family Lands Program established in s. 570.71, F.S.
- Requires that of the amount distributed to the Department of Environmental Protection and the water management districts that a minimum of three percent of the funds be allocated for capital expenditures to expedite public access.
- Requiring that a minimum of one percent of inholdings and additions allocations be used for capital projects needed to expedite public access.
- Providing rule making authority to the Board of Trustees of the Internal Improvement Trust Fund (board) for the use of state lands to assist in climate change issues.
- Requiring water management districts to revert title to the Trustees for state lands purchased in whole or in part with Florida Forever funds unless certain conditions are met.
- Requiring the Division of State Lands (DSL) within the Department of Environmental Protection (DEP) to prepare an annual work plan that details by certain categories the Florida Forever acquisition goals for the coming year.
- Creating fiscal reporting requirements to be utilized by the water management districts for reporting their expenditure of Florida Forever funds.
- The bill also contains many changes to legislative intent and findings to provide for: increased emphasis on public access; the utilization of additional acquisition methods in order to maximize the use of state funds; and to allow for the expenditure of funds and more emphasis on protection rural and agricultural lands.
- Providing that the act shall take effect on July 1, 2008.
- Transfers the Florida Communities Trust program in ss. 380.501-380.515, F.S., from the Department of Community Affairs to the Department of Environmental Protection and directs the Division of Statutory Revision to prepare a reviser’s bill for the transfer.

This bill amends the following sections of the Florida Statutes: 201.15, 215.618, 253.025, 253.0325, 253.034, 253.111, 253.82, 259.032, 259.035, 259.037, 259.041, 259.105, 259.1051, 373.089, 373.1391, 373.199, and 375.075.

II. Present Situation:

Florida has a long history of land acquisition dating back to 1855, with the creation of the Trustees, and has the most unique and ambitious land acquisition program in the nation.

Funding for the acquisition of conservation lands began in the 1960s with the establishment of a \$20 million bond program to acquire recreational lands. In the early 1970's, an additional \$40 million outdoor recreational bond program was created as well as the \$200 million Environmentally Endangered Lands Program. In 1979, the landmark Conservation and Recreation Lands (CARL) program was established to preserve Florida's unique natural heritage.

In 1990, Florida established the Preservation 2000 (P2000) program in an effort to protect Florida's water resources, wildlife habitat, recreational areas, wetlands, and forests from a rapidly growing population. During the ten-year, \$3 billion program, more than 1.7 million acres were acquired to ensure that future generations can enjoy Florida's unique and fragile ecosystem.

Florida Forever

The Florida Forever program was created by the Legislature in 1999 (ch. 99-247, Laws of Florida) as a successor program to P2000, and authorizes the issuance of not more than \$3 billion in bonds for land acquisition, water resource development projects, the preservation and restoration of open space and greenways, and for outdoor recreation purposes. As part of Florida Forever, the Legislature provided public land acquisition agencies with the authority to purchase eligible properties using alternatives to fee simple¹ simple acquisitions. Since 2001, the Florida Forever program has acquired more than 601,000² acres of land at a cost of over \$2.6³ billion.

In each year that bonds are issued or other revenues are used, the proceeds are deposited into the Florida Forever Trust Fund to be administered by the DEP. The DEP distributes revenues from the trust fund to the five water management districts, the Department of Agriculture and Consumer Services (DACS), the FWC, and the Florida Communities Trust (FCT) administered by the Department of Community Affairs (DCA). Lands purchased under the Florida Forever program are titled in the name of the board, except that lands purchased by a water management district vest in the name of that district. Lands purchased under the FCT in partnership with a county or city vest in the name of the acquiring local government. Lands purchased by a nonprofit organization using grant funds provided by the FCT must remain permanently in public use through a reversion of title to local or state government, a conservation easement, or another appropriate mechanism.

¹ The legal term for the maximum interest in land available to a person, or the maximum of legal ownership. Equivalent in many ways, for practical purposes to absolute ownership.

² Total acreage includes acquisitions approved by the board for the 2007-2008 fiscal year

³ Includes funds provided under the Florida Forever Act as well as monies provided from other sources.

The first series of bonds was authorized by the Legislature in 2000 and issued in the spring of 2001. Through July 2007, the Legislature has authorized a total of \$1.7 billion in bonds, of which \$400 million is left to be sold⁴. In addition to authorized bonding, \$1.01 billion has been spent utilizing general revenue and monies transferred from other trust funds bringing the total Florida Forever expenditures to just over \$2.6 billion while acquiring more than 601,000⁵ acres of land⁶.

Land Acquisition Process and Goals

Under P2000, a list of proposed acquisitions was prepared, on an annual basis, and ranked by the Land Acquisition and Management Advisory Council (Council) for approval by the board. The Council, which was the predecessor to the ARC⁷, was composed of the heads of the DEP and the DCA, as well as the heads of the former Game and Fresh Water Fish Commission, Division of Forestry (DOF), Division of Historical Resources (DHR), and a designated employee of the DEP. Once approved, acquisitions were made in their order of ranking, to the greatest extent practicable. The information provided by the council included a management prospectus, an interim management budget, and the designated lead management agency or agencies.

Under Florida Forever, a list of proposed acquisitions is developed by the ARC on an annual basis. The list includes acquisition applications that meet a combination of conservation goals including, but not limited to, protecting Florida's water resources and natural groundwater recharge. Priority is given to projects that were previously placed on the CARL or P2000 list or for which matching funds were available. Applications for proposed Florida Forever projects and acquisitions must be submitted in writing to the DEP, and must be reviewed by staff within 30 days of receipt to determine if the application contains sufficient information. Within 60 days after the staff review or at the next scheduled meeting, applications deemed sufficiently complete are initially reviewed by the ARC.

After the initial review, a project can only move forward with the approval of at least five ARC members. A Project Evaluation Report is prepared by the staff for ARC approval after a project is approved for full review. In preparing the Project Evaluation Report, DEP staff confirms or revises the information contained in the initial project application, provides a review of the natural resource and other application components to determine the number of Florida Forever criteria, goals and measures being met, confirms the project boundary as contained in the application, and includes a recommended manager for the project along with a management policy statement and a management prospectus.

After a full review has been completed, the ARC develops a list of projects for consideration by the board. At least five members of the ARC must vote to place a project on the board's list. Projects of highest priority are on the "A" acquisition list. Projects that are not of the highest

⁴ Information provided by the Division of Bond Finance

⁵ Total acreage includes acquisitions approved by the board for the 2007-2008 fiscal year

⁶ Information provided by the Department of Environmental Protection

⁷ The ARC is comprised of 4 Gubernatorial appointees, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Agriculture and Consumer Services, the Executive Director of the Fish and Wildlife Conservation Commission, the Director of the Division of Historical Resources of the Department of State, and the Secretary of the Department of Community Affairs.

priority are ranked on the "B" acquisition list. Three sub-groups of projects are contained in both the "A" and "B" lists:

- Fee simple or large holdings.
- Multi-parcel or small holdings.
- Less-than-fee acquisitions.

Prior to approval of the list by the board, the ARC must submit a report, with the list of proposed projects, which outlines the following:

- The stated purpose of each included project.
- Costs to achieve the acquisition goals.
- An interim management budget.
- Specific performance measures.
- Plans for public access.
- Identification of the essential parcels within the project boundary.
- Identification of parcels, within each project boundary, which should be acquired by fee simple or less-than-fee simple methods.
- Identification of lands being acquired for conservation purposes.
- A management policy statement and a management prospectus.
- An estimate of land value.
- A map delineating the project boundaries.
- An assessment of the project's ecological, recreational, forest, and wildlife value as well as ownership patterns, utilization and location.
- Identification of alternative uses for the property and what those uses are; and
- A designation of the management agency or agencies.

Upon receipt, the Board of Trustees must provide final approval of the Florida Forever acquisition list each year. The board may remove projects but may not add projects to the list or rearrange project rankings.

All lands acquired under Florida Forever shall be managed for multiple-use purposes, when compatible with the resource values and management objectives for such lands. In order to achieve the purposes and objectives for which the program was created, it was the intent of the Legislature that projects and acquisitions which received funding achieve the following goals:

- Enhance the coordination and completion of land acquisition projects by:
 - Contributing to the completion of P2000 or earlier programs;
 - Increasing acres protected through the use of less-than-fee acquisition; or
 - Partnering with other funding sources such as local or federal government interests.
- Increase the biodiversity of species, natural communities and landscape levels.
- Protect, restore and maintain the quality and natural functions of land, water and wetland systems.
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
- Increase natural resource-based public recreational and educational opportunities.

- Preserve significant archaeological and historic sites.
- Increase the amount of forest land available for sustainable management of natural resources.
- Increase the amount of open space in urban areas.

Once projects are approved for placement on the acquisition list by the board or on a 5-year plan authorized by water management district governing boards⁸, negotiations may begin with the individual property owners. The active process begins with an appraisal of value for the listed parcel. Each parcel to be acquired shall have at least one appraisal. When parcel values exceed \$1 million in estimated value, two appraisals are required. When two appraisals are required, a third appraisal shall be obtained if the two appraisals differ significantly. Two appraisals shall be considered to differ significantly if the higher of the two values exceeds 120 percent of the lower value. However, a third appraisal shall not be obtained if the decision is made by the director of the DEP's Division of State Lands to attempt to negotiate an acquisition price of no more than 120 percent of the lower of the two appraisals. If two appraisals are required and their values do not differ significantly, the maximum amount that may be paid by the State for the parcel shall be the higher value indicated in the two approved appraisals. If a third appraisal is obtained and approved, the maximum amount that may be paid for the parcel shall be the value contained in the higher of the two closest appraisals as long as the two closest appraisals do not differ significantly. If the two closest appraisals differ significantly, 120 percent of the lower of the two appraisals shall be the maximum value.

Financial Process

In addition to managing the acquisition process described above, the DSL also tracks and maintains financial information detailing the status of the Florida Forever program. This information published monthly, details board-committed expenditures in relation to available cash and anticipated future commitments. Specifically, these monthly statements provide the following:

- Fiscal year appropriation data.
- Percent distributions to each statutorily defined agency.
- Available appropriation.
- Actual cash expenditures, including total acreage.
- Approved commitments, including total acreage.
- Anticipated acquisitions, including total acreage.
- Estimated cash needs for real estate closings.
- Projected cash needs for acquisitions.
- Capital project expenditures.

Department of Environmental Protection

In each year that bonds are issued, bond proceeds are deposited into the Florida Forever Trust Fund to be administered by the DEP. The DEP distributes revenues from the trust fund to the five water management districts, the DACS, the FWC, and the FCT.

⁸ The appraisal and acquisition of real property by water management districts is authorized under Chapter 373.139, Florida Statutes, and is substantially similar to that of the DSL.

Pursuant to statute, the DSL receives annually 35 percent of the Florida Forever funds. These funds, about \$105 million annually, are to be used for land acquisition and capital project expenditures which meet the goals of the Florida Forever program. Lands can be acquired in fee simple or in lesser interests. Acquisitions should enhance the completion of projects started under P2000 or earlier land acquisition programs, and can include acquisitions to restore environmentally damaged lands and provide increased protection for environmentally sensitive lands.

Capital projects⁹ are activities deemed necessary to accomplish the purpose of the acquisition and may not exceed 10 percent of the bond funds allocated. Such projects are to be identified prior to acquisition or approval of the project for the one time expense of completing such improvements. Bonds proceeds for capital projects cannot be used for continued expenditures necessary for such improvements.

The Division of State Lands usually negotiates with willing sellers, but is not authorized to act without the consent of the board. There are rare instances when the state does use the power of eminent domain to acquire critical environmentally endangered lands. However, the use of the condemnation process must be approved by a majority vote of the board.

The Office of Greenways and Trails at the DEP receives approximately \$4.5 million annually (1.5 percent) of Florida Forever funds to acquire greenways and trails for the Florida Greenways and Trails System, a statewide system to provide open space for the benefit of environmentally sensitive lands and wildlife, and to provide access to people for outdoor recreational opportunities such as horseback riding, hiking, canoeing and jogging.

The Division of Recreation and Parks at the DEP receives approximately \$4.5 million annually (1.5 percent) of Florida Forever funds to identify and acquire in-holdings and additions to Florida's state parks, and for capital expenditures which may not exceed ten percent of the Florida Forever funds designated for the division's use.

The Florida Recreation Development Assistance Program at the DEP was created to provide grants to qualified local governments to acquire or develop land for public outdoor recreation purposes. The maximum grant amount is limited to \$200,000 and the local match requirements are based on the total project cost. In addition to funding from other sources, this program receives approximately \$6 million annually in Florida Forever funds (two percent).

Water Management Districts

Florida's five water management districts together receive \$105 million each year in Florida Forever funds (35 percent) for land acquisition and capital project expenditures to implement each water management district's Florida Forever five-year work plan. Each district must spend at least 50 percent of the funds received on land acquisition. Funding is split among the districts under the following formula.

⁹ Capital projects include but are not limited to the initial removal of invasive plants, the construction, improvement, enlargement, or extension of facilities' signs, fire lanes, access roads, and trails, or any activities that serve to restore, conserve, protect, or provide public access, recreational opportunities or necessary services for land and water areas.

- The South Florida Water Management District receives \$36.75 million annually (35 percent). In the first two years of the program, \$50 million of those funds were directed to the Save Our Everglades Trust Fund.
- The Southwest Florida Water Management District receives \$26.25 million annually (25 percent).
- The St. Johns River Water Management District receives \$26.25 million annually (25 percent).
- The Suwannee River Water Management District receives about \$7.875 million annually (7.5 percent).
- The Northwest Florida Water Management District receives about \$7.875 million annually (7.5 percent).

Department of Community Affairs – Florida Communities Trust¹⁰

The Florida Communities Trust is an integral part of efforts to help Florida's communities meet the challenges of growth management, reduce the effects of natural disasters, invest in community revitalization, and protect the state's natural and cultural resources.

The FCT is dedicated to working with communities throughout the state to accomplish a collective goal: acquiring lands for recreation and open spaces while furthering their comprehensive plans. The FCT partners with local governments and environmental non-profit organizations to make this goal a reality. Every project funded by the FCT is a partnership; always between the FCT and the applicant, but many times with other partners as well. FCT grants foster partnerships among local governments during the acquisition process and, frequently, for management of the properties. Local government applicants often collaborate with environmental non-profit organizations when submitting grant applications. Such partnerships allow communities to better leverage state and local dollars, distribute project management responsibilities, and preserve locally significant lands.

The FCT receives approximately \$66 million in Florida Forever funds each year (22 percent) to be used by local governments and nonprofit organizations for the acquisition of community-based projects, urban open spaces, and parks and greenways to implement local government comprehensive plans¹¹. Emphasis is placed on funding projects in low income or otherwise disadvantaged communities. A dollar for dollar local match is required for 75 percent of these funds, and the local government match can consist of federal grants or funds, private donations, or environmental mitigation funds.

Department of Agriculture and Consumer Services – Division of Forestry

The DOF receives approximately \$4.5 million (1.5 percent) in Florida Forever funds each year. These funds are used to implement the DACS in-holdings and additions land acquisition program designed to assist in the management of state forests by providing for the purchase of

¹⁰ Information provided by the Department of Community Affairs at www.dca.state.fl.us

¹¹ The appraisal and acquisition of real property through the FCT, authorized under Chapter 380, Florida Statutes, and implemented under Department of Community Affairs Rule 9K-8, is substantially similar to the DSL.

lands identified as important to the successful management of state forests. Funds for capital project expenditures may not exceed 10 percent of the funds allocated to the agency.

Fish and Wildlife Conservation Commission

The FWC receives approximately \$4.5 million in Florida Forever funds each year (1.5 percent) to fund the acquisition of in-holdings and additions to lands managed by the FWC for the conservation of fish and wildlife. Funds for capital project expenditures may not exceed ten percent of the funds allocated to the agency.

Land Management¹²

The Office of Environmental Services within the DEP conducts land management reviews under the provisions of s. 259.036, F.S., for the purpose of determining if conservation, preservation and recreation lands owned by the state are being properly managed. Land management review teams evaluate whether or not a management plan is providing an appropriate level of protection to threatened or endangered species, and to significant natural or physical features including geological or hydrological features; evaluates if lands are being managed for the purposes for which they were acquired; and assesses whether or not actual management activities are in compliance with the management plan.

The board is authorized to designate an agency or agencies to manage state-owned lands, and management plans are developed and adopted by the state, regional or local entity designated as the lead manager. For parcels of property more than 160 acres in size, management plans are developed with input from an advisory group that includes the lead managing agency and local private property owners. For properties acquired after 1995, a management plan must be adopted and in place within one year from acquisition of the property. The plans are required to be reviewed and updated every ten years except that management plans for parcels exceeding 1,000 acres in size must be reviewed by the DEP every five years.

III. Effect of Proposed Changes:

Section 1 amends s. 201.15, F.S., to extend the retirement date for Florida Forever bonds from 2030 to 2040.

Section 2 amends s. 215.618, F.S., to provide that prior to the authorization of Florida Forever bonds the legislature shall, beginning July 1, 2010, analyze the state's debt ratio in relation to projected revenues. In addition, the legislature shall, beginning February 1, 2010, complete an analysis of other potential revenue sources that may be used for the Florida Forever program. The existing \$3 billion cap on bonding authority for Florida Forever is raised to \$5.3 billion. This change in conjunction with the amendment to s. 201.15, F.S., essentially extends the program from 2010 to 2020.

¹² Although this report is directed at evaluating the acquisition process, the issue of managing lands that we have acquired is just as critical and could be the subject of its own report.

Section 3 amends s. 253.025, F.S., concerning acquisition practices for non-conservation lands to make technical corrections and to remove a requirement that a general field inspection be done on any properties with proposed purchase prices in excess of \$250,000.

Section 4 amends s. 253.0325, F.S., to require all state agencies whom acquired land under Preservation 2000 and Florida Forever to annual submit records of their acquisitions to the Division of State Lands for compiling into a statewide database.

Section 5 amends s. 253.034 to create a definition for “public access.” The term shall mean all facilities needed including boat ramps, and associated parking and other support facilities needed to ensure access to land and water by the public.

Other provisions added to this section include:

- Creating requirements’ that all land management plans shall provide for a desired outcome, describe short-term and long-term management goals, and include measurable objectives. Short-term goals shall be those achievable within a two-year planning horizon and long-term goals shall be achievable within a ten-year planning horizon.
- Specific measurable objectives to be addressed in the plans include:
 - Habitat restoration and improvement.
 - Public access and recreational opportunities.
 - Hydrological preservation and restoration.
 - Sustainable forest management.
 - Exotic and invasive species maintenance and control.
 - Capital facilities and infrastructure.
 - Cultural and historical resources.
- Required elements of each plan shall include:
 - A physical description of the land.
 - Quantitative data descriptions of what is on the land including natural resources, facilities, or other significant features.
 - A detailed description of each goal and measure.
 - A schedule of management activities.
 - A summary budget for the activities.
- A new provision that allows the DSL to require a second appraisal for surplus lands that are valued at \$1 million or greater. Such appraisals are to be paid by the requesting party.
- A directive that the DSL contract to have an inventory of state owned lands be done for the purposes of determining the potential to use these lands for carbon offsets and to determine the potential value of carbon capture and carbon sequestration activities on these lands. The inventory is to be completed by July 1, 2009.
- Permitting the FWC, on lands in which they are the lead manager, to utilize those lands to protect, manage, or restore habitat for native or imperiled species. The FWC is directed to submit an annual work plan, to the board, describing the potential for these types of activities. A report on the efficacy of using these lands for these types of activities shall be presented to the Legislature by February 1, 2010. The authority granted in this subsection shall sunset on July 1, 2014.

Section 6 amends s. 253.111, F.S., to increase from 30 days to 45 days the amount of time the board has to make a decision concerning the surplus of lands to a county.

Section 7 amends s. 253.82, F.S., to remove the appraisal requirements for Murphy Act lands which are less than ten acres and have a market value of less than \$250,000.

Section 8 amends, s. 259.032, F.S., to make technical and conforming changes in addition to the following:

- Provides that it shall be the policy of the state to also give priority to lands acquired by the FWC to advance the goals of species or habitat recovery plans.
- Provides an additional acquisition goal of the board shall be to preserve agricultural lands under the threat of conversion to development through less-than-fee acquisitions.
- Adds public access, protection of cultural and historical resources, and protection of threatened and endangered species to a list of activities that shall be addressed in land management plans.
- Changes a provision that required that an amount “up to 1.5 percent” of all funds ever deposited into the Preservation 2000 trust fund and the Florida Forever trust fund be available for land management. The bill provides that this provision now say an amount “of not less than 1.5 percent” subject to annual evaluation by the Legislature.
- Adding a requirement that Land Management Uniform Accounting Council prepare and deliver a report on the methodologies and formulas to be used for allocating interim land management funds. Such report will be submitted to the Legislature by December 31, 2008. The Legislature shall review the proposed formulas and methodologies during the 2009 regular session and may change them or take no action. In preparing this report the Council shall consider the effort needed to:
 - Manage habitats and natural communities.
 - Provide for public access.
 - Identify the impacts of secondary management activities conducted by other parties.
 - Quantify anticipated revenues generated from the activities on the land.
 - Identify impacts and needs created by multiple-use management strategies.
 - Identify and restore the acres of land infested with nonnative or invasive plants, animals, or fish.

Section 9 amends s. 259.035, F.S., to require that three of the four gubernatorial appointees to the Acquisition and Restoration Council shall be from scientific disciplines related to land, water, or environmental sciences. Currently all four come from these disciplines. The fourth appointed would now have to have at least five years of experience in managing lands for both active and passive types of recreation.

The bill would direct the ARC to develop rules defining specific criteria and numeric performance measures for use in identifying those lands for inclusion in the Florida Forever program. The rules are to be submitted to the Legislature by February 1, 2010, whom may modify, reject, or take no action. Once the rules are approved all recipients of Florida Forever funds shall annually report on each of the numeric performance measures accomplished during the previous year.

Section 10 amends s. 259.037, F.S., which to modify requirements related to the activities of the Land Management Uniform Accounting Council. Cost categories used to track land management expenditures are changed to add categories for support, capital projects, recreational visitor services, and law enforcement.

New reporting requirements for the agencies are also provided. Each report shall now also include:

- Available public use opportunities.
- Total cost for public access and public use.
- The number of acres requiring minimal, moderate, or significant management efforts.
- The number of acres managed and cost of management for each park, preserve, forest, reserve, or management area.
- The number of acres and cost of management for which secondary management activities were provided.

Additionally, each agency shall report biennially on their progress towards achieving short-term and long-term management goals. The report shall include information on any deficiencies in management and corrective actions taken and shall be submitted to the ARC.

Section 11 amends s. 259.041, F.S., concerning state land acquisition practices to require that any acquisition in excess of \$100 million shall be submitted to and approved by the Legislative Budget Commission.

Additionally, there is an increase in the acquisition amount that triggers the requirement for two appraisals from \$500,000 to \$1 million.

Finally, there is a requirement that all option contracts presented to the board have a provision that explicitly states that payment of the final purchase price is subject to appropriation from the Legislature.

Section 12 amends s. 259.105, F.S., to make a series of changes to findings, distributions, uses, and acquisition plan development concerning the Florida Forever program. These include:

- Providing additional intent language to encourage protecting rural and agricultural lands, springsheds, and access to waterways.
- Adding language directing that the program seek to better utilize acquisition methods such as, less-than-fee and private-public partnerships.
- Making conforming and technical changes to recognize that cash proceeds may also be used for Florida Forever acquisitions.
- Providing a provision that encourages the state to assist the military with management of their lands in order to improve habitat for listed species.
- Changing the current distribution of funds by:
 - Reducing from 35 percent (\$105 million) to 30 percent (\$90 million) those funds distributed to the water management districts for use in acquiring lands and paying for capital projects related to land preservation and water resource development.

- Establishing a five percent (\$15 million) distribution to the Department of Agriculture and Consumer Services for the purpose of implementing the Rural and Family Lands Program established in s. 570.71, F.S., and provides a parcel listing, ranking, and annual acquisition approval process that is consistent with the Florida Forever Program. No funds may be expended for the implementation of the program until rules have been adopted and approved by the Board of Trustees.
- Requiring that, of the amount distributed to the Department of Environmental Protection and the water management districts, a minimum of three percent of the funds be allocated for capital expenditures to expedite public access.
- Providing that priority funding for direct water access projects be given for all funds received by the FCT.

A requirement that of those funds apportioned to the DEP, the DACS and the FWC for inholdings and additions acquisitions (\$4.5 million each) a minimum of one percent shall be invested in the necessary capital improvements to expedite public access. The DACS would also be permitted to use their inholdings and additions funds to purchase rural land protection easements pursuant to the program created in s. 570.71, F.S.

Requiring all agencies utilizing these funds to develop their individual acquisition lists in accordance with the new requirements, created in Section 9 of the bill, that all projects have specific criteria and performance measures.

Adding carbon sequestration, carbon mitigation, or carbon offsets as a permitted use of or on state lands. The board is also granted specific rule making authority to address these potential new uses.

A provision that requires any lands acquired by the water management districts to revert to the board if the districts determine that such lands can be surplus.

A new section that creates a requirement for the DSL to prepare an annual work plan. The plan shall prioritize projects on the Florida Forever list for the upcoming year and shall place projects in the following categories.

- Critical natural lands that target landscape scale systems, large hydrological systems, have significant imperiled communities, or provide corridors between existing projects.
- Partnerships or regional acquisitions. These would include cost-share projects or bargain or shared projects.
- Substantially completed projects.
- Those that assist in addressing the potential impacts of climate change.
- Less-than-fee for working agricultural lands. The method for developing this category and the associated lists is to be developed in a cooperative method between the DEP and the DACS.

Section 13 amends s. 259.1051, F.S., to conform provisions relating to the Florida Forever Trust Fund to the increased bonding authority.

Section 14 amends s. 373.089, F.S., to provide a specific guidance for the surplus of lands by the water management districts. The districts shall first offer title to any lands acquired in whole or in part with Florida Forever funds to the board, unless they are being surplus for one of the following reasons:

- To be used as linear facilities for electric transmission or distribution, telecommunications transmission and distribution, pipeline transmission or distribution, or public transportation corridors.
- Where the surplus lands would still retain a conservation easement.
- An exchange for higher valued conservation lands.
- To be used by a governmental entity for a public purpose.

For those lands offered to the board in which they do not accept title the districts may disposal of them using existing surplus law.

Section 15 amends s. 373.1391, F.S., to require the DEP to audit the water management districts to ensure that adequate levels of public access are being provided on district owned lands.

Section 16 amends s. 373.199, F.S., to require the water management districts to provide specific accounting information concerning the expenditure of Florida Forever funds.

Section 17 transfers the Florida Communities Trust program in ss. 380.501-380.515, F.S., from the Department of Community Affairs to the Department of Environmental Protection.

Section 18 directs the Division of Statutory Revision to prepare a reviser's bill for the Florida Communities Trust transfer.

Section 18 provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expansion of the use of funds to include the rural lands protection program could potentially benefit private citizens whom may qualify.

C. Government Sector Impact:

Dependent on appropriations by the Legislature, the increase in the bonding authority may have a fiscal impact. Each issuance of bonds carries some cost factors. Those related to actual issuance and those related to annual amounts needed to retire the debt. The historic practice under the state's land buying programs has been to issue \$300 million in bonds annually. The estimated annual debt services is \$25.1 million.

Changing the land management funding provisions from "up to" 1.5 percent to a "not less than" 1.5 percent will impact state funds. To date, the total of all funds deposited into the Preservation 2000 and Florida Forever trust funds is \$5.6 billion. Based on the requirements of the bill annual land management funding for Fiscal Year 2008-2009 would be a minimum of \$84 million from the Conservation and Recreation Lands Trust Fund.

The bill requires the Division of State Lands to contract for an inventory of state owned lands to determine the potential use of these lands for carbon offsets and the potential value of carbon capture and sequestration activities on these lands. The Department of Environmental Protection estimates it can fulfill these requirements within existing appropriations. The estimated non-recurring cost is \$150,000 in trust funds.

The bill transfers of the Florida Communities Trust program in ss. 380.501-380.515, F.S., from the Department of Community Affairs to the Department of Environmental Protection.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by General Government Appropriations on April 10, 2008:

The bill dedicates five percent of the annual Florida Forever appropriation to the Department of Agriculture and Consumer Services for the purpose of implementing the Rural and Family Lands Program established in s. 570.71, F.S., and provides for a parcel

listing, ranking, and annual acquisition approval process that is consistent with the Florida Forever Program. No funds may be expended for the implementation of the program until rules have been adopted and approved by the Board of Trustees.

The bill provides for the development of an annual workplan by the Division of State Lands within the Department of Environmental Protection.

The bill reinstates the allocation of Florida Forever funds provided to the Department of Environmental Protection to current law.

The bill provides for annual Legislative evaluation of the land management funding requirement in order to ensure that other minimum funding requirements of a trust fund are not impacted.

The bill reinstates the allocation of Florida Forever funds provided to the Department of Agriculture and Consumer Services for implementation of the inholdings and additions program to current law.

The bill reinstates the number of projects and funding maximums for the Florida Recreational Assistance Program to current law.

The bill transfers the Florida Communities Trust program in ss. 380.501-380.515, F.S., from the Department of Community Affairs to the Department of Environmental Protection and directs the Division of Statutory Revision to prepare a reviser's bill for the transfer.

CS by Environmental Preservation and Conservation on April 4, 2008:

The bill make numerous changes concerning the states land acquisition and land management programs. Included in these are the following:

Increasing the bonding authorization for the Florida Forever program from \$3 billion to \$5.3 billion and extending the debt retirement dates to 2040 to conform to this change. Providing that certain financial analysis be performed after 2010 before the issuance o any new Florida Forever bonds.

Changing appraisal procedures to conform to recent recommendations from the Auditor General.

Providing additional specific requirements for information that shall be contained in land management plans.

Requiring that a study be undertaken to determine the potential and value of using state lands for assisting in efforts to address climate change issues.

Permitting the FWC to utilize lands, for which they act as lead manager, for the purpose of providing protection to listed species. The FWC is also required to provide a report to

the Legislature concerning their experiences with this provision. Additionally, the provision is scheduled to sunset in 2014.

Changing a requirement that “up to” 1.5 percent of the total funds ever deposited into the Florida Forever Trust Fund and the Preservation 2000 Trust Fund to read “not less than.”

Directing the Land Management Uniform Accounting Council to develop recommendations for formulas or methodologies to be used for disbursing interim land management funds.

Providing additional requirements for gubernatorial appointees to the ARC.

Directing the ARC to develop rules that establish specific criteria and numeric performance measures to be utilized when developing the annual Florida Forever acquisition list. Such rules shall be subject to Legislative review.

Providing additional reporting criteria to be used by all agencies when developing annual land management cost data.

Creating a requirement that any acquisition of \$100 million or more shall be submitted to and approved by the Legislative Budget Commission.

Changing the current Florida Forever distribution formula to reduce from 35 percent to 30 percent the amount allocated to the water management districts and increasing from 35 percent to 40 percent the amount given to the DEP for acquisitions from the Florida Forever priority list. A requirement is also added that a minimum of three percent of the funds allocated be used for capital projects to expedite public access.

Requiring that a minimum of one percent of inholdings and additions allocations be used for capital projects needed to expedite public access.

Providing rule making authority to the board for the use of state lands to assist in climate change issues.

Requiring water management districts to revert title to the board for state lands purchased in whole or in part with Florida Forever funds unless certain conditions are met.

Requiring the DSL prepare an annual work plan that details by certain categories the Florida Forever acquisition goals for the coming year.

Creating fiscal reporting requirements to be utilized by the water management districts for reporting their expenditure of Florida Forever funds.

Allowing for additional grant applications by local governments and increased grant awards under the Florida Recreation Development Assistance Program.

The CS also contains many changes to legislative intent and findings to provide for: increased emphasis on public access; the utilization of additional acquisition methods in order to maximize the use of state funds; and to allow for the expenditure of funds and more emphasis on protection rural and agricultural lands.

B. Amendments:

None.