

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 Policy and Steering Committee on Ways and Means

BILL: CS/SB 22-A

INTRODUCER: General Government Appropriations Committee and Senator Baker

SUBJECT: Water Resources Development

DATE: January 8, 2009

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Kynoch | DeLoach | GA | Fav/CS |
| 2. | McVaney | Kelly | WPSC | Favorable |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

| | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill amends the percentages of documentary stamp tax distributions for certain activities funded from the Water Protection and Sustainability Program Trust Fund within the Department of Environmental Protection (DEP) during Fiscal Year 2008-2009.

The bill creates section 403.890(6), Florida Statutes.

II. Present Situation:

The documentary stamp tax levied under ch. 201, F.S., provides revenue to the General Revenue Fund and various trust funds. Section 201.15, F.S., provides for the distribution of the documentary stamp tax revenues.

The documentary stamp tax levied under ch. 201, F.S., consists of two taxes imposed on different bases at different tax rates. The tax on deeds and other documents related to real property is at the rate of 70 cents per \$100 of value. Certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements are taxed at 35 cents per \$100 of value. Revenue from the documentary stamp tax is divided between the General Revenue Fund

and various trust funds. These funds are primarily used to acquire and manage public lands or support affordable housing.

History of Documentary Stamp Tax Rates and Distributions

Florida first enacted a documentary stamp tax in 1931, at the rate of ten cents per \$100 of consideration. In 1957, the tax on documents relating to realty (mainly deeds) was raised to 20 cents, and the tax has been assessed at two separate rates on deeds and notes ever since. Major rate increases occurred in 1957, 1963, 1979, 1981, 1985, 1987, 1990, 1991, and 1992. In 1983, the Legislature authorized Dade County to levy a discretionary surtax on deeds of up to 45 cents for each \$100, except for deeds on single family residences.

Until 1967, all proceeds from documentary stamps went to the General Revenue Fund. In that year, a surtax was imposed on documents relating to realty, with the proceeds going to the Land Acquisition Trust Fund. The surtax was repealed in 1979 and replaced with an increase in the documentary stamp tax on deeds, and the Land Acquisition Trust Fund was given a distribution from this tax. Since 1979, increases in the documentary stamp tax rate have been used to fund several programs, including acquisition of environmentally sensitive land, funding state infrastructure, and funding affordable housing. In 1990, the General Revenue Service Charge was extended to the Documentary Stamp Clearing Trust Fund, among other trust funds, which reduced all distributions from this fund by seven percent on a recurring basis.

The distribution of documentary stamp taxes can be grouped into two major groups, the general revenue group and the trust funds group. The general revenue group is first used to fund debt service for environmentally sensitive land purchases and Everglades' restoration. The debt service commitment is fulfilled before any other distributions are made for activities such as growth management, beach restoration, manatee protection, and water protection and sustainability programs. The remaining amount of this group is distributed to the General Revenue Fund. For the trust funds, revenue is distributed to various trust funds with most trust fund distributions capped at specific dollar amounts. Amounts calculated above the cap are distributed to the General Revenue Fund. All of the costs for administering the documentary stamps tax statutes are borne by the trust fund group.

Water Protection and Sustainability Program Trust Fund

In 2005, ch. 2005-289, L.O.F., created the Water Protection and Sustainability Program Trust Fund within the Department of Environmental Protection. The largest source of revenue is documentary stamp tax revenues as authorized in ch. 201, F.S. Primarily, the trust fund supports appropriations for alternative water supply, the total maximum daily load program (TMDL), and the Disadvantaged Small Community Wastewater Grant Program in order to implement the provisions of the Water Sustainability and Protection Program created in s. 403.890, F.S.

Prior to 2007, the annual distribution of documentary stamp tax revenues to the Water Protection and Sustainability Program Trust Fund was \$100 million. During 2007 Special Session C, the distribution was reduced to \$80 million and the associated distributions tied to these funds were amended to allow for the redirection of documentary stamp tax revenue to the General Revenue Fund (ch. 2007-335 L.O.F.).

In 2008, ch. 2008-114, L.O.F., amended the distribution calculation for the general revenue group of trust funds by replacing the statutorily set dollar amounts with a percentage calculation which is capped at the current statutory amount. The law revised the order in which the distributions for the various trust funds are calculated. The law also assessed the cost of administering the documentary stamp tax statutes to all the funds that receive distributions rather than just the capped trust fund group.

The table below summarizes the reduction of Water Protection and Sustainability Program Trust Fund revenue that has been redirected to the General Revenue Fund. In addition, it demonstrates the continued decline in documentary stamp tax revenues. This decline in revenue necessitates budget reductions for programs funded from the trust fund and the realignment of the associated distributions tied to these programs.

| | FY 2007-08 (Ch. 2007-72, L.O.F.) | FY 2007-08 Special Session C (Ch. 2007-335, L.O.F.) | | FY 2008-09 (Ch. 2008-114, L.O.F.) | | Nov 2008 Revenue Estimating Conference Estimate |
|--|--|---|-------------------|---|-------------------|--|
| | Current | Reduction | Balance | Reduction | Balance | Balance |
| Trust Fund Revenue | 100,000,000 | (20,000,000) | 80,000,000 | (44,300,000) | 35,700,000 | 17,750,000 |
| Alternative Water Supply – Water Management District (WMD) | 60,000,000 | (8,000,000) | 52,000,000 | (44,300,000) | 7,700,000 | |
| TMDL – DEP | 17,000,000 | (2,000,000) | 15,000,000 | 0 | 15,000,000 | |
| TMDL – Department of Agriculture and Consumer Services | 3,000,000 | 0 | 3,000,000 | 0 | 3,000,000 | |
| Surface Water Improvement and Management - WMD | 10,000,000 | (10,000,000) | 0 | 0 | 0 | |
| Disadvantaged Small Community Grants | 10,000,000 | 0 | 10,000,000 | 0 | 10,000,000 | |
| Total* | | (20,000,000) | | (44,300,000) | | |

*Amount reduced and redirected to the General Revenue Trust Fund.

III. Effect of Proposed Changes:

Section 1 creates s. 403.890(6), F.S., to revise the percentage distribution of documentary stamp tax revenues for certain activities within the Water Protection and Sustainability Program Trust Fund during Fiscal Year 2008-2009. The distribution of funds is amended as follows.

| | Current Revenue Distribution Percentage | Revised Revenue Distribution Percentage |
|--|--|--|
| Alternative Water Supply | 65.00% | 28.17% |
| Total Maximum Daily Loads | 22.50% | 24.51% |
| Disadvantaged Small Community Wastewater Grant Program | 12.50% | 47.32% |
| Totals: | 100.00% | 100.00% |

Section 2 directs the Department of Environmental Protection to reallocate documentary stamp tax revenues received in Fiscal Year 2008-2009 to align with the revised distributions in Section 1 of the bill.

Section 3 provides that the bill is effective upon becoming law.

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:

None.

C. Government Sector Impact:

During the 2008 Legislative Session, it was estimated the Water Protection and Sustainability Program Trust Fund would receive \$35.7 million in revenue based on the

revenue estimate available at the time. The budget was premised on that level of revenue. In November 2008, the Revenue Estimating Conference revised its estimate to \$17.75 million for Fiscal Year 2008-2009. In order to mitigate the loss of \$17.95 million in revenue and to prevent the trust fund from incurring a \$15 million cash deficit in the current year, the bill revises the percentages of documentary stamp tax distributions for certain activities funded from the Water Protection and Sustainability Program Trust Fund within the Department of Environmental Protection during Fiscal Year 2008-2009 as follows.

| | Current Revenue Distribution Percentage | Revised Revenue Distribution Percentage |
|--|--|--|
| Alternative Water Supply | 65.00% | 28.17% |
| Total Maximum Daily Loads | 22.50% | 24.51% |
| Disadvantaged Small Community Wastewater Grant Program | 12.50% | 47.32% |
| Totals: | 100.00% | 100.00% |

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 January 7, 2009:

The committee substitute revises the percentages of documentary stamp tax distributions for certain activities funded from the Water Protection and Sustainability Program Trust Fund within the Department of Environmental Protection (DEP) during Fiscal Year 2008-2009. This revision mitigates an estimated \$17.95 million loss in revenue to the trust fund and prevents the trust fund from incurring a deficit.

- B. **Amendments:**

None.

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