

**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.)

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Prepared By: The Professional Staff of the Finance and Tax Committee

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BILL: SPB 7024

INTRODUCER: For consideration by the Finance and Tax Committee

SUBJECT: Lands used for conservation purposes

DATE: January 19, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	McKee		<b>Pre-meeting</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

This proposed bill adds lands used for conservation purposes to the list of lands eligible for assessment under s. 193.501, F.S. It provides for these lands to be assessed at their present use if that use is restricted by a covenant or conveyance that extends for at least 10 years. The proposed bill defines “conservation purposes” and requires covenants or other instruments restricting the development rights to be indexed and maintained in such a manner that allows members of the public to locate the covenant or other instrument affecting any particular property assessed pursuant to this section. It also expands the existing definition of “covenant” to state explicitly that the covenant must restrict the use of the land exclusively to conservation, outdoor recreational, or park purposes. It lists the mandatory elements of a covenant and requires that it be notarized. It directs the executive director of the Department of Revenue to work with the Trustees of the Internal Improvement Trust Fund, local governments, and conservation organizations to develop a form for a covenant, but use of this form is not mandatory, as long as the covenant includes the required elements.

This proposed bill substantially amends s. 193.501, F.S.

## II. Present Situation:

Section 193.501, F.S., provides for the assessment of certain types of land. It states that:

- land subject to a conservation easement,
- land qualified as environmentally endangered,
- land designated as conservation land in a comprehensive plan, or
- land utilized for outdoor recreation or park purposes

for which the development rights have been conveyed to certain public or private entities or for which a covenant which restricts the uses of the land has been established with one of these entities, shall be assessed at their present use as restricted by the covenant or conveyance, if the covenant or conveyance extends for at least 10 years. If the covenant or conveyance extends for less than 10 years the land shall be assessed under s. 193.011, F.S., (factors to be considered in determining just value) recognizing the nature and length of any restrictions placed on the use of the land. The development rights may be conveyed to the governing board of any public agency in this state within which the land is located, or with the Board of Trustees of the Internal Improvement Trust Fund, or with a charitable corporation or trust as described in s. 704.06(3).<sup>1</sup> Landowners may covenant with these same entities to restrict the use of the land.

This section was created by ch. 67-528, Laws of Florida, which provided a tax incentive for owners of land used for outdoor recreational or park purposes. It set forth a mechanism by which the development rights to such property could be conveyed for at least 10 years to the governing board of the county where the property was located, and provided that the property would be assessed solely as outdoor recreational or park land for tax purposes. This section was amended several times—ch. 72-181, L.O.F., required that a 10-year covenant be maintained on the property and provided for repayment of deferred taxes if the property was converted to another use; ch. 78-354, L.O.F., added environmentally endangered lands to the property eligible for assessment under the section; and ch. 93-206, L.O.F., added land subject to a conservation easement under s. 704.06, F.S.

Department of Revenue property tax records show that relatively few property owners have taken advantage of the tax incentive provided in s. 193.501, F.S. In 2008, 16,446 parcels statewide were assessed under this statute, and the reduction in assessed value was \$24.8 million. Until the statute was amended in 2009, there was no easy point of entry to the provisions of this section and it may have been cumbersome for property owners to avail themselves of its benefits. Ch. 2009-157, L.O.F., created an application process and required the Department of Revenue to prescribe application forms. It also allowed for a short form reapplication for land assessed under the section in the previous year, and allowed a county to waive the requirement for an annual application. These provisions first apply to the January 1, 2010 tax roll.

In November 2008, Florida's voters amended the Florida Constitution to provide an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes, including real property encumbered by perpetual conservation easements or by other perpetual conservation

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<sup>1</sup> Section 704.06(3), F.S., applies to "a charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving sites or properties of historical, architectural, archaeological, or cultural significance."

protections, as defined by general law. The amendment also provided that land used for conservation purposes shall be classified by general law and assessed solely on the basis of use, subject to conditions, limitations, and reasonable definitions as provided by general law. This amendment had been proposed by the Tax and Budget Reform Commission, and was approved by 68 percent of the voters. With the enactment of Ch. 2009-157, L.O.F., (HB 7157) the 2009 Legislature created s. 196.26, F.S., which provides a property tax exemption for lands perpetually dedicated for conservation purposes.

### **III. Effect of Proposed Changes:**

This proposed bill amends s. 193.501, F.S. to add “land used for conservation purposes” to the list of lands eligible for assessment under the section. It provides a definition of “conservation purposes” and requires covenants or other instruments restricting the development rights to be indexed and maintained in such a manner that allows members of the public to locate the covenant or other instrument affecting any particular property assessed pursuant to this section.

This bill expands the existing definition of “covenant” to state explicitly that the covenant must restrict the use of the land to conservation, outdoor recreational, or park purposes. It lists the mandatory elements of a covenant and requires that it be notarized. It directs the executive director of the Department of Revenue to work with local governments and conservation organizations to develop a form for a covenant, but use of this form is not mandatory as long as the covenant includes the required elements.

The bill also makes minor changes to clarify existing statutory language and conform to current bill drafting standards.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The proposed bill implements s. 4(b), Article VII, of the State Constitution, which requires the Legislature to provide for the assessment of land used for conservation purposes on the basis of character or use. Although it will reduce the authority of counties and municipalities to raise revenues in the aggregate it does not fall under the mandate provisions of s. 18, Art. VII, State Constitution.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference has not determined the fiscal impact of this bill.

**B. Private Sector Impact:**

Owners of land used for conservation purposes will find it easier to have their land assessed at its current use and may have lower property taxes on the land. Owners of land used for conservation purposes will find it easier to have their land assessed at its current use and may have lower property taxes on the land.

**C. Government Sector Impact:**

To the extent that landowners choose to convey development rights or enter into covenants to restrict the use of their lands used for conservation purposes, local governments, including school districts, will experience a reduction in ad valorem tax revenues from these lands. The proposed bill also creates additional responsibilities for the Department of Revenue and the county clerks.

**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.)

None.

**B. Amendments:**

None.