

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 Committee on Environmental Preservation and Conservation

BILL: SB 578

INTRODUCER: Senator Dean

SUBJECT: Land Acquisition Trust Fund/Department of Agriculture and Consumer Services

DATE: February 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 578 creates the Land Acquisition Trust Fund (LATF) within the Department of Agriculture and Consumer Services (DACS). This trust fund is established as a depository for funds received from the LATF within the Department of Environmental Protection (DEP). Expenditure of the funds in the LATF within the DACS must be for the purposes specified in Article X, section 28 of the Florida Constitution.

II. Present Situation:

In 2014, Florida voters approved a constitutional amendment proposed by Florida's Water and Land Legacy to provide a dedicated funding source for water and land conservation and restoration.¹ The amendment created article X, section 28 of the Florida Constitution and was approved by 75 percent of the electors voting on the issue.

The amendment requires that starting on July 1, 2015, for 20 years, 33 percent of net revenues derived from the existing excise tax on documents, as defined by the statutes in effect on January 1, 2012, must be deposited into the LATF.²

The amendment requires that funds in the LATF be expended only for the following purposes:

- As provided by law, to finance or refinance:

¹ The founding organizations of Florida's Water and Land Legacy are: The Trust for Public Land, Audubon Florida, Florida Wildlife Federation, Sierra Club Florida, Florida Conservation Alliance Institute, Alachua Conservation Trust, 1000 Friends of Florida, Defenders of Wildlife, Conservation Trust for Florida, The Conservation Fund, The Nature Conservancy, Florida Conservation Coalition, and Rails to Trails Conservancy. Florida's Water and Land Legacy, *Non-Profit Endorsements*, <http://floridawaterlandlegacy.org/sections/page/endorsers> (last visited Feb. 6, 2015).

² The net revenues are the amount of revenues after the Department of Revenue first deducts a service charge to pay the costs of the collection and enforcement of the excise tax on documents.

- the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat;
- wildlife management areas;
- lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems;
- lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in article II, section 7(b) of the Florida Constitution;
- beaches and shores;
- outdoor recreation lands, including recreational trails, parks, and urban open space;
- rural landscapes;
- working farms and ranches;
- historic or geologic sites;
- together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.

The amendment authorizes moneys deposited into the LATF to be used to pay debt service on bonds issued pursuant to article VII, section 11(e) of the Florida Constitution, and prohibits moneys deposited into the LATF from being commingled with the General Revenue Fund of the state.³

Pursuant to s. 201.15(1)(a), F.S., the LATF within the DEP receives revenue from the excise tax on documents to pay debt service on bonds issued pursuant to article VII, section 11(e) of the Florida Constitution for the Florida Forever and Everglades restoration programs. An LATF also exists in the Fish and Wildlife Conservation Commission;⁴ however, that trust fund does not receive funds from the excise tax on documents pursuant to s. 201.15, F.S.

Article III, section 19(f)(1) of the Florida Constitution requires every trust fund to be created by a three-fifths vote of the membership in each house of the Legislature, in a separate bill, for the sole purpose of creating that trust fund. The constitution also provides that all newly created trust funds terminate no more than four years after the initial creation, unless re-created.

III. Effect of Proposed Changes:

The bill creates an LATF within the DACS. The trust fund will serve as a depository for funds received from the LATF within the DEP. The funds must be used for the purposes set forth in article X, section 28 of the Florida Constitution.

The bill requires the DACS to maintain the integrity of moneys transferred to it by the DEP. It also requires that funds available in the new trust fund from reversions or reductions in budget authority be transferred back to the LATF within the DEP within 15 days after reversion or

³ FLA. CONST. art VII, s. 11(e), provides, “[b]onds pledging all or part of a dedicated state tax revenue may be issued by the state in the manner provided by general law to finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation.”

⁴ See s. 379.212, F.S.

reduction. These funds are available for future appropriation for the purposes set forth in article X, section 28 of the Florida Constitution.

Additionally, the bill requires that the Board of Trustees of the Internal Improvement Trust Fund holds title to lands acquired through expenditures from the newly created LATF within DACS. The acquisition of such land is accomplished through a voluntary negotiated process using the acquisition procedures in s. 253.025, F.S. The acquisition costs include the purchase price and cost and fees associated with the title, surveys, and appraisals required to complete the acquisition.⁵

The DACS is responsible for managing such lands for the purposes set forth in article X, section 28 of the Florida Constitution. Other uses of such lands are permitted if the use is not contrary to those purposes.⁶

Interest from investments of funds in the LATF within the DACS will be deposited into the General Revenue Fund.

The trust fund will terminate four years after creation, on July 1, 2019, pursuant to article III, section 19(f)(2) of the Florida Constitution, unless re-created by the Legislature.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to article III, section 19(f)(1) of the Florida Constitution, a bill that creates a new trust fund must pass by a three-fifths vote of the membership of each house of the Legislature, in a separate bill for that purpose only.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁵ A similar provision exists in s. 379.212(1)(c) and (d), F.S., with respect to the LATF within the Fish and Wildlife Conservation Commission.

⁶ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

Creation of the LATF within the DACS will allow the department to separately account for funds received from the LATF within the DEP, ensure that expenditures from the new trust fund are for the purposes specified in article X, section 28 of the Florida Constitution, and ensure that moneys in the new trust fund are not commingled with other funds.

VI. Technical Deficiencies:

The cross-reference to s. 253.025, F.S., on line 48 relates to the acquisition of lands for purposes other than preservation, conservation, and recreation. It is likely, the correct cross-reference should be to s. 259.041, F.S., relating to the acquisition of lands for preservation, conservation, and recreation.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 20.142 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.