

**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 Appropriations Subcommittee on General Government

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BILL: PCS/SB 584 (631392)

INTRODUCER: Appropriations Subcommittee on General Government and Senator Dean

SUBJECT: Implementation of the Water and Land Conservation Constitutional Amendment

DATE: March 11, 2015

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION                   |
|----|---------|----------------|-----------|--------------------------|
| 1. | Gudeman | Uchino         | EP        | <b>Favorable</b>         |
| 2. | Howard  | DeLoach        | AGG       | <b>Recommend: Fav/CS</b> |
| 3. |         |                | AP        |                          |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

PCS/SB 584 provides an integral part of the legislative framework to implement Article X, section 28 of the Florida Constitution. The bill restructures the trust funds to implement the constitutional requirement that documentary stamp taxes directed for environmental purposes must not be commingled with the General Revenue Fund. The bill also ensures that these revenues are not commingled with other revenue sources and can be tracked from distribution to expenditure. The bill terminates certain trust funds currently receiving documentary stamp tax revenue intended for expenditure on environmental programs and redirects those moneys and moneys from other sources deposited into those trust funds to other appropriate trust funds as follows:

- The Florida Communities Trust (FCT) Fund is terminated and funds currently deposited in that trust fund are redirected to the Land Acquisition Trust Fund (LATF) and the Internal Improvement Trust Funds.
- The Ecosystem Management and Restoration Trust Fund is terminated and funds currently deposited in that trust fund are redirected to the LATF, the Coastal Protection Trust Fund, the Water Quality Assurance Trust Fund, and the Florida Permit Fee Trust Funds.
- The Water Management Lands Trust Fund is terminated and funds currently deposited in that trust fund are redirected to the LATF and the Water Quality Assurance Trust Funds.
- The Conservation and Recreation Lands Program Trust Fund in the Department of Agriculture and Consumer Services (DACS) is terminated and funds currently deposited into that trust fund are redirected to the LATF and the Incidental Trust Funds.

- The Conservation and Recreation Lands Program (CARL) Trust Fund in the DEP is terminated and funds currently deposited in that trust fund are redirected to the LATF and the State Parks Trust Funds.
- The Conservation and Recreation Lands Program Trust Fund in the Florida Fish and Wildlife Conservation Commission (FWC) is terminated and funds currently deposited in that trust fund are redirected to the LATF and the State Park Trust Funds.
- The obsolete Preservation 2000 (P2000) Trust Fund is terminated.

The bill also transfers any existing unobligated cash balances from the terminated trust funds as follows:

- From the FCT Fund to the Florida Forever Trust Fund.
- From the Ecosystems Management Trust Fund to the Water Quality Assurance Trust Fund.
- From the Water Management Lands Trust Fund to the Water Quality Assurance Trust Fund.
- From the CARL Trust Fund within DEP to the Water Quality Assurance Trust Fund.
- From the Conservation and Recreation Lands Program Trust Fund within DACS to the General Revenue Fund.
- From the terminated Conservation and Recreation Lands Program Trust Fund within the FWC to the General Revenue Fund.
- From the P2000 Trust Fund to the Florida Forever Trust Fund.

See Section V. relating to the fiscal impact of the bill.

The bill provides an effective date of July 1, 2015.

## II. Present Situation:

### **The Water and Land Conservation Constitutional Amendment**

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.<sup>1</sup> 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 Land Acquisition Trust Fund (LATF).<sup>2</sup>

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

- As provided by law, to finance or refinance:

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<sup>1</sup> 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).

<sup>2</sup> 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.<sup>3</sup>

Pursuant to s. 201.15(1)(a), F.S., the LATF within the Department of Environmental Protection (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 (FWC);<sup>4</sup> however, that trust fund currently does not receive funds from the excise tax on documents pursuant to s. 201.15, F.S.

## **History of Land Acquisition in Florida**

### ***Internal Improvement Trust Fund***

The State of Florida has a long history of land acquisition and land management. In 1845, the federal government granted Florida 500,000 acres for internal improvement as part of the Great Pre-emption Act of 1841. States that were admitted to the Union after 1841 were granted 500,000 acres which could be sold to fund improvements to roads, canals, and navigable waterways. In 1850, the federal government granted Florida an additional 21 million acres of land under the Swamp and Overflowed Lands Act.<sup>5</sup>

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<sup>3</sup> 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.”

<sup>4</sup> See s. 379.212, F.S.

<sup>5</sup> Monica K. Reimer, *The Public Trust Doctrine: Historic Protection for Florida’s Navigable Rivers and Lakes*, FLA. B.J., APR. 2001. See also DEP, *State Lands History*, available at [http://www.dep.state.fl.us/lands/files/lands\\_history.pdf](http://www.dep.state.fl.us/lands/files/lands_history.pdf) (last visited Feb. 15, 2015).

In order to properly administer the vast amount of land granted to the state and to manage the funds from the sale of the land, the Legislature created the Internal Improvement Trust Fund in 1854.<sup>6</sup> Title to these lands is vested in the Boards of Trustees of the Internal Improvement Fund (BOT), which consists of the Governor and Cabinet.<sup>7</sup>

The sources of revenue to the Internal Improvement Trust Fund include marina and dock leases, commercial upland leases, proceeds from the sale of surplus lands, fees from land transactions, public record requests, fines, interest earnings on investment cash under to s. 17.61, F.S., and the sale of state lands located in the Everglades Agricultural Area. All revenues that are deposited into the Internal Improvement Trust Fund are to be used for the acquisition, management, administration, protection, and conservation of state owned land.<sup>8</sup>

The Internal Improvement Trust Fund provides funds to multiple programs in the DEP, including the Division of State lands, the district offices, the Division of Environmental Assessment and Restoration, the Division of Recreation and Parks, and executive direction and support services.<sup>9</sup>

### ***The Outdoor Recreation and Conservation Lands Act and the Land Acquisition Trust Fund***

In 1963, the Legislature created the Outdoor Recreation and Conservation Act to purchase land for parks and recreation.<sup>10</sup> The program was the first official conservation land acquisition program in the state. Prior to the act, land acquisitions were accomplished through line-item appropriations, or donations by private individuals or the federal government. The act authorized the former land management division of the BOT to purchase land and water areas for outdoor recreation, wildlife management, forestry management, nature preservation, and water conservation and control.<sup>11</sup>

The LATF was established in 1963 to fund the purposes of the Outdoor Recreation and Conservation Lands Act.<sup>12</sup> The original source of revenue to the LATF was a five percent tax on outdoor clothing and equipment.<sup>13</sup> In 1967, the tax on clothing and equipment proved to be insufficient to sustain the program and the Legislature repealed the tax replacing it with the documentary stamp tax at a rate of 55 cents per \$500.<sup>14</sup>

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<sup>6</sup> Chapter 610, s. 1, Laws of Fla. (1854).

<sup>7</sup> Section 253.02, F.S.

<sup>8</sup> Section 253.01, F.S.

<sup>9</sup> Internal Improvement Trust Fund Description, provided by the Senate Appropriations Subcommittee on General Government (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>10</sup> Section 375.011, F.S.

<sup>11</sup> Section 375.021, F.S. See also s. 1, ch. 63-36, Laws of Fla., and Farr, J.A., and O. Greg Brock, *Florida's Landmark Programs for Conservation and Recreation Land Acquisition*, *Sustain*, 14 (2006), available at [http://www.dep.state.fl.us/lands/files/Florida\\_LandAcquisition.pdf](http://www.dep.state.fl.us/lands/files/Florida_LandAcquisition.pdf) (last visited Feb. 15, 2015).

<sup>12</sup> Section 375.041, F.S.

<sup>13</sup> Chapter 63-527, Laws of Fla. See also Comm. on Finance, Taxation, and Claims, The Florida Senate, *Documentary Stamp Tax: Its History and Uses*, 2-3 (Interim Report) (Sept. 1993) (on file with the Senate Comm. on Environmental Preservation and Conservation).

<sup>14</sup> Section 201.021, F.S., (1967). See also Farr, J.A., and O. Greg Brock, *Florida's Landmark Programs for Conservation and Recreation Land Acquisition*, *Sustain*, 14 (2006) available at [http://www.dep.state.fl.us/lands/files/Florida\\_LandAcquisition.pdf](http://www.dep.state.fl.us/lands/files/Florida_LandAcquisition.pdf) (last visited Feb. 15, 2015).

Funds deposited into the LATF must first be used to pay rentals on lease-purchase agreements or to meet the debt service requirements pursuant to s. 375.051, F.S., provided the debt service on the Save Our Coast bonds is not to be paid from funds transferred to the LATF pursuant to s. 259.032(2)(b), F.S. Funds that are not allocated for rentals or debt service may be used to acquire land, water areas, and to construct, improve, enlarge, extend, operate, and maintain capital improvements and facilities.<sup>15</sup>

In the event the DEP condemns a specific parcel of land and the land has been approved for acquisition through the LATF, the land may be acquired pursuant to chs. 73 and 74, F.S. The funds may also be used to pay the condemnation award and the costs associated with the condemnation.<sup>16</sup>

For the Fiscal Year 2014-2015, funds in the LATF may be used to support the Total Maximum Daily Load program, or may be transferred to the Save Our Everglades or Florida Forever Trust Funds.

Section 375.044, F.S., requires the DEP to submit a 10-year comprehensive LATF budget request. The budget request is submitted to the Executive Office of the Governor and the Legislature. The request must include but is not limited to:

- A 10-year annual cash flow analysis of the LATF;
- The agency request for the schedule of issuance of Save Our Coasts bonds;
- Forecasts of the anticipated revenues to the LATF; and
- The estimate of encumbrances and commitments for each year and the estimated expenditures.

Section 372.074, F.S., was created in 1990 to establish the Fish and Wildlife Habitat Trust Fund in the former Game and Fresh Water Fish Commission. The statute was renumbered to s. 379.212, F.S., in 2008 and amended to create an LATF in the FWC.<sup>17</sup>

Section 379.212, F.S., specifies that lands acquired through expenditures from the LATF in the FWC are titled to the BOT. The FWC is responsible for managing such lands for the purpose of maintaining and enhancing fish and wildlife habitat. Other uses of such lands are permitted if the use is not contrary to those purposes. The acquisition of such land is done through a voluntary negotiated process using the acquisition procedures in s. 253.025, F.S. The acquisition costs include the purchase price, as well as costs and fees associated with the title, surveys, and appraisals required to complete the acquisition.

Funds may be deposited into the LATF in the FWC from donations, grants, development-of-regional impact wildlife mitigation contributions, and legislative appropriations. The statute prohibits funds from P2000 acquisitions and Conservation and Recreation Lands (CARL) management funds from being deposited in the LATF in the FWC.<sup>18</sup>

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<sup>15</sup> *Supra* note 12.

<sup>16</sup> *Id.*

<sup>17</sup> Chapter 2008-247, s. 21, Laws of Fla.

<sup>18</sup> Section 379.212, F.S.

### ***The Land Conservation Act of 1972***

The Land Conservation Act was passed in 1972 and provided the BOT with funding and bonding authority, through a ballot referendum, to finance state capital projects for environmentally endangered lands.<sup>19</sup> State capital projects for environmentally endangered land, as defined in s. 259.03(1), F.S. (1972), include areas of ecologically significant land that are sensitive to development, land and water areas requiring remedial action to correct or limit environmental damage, and eroded beaches.

The environmentally endangered lands projects were intended to protect environmentally unique lands rather than to create outdoor recreation areas. The project proposals were submitted by individuals, local governments, and state agencies. The proposals were ranked and evaluated by multiple state environmental divisions and through a public hearing process. The final purchases were approved by the Governor and Cabinet.<sup>20</sup>

### ***Conservation and Recreation Lands Trust Fund***

In 1979, the CARL Trust Fund was created and expanded the environmentally endangered lands program.<sup>21</sup> The trust fund replaced bond revenues with a nonlapsing revolving fund and was administered by the former Department of Natural Resources, pursuant to s. 253.023, F.S. (1979). The CARL Trust Fund was used to acquire environmentally endangered lands, marsh lands, and estuaries in order to protect and enhance water quality, state parks and recreation areas, to restore altered ecosystems, and to preserve significant archaeological or historical sites. The source of funds for the CARL Trust Fund came from 50 percent of the total moneys collected from the excise tax on the severance of oil, gas, solid minerals, and phosphate rock.<sup>22</sup>

A land acquisition selection committee was also created in 1979 in s. 259.035, F.S.<sup>23</sup> The selection committee was responsible for establishing a priority list of land acquisitions from the projects proposed under CARL or the Land Conservation Act. The projects were ranked based on their stated public purpose, the preservation of environmentally endangered lands, the development of outdoor recreation lands, conformity with the comprehensive plans developed under s. 259.04(1)(a), F.S., and the state lands management plan adopted pursuant to s. 253.03(7), F.S.

In 1994, the CARL Trust Fund was transferred from s. 253.023, F.S., to s. 259.032, F.S. The requirements for the individual management plan for projects identified in the CARL report pursuant to s. 259.035(2), F.S., were also amended.<sup>24</sup> The individual management plans must include the stated use of the lands, the management activities necessary to preserve and protect natural and cultural resources, a management schedule, a cost estimate of management activities, and a determination of public uses and access. The statute also requires that parcels over 160

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<sup>19</sup> Section 259.02, F.S., (1972).

<sup>20</sup> Farr, J.A., and O. Greg Brock, *Florida's Landmark Programs for Conservation and Recreation Land Acquisition, Sustain*, 14 (2006), available at [http://www.dep.state.fl.us/lands/files/Florida\\_LandAcquisition.pdf](http://www.dep.state.fl.us/lands/files/Florida_LandAcquisition.pdf) (last visited Feb. 15, 2015).

<sup>21</sup> Section 259.032, F.S.

<sup>22</sup> Chapter 79-255, s. 8, Laws of Fla.

<sup>23</sup> Chapter 79-255, s. 14, Laws of Fla.

<sup>24</sup> Chapter 94-240, s. 1, Laws of Fla.

acres must have a land management plan developed with input from an advisory group and a public hearing must be held prior to the adoption of the management plan.<sup>25</sup>

The current sources of revenue to the CARL Trust Fund are 3.52 percent of documentary stamp taxes pursuant to s. 201.15(5), F.S., 25.5 percent of the severance tax on phosphate rock pursuant to s. 211.3103(6)(a)1., F.S., proceeds from the sale of surplus lands pursuant to s. 253.034(5)(k), F.S., and interest earnings on the investment of idle cash pursuant to s. 17.61, F.S.

Section 259.032(11)(b), F.S., specifies that not less than 1.5 percent of the cumulative total funds deposited into the P2000 Trust Fund and the Florida Forever Trust Fund may be made available to the CARL Trust Fund. The funds may be used for the management, maintenance, and capital improvements for lands acquired pursuant to s. 259.032, F.S., (the CARL Trust Fund); s. 259.101, F.S., (the P2000 Act); s. 259.105, F.S., (the Florida Forever Act); and s. 259.1052, F.S., (the Babcock Crescent B Ranch Florida Forever acquisition).

Section 259.032(11)(d), F.S., specifies that up to one-fifth of the CARL funds specified in 259.032(11)(b), F.S., must be reserved for land management activities including:

- Resource assessment;
- Control of invasive and non-native flora and fauna;
- Habitat restoration;
- Fencing;
- Law enforcement;
- Controlled burning; and
- Public access.

In 2014, s. 259.032, F.S., was amended to allow, for the Fiscal Year 2014-2015, transfers from the CARL Trust Fund to the Florida Forever Trust Fund for the Florida Forever Program and to the Save Our Everglades Trust Fund to support the restoration projects outlined in the final Indian River Lagoon and Lake Okeechobee Basin report.<sup>26</sup>

The CARL Trust Fund is used by the DEP's Division of State Lands and Division of Recreation and Parks, the FWC, and the Department of Agriculture and Consumer Services (DACs) to provide public ownership of natural areas in order to maintain Florida's natural resources, to promote water resource development, to promote restoration activities on public lands, and to provide lands for natural resource based recreation.<sup>27</sup>

### ***Water Management Lands Trust Fund***

The Water Management Lands Trust Fund, also referred to as the Save Our Rivers Program, was established in 1981 within the DEP as a nonlapsing fund. The Water Management Lands Trust Fund allows the five water management districts (WMDs) to purchase land for water management, water supply, water resource conservation and protection, and for appropriate

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<sup>25</sup> Section 259.032(10), F.S.

<sup>26</sup> The Select Comm. on Indian River Lagoon and Lake Okeechobee Basin, The Florida Senate, *Report by the Select Committee on Indian River Lagoon and Lake Okeechobee Basin* (Nov. 8, 2013), available at <http://www.flsenate.gov/usercontent/topics/irlob/finalreport.pdf> (last visited Feb. 16, 2015).

<sup>27</sup> Section 259.032(3), F.S.



public utilization.<sup>28</sup> The funds are distributed to the WMDs based on the relative population of the districts: 30 percent to the South Florida WMD, 25 percent to the Southwest Florida WMD, 25 percent to the St. Johns River WMD, 10 percent to the Suwanee River WMD, and 10 percent to the Northwest Florida WMD.

Section 373.59, F.S., requires each WMD to file a five-year plan with the Legislature and the DEP. The plans are updated annually to include a report of acquisition history along with any modifications or additions to the five-year plan. The annual report includes:

- Identification of lands that require a full fee simple interest to achieve water management goals;
- Lands that can be acquired using alternatives to fee simple acquisition techniques;
- A description of land management activities;
- Identification of lands needed to recharge groundwater supply; and
- Any plans for land acquisition for the protection of the potable water supply

Prior to 1985, the primary source of funding to the Water Management Lands Trust Fund came from direct legislative appropriations for specific projects. In 1985, the percentage of revenues from documentary stamp taxes to the Water Management Lands Trust Fund increased and became the main source of funding for the trust fund.<sup>29</sup>

In 1999, the legislature passed the Florida Forever Act, which replaced the acquisition programs in the Water Management Lands Trust Fund and served as a successor program to the popular P2000 program. The distribution of documentary stamp taxes deposited into the Water Management Lands Trust Fund pursuant to s. 201.15, F.S., may no longer be used for land acquisition but are available for preacquisition costs.

Beginning Fiscal Year 2007-2008, the major source of revenue for the Water Management Lands Trust Fund is 4.2 percent of the documentary stamp taxes, capped at \$60.5 million, with \$8 million being transferred to the General Revenue Fund after debt service is paid. The Water Management Lands Trust Fund also receives interest earnings on the investment of idle cash pursuant to s. 17.61, F.S., and transfers of penalty assessments collected by the WMDs pursuant to s. 373.129, F.S.

For Fiscal Year 2014-2015, funds in the Water Management Lands Trust Fund are distributed as follows:

- The amount necessary to pay debt service on bonds issued before February 1, 2009, by the South Florida WMD and the St. Johns River WMD;
- \$8 million is transferred to the General Revenue Fund;
- \$7.7 million is transferred to Save Our Everglades Trust Fund to support the projects included in the Indian River Lagoon Lake Okeechobee Basin report; and
- Any remaining funds are distributed as provided in the General Appropriations Act.<sup>30</sup>

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<sup>28</sup> Section 373.59, F.S. See also SFWMD, *2013 SFWMD Land Assessment, Study Process*, 6, available at [http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/land\\_assessment\\_study\\_process.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/land_assessment_study_process.pdf) (last visited Feb. 15, 2015).

<sup>29</sup> Chapter 85-347, s. 7, Laws of Fla.

<sup>30</sup> Section 373.59(12)(a), F.S.



### ***Water Quality Assurance Trust Fund***

The Water Quality Assurance Trust Fund was created in 1983 to function as a broad-based fund for use in responding to contamination (excluding petroleum products) that poses a threat to groundwater and surface water, public health, safety, and welfare. Funds may be used to:

- Assess, cleanup, restore, monitor, and maintain spills, discharges, or escapes of pollutants or hazardous substances which occur during storage, transportation, and disposal of such products;
- Assess, cleanup, restore, monitor, and maintain drycleaning sites;
- Replace or restore potable water supplies;
- Respond to the Comprehensive Environmental Response, Compensation, and Liability Act; and
- Restore or replace contaminated private potable water wells or water systems under specific conditions.<sup>31</sup>

Section s. 376.307(4), F.S., authorizes revenue sources for the Water Quality Assurance Trust Fund from:

- The annual transfer of interest from the Florida Coastal Protection Trust Fund;
- All excise taxes levied on producing or importing pollutants pursuant to s. 206.9935, F.S.;
- All penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to the contamination of surface water and groundwater;
- The fee on the retail sale of lead-acid batteries; and
- All penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to the contamination of drycleaning facilities.

The Water Quality Assurance Trust Fund is used by the DEP's Division of Waste Management, the Division of Environmental Assessment and Restoration, the Division of Water Resource Management, and executive direction and support services.<sup>32</sup>

### ***The Preservation 2000 Act and the Preservation 2000 Trust Fund***

The P2000 Act was created in 1990 in response to Governor Bob Martinez's Commission on the Future of Florida's Environment.<sup>33</sup> The commission examined the threats to Florida's environmental health and provided potential solutions. The commission projected a loss of three million acres of wetland and forest by 2020 due to increased development and decreased conservation land acquisition. The commission estimated that the state had a conservation need of more than \$5 billion and recommended that the state sell long-term bonds to fund land purchases.<sup>34</sup>

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<sup>31</sup> Section 376.307, F.S.,

<sup>32</sup> Water Quality Assurance Trust Fund Description provided by the Senate Appropriations Subcommittee on General Government (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>33</sup> Section 259.101, F.S.

<sup>34</sup> A Report to Governor Martinez by the Commission on The Future of Florida's Environment, Apr. 1990 (on file with the Senate Committee on Environmental Preservation and Conservation).

The P2000 Trust Fund was created in 1990 and is held and administered by the DEP.<sup>35</sup> The trust fund provides a dedicated funding source for purchasing any land located in an Area of Critical State Concern, environmentally endangered lands, or outdoor recreation lands. The primary source of revenues to the P2000 Trust Fund was the sale of \$3 billion in revenue bonds over 10 years.<sup>36</sup> The trust fund also received revenue from the sale of surplus lands pursuant to s. 259.101, F.S., and the interest earnings on the investment of idle cash pursuant to s. 17.61, F.S.

In order to receive P2000 funds, land acquisition projects are required to meet one of the following criteria:

- The land is in imminent danger of development, loss of significant natural attributes, or in danger of subdivision;
- There is compelling evidence that the land will be developed within 12 months or recent appraisals indicate an increase in land value;
- The land protects groundwater or other natural resources or provides space for natural resource based recreation;
- The land can be purchased at 80 percent of the appraised value or less;
- The land provides habitat for endangered, threatened, or rare species; or
- The land provides protection to important natural communities.<sup>37</sup>

P2000 funds were distributed as follows:

- 50 percent to the DEP the CARL Trust Fund;
- 30 percent to the DEP Water Management Lands Trust Fund;
- 10 percent to the Florida Communities Trust (FCT);
- 2.9 percent to the DEP Division of Recreation and Parks;
- 2.9 percent to DACS Florida Forest Service;
- 2.9 percent to the FWC; and
- 1.3 percent to the DEP for the Greenways and Trails Program.<sup>38</sup>

From 1990 to 1999, the P2000 program preserved more the 1.75 million acres of conservation land. The P2000 Trust Fund is inactive and the available fund balance of \$37.7 million was transferred to the Florida Forever Trust Fund in Fiscal Year 2004-2005.<sup>39</sup> The bonds to support the program were fully repaid in Fiscal Year 2012-2013.

### ***Green Swamp Land Authority***

The Green Swamp is located between Tampa and Orlando and is Florida's second largest wetland ecosystem (behind the Everglades) covering 870 square miles.<sup>40</sup> The Green Swamp is a primary recharge area for the Floridan Aquifer and also forms the headwaters of the

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<sup>35</sup> Section 375.045, F.S.

<sup>36</sup> Sections 375.045, 375.051, and 201.15, F.S.

<sup>37</sup> Section 259.101(4), F.S.

<sup>38</sup> Section 259.101(3), F.S.

<sup>39</sup> Office of Program Policy Analysis and Government Accountability, Florida Legislature, *Review of Preservation 2000*, Report No. 96-78, (Apr. 1997), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/9678rpt.pdf> (last visited Feb. 15, 2015).

<sup>40</sup> Marian Ryan, *The Green Swamp, Florida's Liquid Heart*, myregion.org, available at [http://www.myregion.org/clientuploads/pdfs/nfl\\_green-swamp.pdf](http://www.myregion.org/clientuploads/pdfs/nfl_green-swamp.pdf) (last visited Feb 15, 2015).

Withlacoochee, Hillsborough, Oklawaha, and Peace River Watersheds. The swamp provides habitat for approximately 330 species of wildlife including 30 threatened or endangered species.<sup>41</sup>

In 1961, the Legislature directed the Southwest Florida WMD to be the local sponsor of the Four River Basins Florida Project, which was a major flood control project sponsored by the U.S. Army Corps of Engineers (Corps).<sup>42</sup> The Corps project was to consist of a series of detention areas and dams. The Southwest Florida WMD decided a non-structural approach to flood control was preferred and the purchased land became the foundation for conservation of the swamp.

In 1974, the Legislature designated approximately 295,000 acres of the Green Swamp as an Area of Critical State Concern.<sup>43</sup> In 1992, the Green Swamp was added to the P2000 project list.<sup>44</sup>

The Green Swamp Land Authority was created in 1994 and directs the DEP, the St. Johns River WMD, and the Southwest Florida WMD to identify, select, and acquire less-than-fee simple interests or rights of property within the Green Swamp Area of Critical State Concern.<sup>45</sup> The law allows property owners within the Green Swamp Area of Critical State Concern to apply to the land authority for a land protection agreement regardless of whether or not the property is on the CARL list pursuant to s. 259.035, F.S., a land acquisition plan pursuant to s. 373.59, F.S., or an FCT plan pursuant to s. 380.508, F.S. The land protection agreement compensates the property owner for accepting restrictions on the use of the land, including the right to develop the land.<sup>46</sup>

Specific criteria developed by the land authority is used to evaluate potential property that may qualify for a land protection agreement. The criteria is based on water resource, environmental resource, ecological factors, threat of potential development, historical significance of the property, and other factors determined to be significant by the land authority.<sup>47</sup>

The land protection agreements convey the ownership of any rights and interests in the property to the Southwest Florida WMD or the St. Johns River WMD, depending on where the acquisition project is located. The WMDs are responsible for monitoring compliance with the land protection agreement and for providing the county tax collector with a copy of the land protection agreement. The property owner may use the land in any manner that is consistent with the terms of the agreement. Land protection agreements that limit the owner to agriculture must allow a property owner to change from one agricultural activity to another, unless otherwise prohibited by the agreement. Agreements may not prohibit the construction or operation of barns or other buildings necessary for agricultural activities.<sup>48</sup>

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<sup>41</sup> The DEP, *Wetland Delineation, Green Swamp Wilderness Preserve*, available at <http://www.dep.state.fl.us/water/wetlands/delineation/docs/gmswamp.pdf> (last visited Feb. 15, 2015).

<sup>42</sup> *Supra* note 40.

<sup>43</sup> *Supra* note 40. Section 380.05(2)(a), F.S., specifies that areas of critical state concern are areas that have a significant environmental importance regionally or statewide.

<sup>44</sup> *Supra* note 39.

<sup>45</sup> Section 380.0677, F.S.

<sup>46</sup> *Id.*

<sup>47</sup> Section 380.0677(4), F.S.

<sup>48</sup> Section 380.0677(7) and (8), F.S.

A fee simple owner of lands that are subject to a land protection agreement may petition the WMD governing board to terminate the agreement. The governing board may dispose of the land according to s. 373.089, F.S., if it determines that the property is no longer needed to protect the Green Swamp Area of Critical State Concern. The law also specifies that the constitutionally protected property rights of the private property owners within the Green Swamp Area of Critical State Concern are preserved regardless of participation in the Green Swamp Authorities acquisition program.<sup>49</sup>

In 1999, s. 380.0677(2), F.S., was repealed and the powers and duties of the Green Swamp Land Authority were transferred by a type two transfer to the DEP.<sup>50</sup>

### ***The Florida Forever Act and the Florida Forever Trust Fund***

The Florida Forever Act was created in 1999 as the successor program to the P2000 Act. The Florida Forever Act reinforces the state's commitment to conservation and expands the state's role in protecting its natural resources. The stated goals of the Florida Forever Act are to acquire lands and water areas to preserve natural resources and protect water supply, provide opportunities for agricultural activities on working lands, provide outdoor recreational opportunities, preserve the Everglades, prioritize the land acquisition process based on science-based assessments of the natural resources, and enhance imperiled species management.<sup>51</sup>

The Florida Forever Trust Fund was created in 1999 to carry out the purpose of the Florida Forever Act and is administered by the DEP.<sup>52</sup> The initial source of revenue to the trust fund was up to \$3 billion in bond sales, which was increased to \$5.3 billion in 2008.<sup>53</sup> The trust fund also receives proceeds from the sale of surplus land pursuant to s. 259.101, F.S., and the interest earnings on the investment of idle cash pursuant to s. 17.61, F.S., and inter-agency transfers from other trust funds.

Section 259.105(3), F.S., specifies the following distributions of funds:

- 30 percent to the WMDs to implement the five-year plan developed pursuant to s. 373.199, F.S.;
  - The WMDs are required to spend at least 50 percent of the funds received on land acquisition;
    - The distribution to the WMDs is as follows;
      - 35 percent to the South Florida WMD;
      - 25 percent to the South Florida WMD;
      - 25 percent to the St. Johns River WMD;
      - 7.5 percent to the Suwannee River WMD;
      - 7.5 percent to the Northwest Florida WMD.
- 35 percent to the DEP for capital projects and expenditures in the Florida Forever Act;

<sup>49</sup> Sections 380.0677(9) and (10), F.S.

<sup>50</sup> Chapter 99-247, s. 51, Laws of Fla.

<sup>51</sup> Section 259.105, F.S.

<sup>52</sup> Section 259.1051, F.S.

<sup>53</sup> Chapter 2008-229, s. 13, Laws of Fla.

- A minimum of three percent and no more than 10 percent of the funds must be used for capital projects that adhere to the land management planning activities required for public access and are identified at the time of acquisition.
- 21 percent to the Florida Communities Trust (FCT);
- 2 percent to the DEP for grants pursuant to s. 375.075, F.S.;
- 1.5 percent to the DEP for state parks;
- 1.5 percent to DACS' Florida Forest Service;
- 1.5 percent to the FWC;
- 1.5 percent to the DEP Greenways and Trails Program;
- 3.5 percent to DACS for agricultural lands; and
- 2.5 percent to the DEP to implement the Stan Mayfield Working Waterfronts program.

The land acquisitions proposed under the Florida Forever Act are developed by the Acquisition and Restoration Council (ARC), the successor to the selection committee created in 1979. ARC adopted rules to evaluate, select, and rank projects eligible for funds according to specific criteria including:<sup>54</sup>

- Consistency with the goals of the Florida Forever program;
- Restoration or protection of developed areas or water resources that are part of an ongoing government project;
- Management of facilities under public ownership;
- Significant archeological or historic value;
- Identification of funding sources through at least the first two years;
- The potential to resolve regional water resource issues;
- The imminent threat of development on the property;
- The implementation of a plan developed by an ecosystem management team;
- Everglades restoration;
- The project may be purchased at 80 percent of the appraised value;
- Acquisition of the land using alternatives to fee simple; and
- Joint acquisition with other public agencies, nonprofit organizations, private entities, and public-private partnership.

Pursuant to s. 259.105(7), F.S., Florida Forever funds may only be used for water resource and water supply projects if:

- The minimum flows and levels are established for the water body and the water body has experienced or could experience significant harm without the project;
- The project complies with the permit requirements; and
- The project is consistent with the regional water supply plan.

ARC prioritizes projects that meet the conservation criteria, have matching funds available, and can be purchased for less than 80 percent of appraised value. Priority is also given to projects that have a conservation plan that corresponds with the military's need to protect land, water, and habitat.<sup>55</sup>

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<sup>54</sup> Rule 18-24.0021, F.A.C.

<sup>55</sup> Section 259.105(11), F.S.

## **Other Trust Funds for Land Acquisition and Land Management**

### ***State Park Trust Fund***

The State Park Trust Fund was created in 1949. The trust fund is used for the administration, improvement, and maintenance of state parks and historic memorials, and for the acquisition and development of lands purchased for state parks. The trust fund receives revenues from park fees and charges, rentals, the sale of concessions, sales tax, donations, and transfers from the LATF.<sup>56</sup>

The State Park Trust Fund funds the DEP Division of Recreation and Parks. The Division of Recreation and Parks manages 161 state parks and 10 state trails and is responsible for the administration of real property within its jurisdiction, administering the Florida Greenway and Trail program, coordinating the natural and cultural resource activities of the state parks, and monitoring park operations statewide.<sup>57</sup>

### ***The Incidental Trust Fund***

The Incidental Trust Fund was created in 1949 and is administered by the DACS. The trust fund is used to fund a portion of the programs in the Florida Forest Service within the DACS, which includes wildfire suppression and forest land management. The major source of revenues for this fund are the receipts from sale of forest and nursery products and fire control assessments.<sup>58</sup>

### ***Florida Coastal Protection Trust Fund***

The Florida Coastal Protection Trust Fund was established in 1970 to provide the DEP and the FWC with the financial resources necessary to prevent pollutant discharge or to remediate and restore natural resources after a pollutant discharge. The Florida Coastal Protection Trust Fund is dispersed only for the following purposes:

- Administrative and personnel expenses of the DEP and the FWC related to the enforcement of pollutant discharge prevention and removal;
- The costs associated with the prevention and abatement of pollution discharges;
- The provable costs and damages that are the proximate results of the pollutant discharge;
- Funding a grant program for local governments to remove derelict vessels from the public waters of the state;
- Up to \$1 million of the fund may be used for emergency cleanup response teams located at ports throughout the state; and
- The temporary transfer of funds not greater than \$10 million to the Minerals Trust Fund in s. 376.40, F.S.<sup>59</sup>

The sources of revenues to the trust fund are penalties, judgments, and damages recovered from responsible parties for injury or destruction of natural resources and wildlife. The funds are credited pursuant to ss. 206.9935 and 206.9945, F.S. The fund also receives revenue from interest earnings and investment on idle cash pursuant to s. 17.61, F.S.

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<sup>56</sup> Sections 258.034 and 258.014, F.S.

<sup>57</sup> The DEP, *Div. of Recreation and Parks*, <http://www.dep.state.fl.us/parks/> (last visited Feb. 15, 2015).

<sup>58</sup> Section 589.011, F.S.

<sup>59</sup> Section 376.11, F.S.

### ***The Florida Permit Fee Trust Fund***

The Florida Permit Fee Trust fund was created in 1982 and is administered by the DEP. The trust fund provides funding for the operating costs of permitting, field services, and support services. The statute requires legislative approval to use the trust fund for salary increases.<sup>60</sup>

The sources of revenue to the trust fund are the funds received for coastal construction permits under ss. 161.041, 161.053, 161.0535, F.S., domestic wastewater treatment facility permits pursuant to s. 403.087, F.S., and public water systems under s. 403.861, F.S.<sup>61</sup>

### ***Florida Recreation Development Assistance Program***

The Florida Recreation Development Assistance Program (FRDAP) was established in 1986 and is administered by the DEP.<sup>62</sup> FRDAP is a reimbursement grant program and provides funds to qualifying local governments for acquisition or development of land for public outdoor recreation. FRDAP is funded at the discretion of the Legislature. In Fiscal Year 2014-2015 the program received approximately \$2.5 million from general revenue and in Fiscal Year 2013-2014 the program received \$642,000 from the LATF.<sup>63</sup>

Qualifying projects are ranked for selection based on the extent to which the project implements the outdoor recreation goals and facilities need outlined in the Statewide Comprehensive Outdoor Recreation Plan.<sup>64</sup> Local governments may submit two grant applications at a time but are limited to three active projects expending state funds during a fiscal year. The grants are limited to \$200,000 per project application.<sup>65</sup>

### ***Florida Communities Trust Fund***

The FCT was created in 1989 as a nonlapsing revolving fund to be used by local governments and nonprofit organizations for the acquisition of community based projects, urban open spaces, parks, and greenways.<sup>66</sup> The fund is held and administered by the Florida Communities Trust, which acts as non-regulatory agency within the DEP. The governing body of the FCT is the Secretary of Environmental Protection, and four members appointed by the Governor: a former elected official of county government, a former elected official of a municipal government, a representative of a nonprofit organization, and a representative of the development industry.<sup>67</sup>

The FCT is responsible for assisting local governments in implementing local comprehensive plans and bringing plans into compliance. The FCT is also tasked with responding to development patterns that degrade natural areas, enhancing resource values, restoring urban

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<sup>60</sup> Section 403.0871, F.S.

<sup>61</sup> *Id.*

<sup>62</sup> Section 375.075, F.S.

<sup>63</sup> FRDAP Program Description, provided by the Senate Appropriations Subcommittee on General Government, (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>64</sup> The Statewide Comprehensive Outdoor Recreation Plan is the state's official plan for outdoor recreation pursuant to s. 375.021, F.S.

<sup>65</sup> Section 375.075, F.S.

<sup>66</sup> Chapter 89-175, s. 28, Laws of Fla.

<sup>67</sup> Section 380.504, F.S.



waterfronts, preserving working waterfronts, reserving land for purchase at a later date, promoting innovative land acquisition methods, and providing public access to water fronts.<sup>68</sup>

The FCT receives approximately 21 percent of Florida Forever funds each year. 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. The local government match can consist of federal grants or funds, private donations, or environmental mitigation funds.<sup>69</sup>

### ***Ecosystem Management Trust Fund***

The Ecosystem Management Trust Fund was established in 1996 to fund the planning and implementation of restoration programs, beach restoration and nourishment, surface water improvement and management plans, pollution control activities, coral reef restoration.<sup>70</sup> In 2008, the Legislature made these funds available for local governments and state agencies to implement the Leah Scad Memorial Ocean Outfall Program pursuant to s. 403.1651, F.S.<sup>71</sup>

The trust fund receives revenue from payments resulting from enforcement actions against any person in violation of ch. 373, F.S., or any person responsible for injury to a coral reef. The trust fund also receives revenue from the transfer of documentary stamp taxes pursuant to s. 201.15, F.S., and interest earnings on the investment of idle cash pursuant to s. 17.61, F.S.<sup>72</sup>

The Ecosystem Management Trust Fund is utilized by the DEP's Division of Water Resource Management, Division of Environmental Assessment and Restoration, Water Policy and Ecosystem Restoration, Division of Recreation and Parks, the district offices, and for executive direction and support services.

### ***Save Our Everglades Trust Fund***

The Central and Southern Florida Flood Control (C&SF) Project was authorized by Congress in 1948 to provide flood control, supply water for municipal, industrial and agricultural uses, prevent salt water intrusion, and preserve fish and wildlife in the Everglades.<sup>73</sup> The project included 1,000 miles of levees, 720 miles of canals and almost 200 water control structures. A portion of the area drained was designated the EAA, which spans 700,000 acres and is approximately 27 percent of the historic Everglades.<sup>74</sup>

In 1992 the Congress authorized a Restudy of the C&SF project to develop modifications to the flood control project that included Everglades restoration and water supply projects. The Restudy included three phases:

- A reconnaissance phase to identify problems and opportunities;

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<sup>68</sup> Section 380.502, F.S.

<sup>69</sup> Section 259.105(3)(c), F.S.

<sup>70</sup> Section 403.1651, F.S.

<sup>71</sup> Chapter 2008-232, s. 7, Laws of Fla.

<sup>72</sup> *Id.*

<sup>73</sup> Clay J. Landry, *Who Drained the Everglades? The Same Folks Who Are Now Restoring Them* (Mar. 2002), available at <http://perc.org/sites/default/files/mar02.pdf> (last visited Feb. 15, 2015).

<sup>74</sup> Duke University Wetland Center, *Everglades Agricultural Area*, available at <http://www.nicholas.duke.edu/wetland/ea.htm> (last visited Feb. 16, 2015).

- A feasibility phase to develop a comprehensive plan to modify the C&SF project; and
- An implementation phase, which required congressional authorization under the Water Resources Development Act.

In 1999, the Legislature passed CS/SB 167. The bill directed the South Florida WMD to serve as the local sponsor on the Restudy, provided eminent domain authority for several projects in South Florida, required the DEP to review and approve the project components of the Restudy, and required the DEP to submit project funding requests to the Legislature. The measure also required the DEP and the South Florida WMD to expeditiously pursue the implementation of project modifications and to collaborate in the Restudy.

An interim project report, *Everglades Restudy Funding*, was also published in 1999. The report, reviewed the amount and timing of funding necessary to implement the projects outlined in the Restudy and to determine if the South Florida WMD would be capable to meeting the financial requirements as the local sponsor of the Restudy.<sup>75</sup>

The report found uncertainty in the amount and timing of funding necessary to implement the projects in the Restudy. As the local sponsor, the South Florida WMD was responsible for a portion of the state's cost share. The funding report concluded that the South Florida WMD may experience fiscal constraints as a result of the cost share agreement and suggested using additional state funding resources to augment local sponsor obligations.<sup>76</sup>

The Save Our Everglades Trust fund was created in 2000 to implement the projects outlined in the Comprehensive Plan contained in the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, April 1999".<sup>77</sup> The source of revenue to the trust fund is state, local, and federal contributions. The fund is exempt from the general revenue service charges required by s. 215.20(1), F.S., and all income, including interest or other earnings, must be credited to the trust fund. Any balance that remains in the trust fund is to stay in the trust fund at the end of the fiscal year in order to carry out the purpose of the fund.<sup>78</sup>

### ***Water Protection and Sustainability Trust Fund***

The Water Protection and Sustainability Trust Fund was established in 2005 within the DEP to support the Water Sustainability and Protection Program created in s. 403.890, F.S. The revenues deposited or appropriated are distributed in the following manner:

- 65 percent to the DEP for alternative water supply projects;
- 22.5 percent for the implementation of the total maximum daily load program established in s. 403.067, F.S.; and

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<sup>75</sup> Comm. On Env. Protection, Florida House, and Comm. on Everglades Oversight, Joint Legislative Comm., *Everglades Restudy Funding*, (Interim Report) (Nov. 1999), available at [http://www.leg.state.fl.us/data/Publications/2000/House/reports/interim\\_reports/pdf/evrglade.pdf](http://www.leg.state.fl.us/data/Publications/2000/House/reports/interim_reports/pdf/evrglade.pdf) (last visited Feb. 15, 2015).

<sup>76</sup> *Id.*

<sup>77</sup> U.S. Army Corps of Engineers, *C&SF Project Comprehensive Review, Final Integrated Feasibility Report and Programmatic Environmental Impact Statement* (Apr. 1999), available at [http://www.evergladesplan.org/docs/comp\\_plan\\_apr99/summary.pdf](http://www.evergladesplan.org/docs/comp_plan_apr99/summary.pdf) (last visited Feb. 15, 2015).

<sup>78</sup> Section 373.472, F.S.

- 12.5 percent for the DEP Disadvantaged Small Community Wastewater Grant Program provided for in s. 403.1838, F.S.

The end of the fiscal year balance is to remain in the trust fund and must be available to carry out the Water Protection and Sustainability Act.<sup>79</sup>

The trust fund initially received \$100 million in documentary stamp tax revenues; however, the distribution was reduced in 2007 to \$80 million, and the associated distributions tied to the funds were amended to allow for the redirection of documentary stamp tax revenue to the General Revenue Fund.<sup>80</sup> In 2009, the Legislature eliminated documentary stamp tax distributions to the fund.<sup>81</sup>

### ***Grants and Donations Trust Fund***

The Grants and Donations Trust Fund in the FWC was created in 2005 and is used for grant and donor agreement activities funded by contractual revenue. The source of revenue to the fund is grants and donations from private and public nonfederal sources, interest earnings, and cash advances from other trust funds.<sup>82</sup>

### ***Plant Industry Trust Fund***

The Plant Industry Trust Fund was created in 2014 and is administered by the DACS. The trust fund is used to fund a portion of the programs in the DACS' Division of Plant Industry, which includes plant and apiary inspections, certifications, surveys, and treatments to control and eradicate insects and diseases threatening the industry.<sup>83</sup>

The sources of revenue for the fund are the fees and penalties received by the DACS for plant and apiary regulatory services including certifications, registrations, and inspections pursuant to s. 586.16, F.S., the fines paid for violating the plant industry provisions pursuant to s. 581.212, F.S., and fines, penalties, and assessments collected pursuant to s. 593.117, F.S.

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

### **Land Acquisition Trust Fund**

**Section 4** amends s. 17.61, F.S., to specify that the funds in the Land Acquisition Trust Fund (LATF) must be invested separately with the interest deposited into the General Revenue Fund. The balances of funds in the LATF are exempt from annual assessments by the Chief Financial Officer provided in s. 17.57, F.S.

**Section 7** amends s. 161.091, F.S., to authorize beach management funding, subject to appropriation, from the LATF.

<sup>79</sup> Section 403.891, F.S.

<sup>80</sup> Chapter 2007-335, s. 2, Laws of Fla.

<sup>81</sup> Chapter 2009-68, s. 1, Laws of Fla.

<sup>82</sup> Section 379.206, F.S.

<sup>83</sup> Section 570.321, F.S.

**Section 13** amends s. 253.03, F.S., to remove the ability to use the LATF exclusively to pay encumbrances on real property forfeited to the state in the event the Internal Improvement Trust Fund receipts are inadequate to satisfy the encumbrances. If the Internal Improvement Trust Fund does not have adequate funds, the Board of Trustees of the Internal Improvement Trust Fund (BOT) may use another appropriate trust fund to satisfy the encumbrances for state land administration.

**Section 14** amends s. 253.034, F.S., to direct the proceeds from the sale of conservation lands purchased before July 1, 2015, to be deposited into the Florida Forever Trust Fund instead of the fund from which the land was acquired. Proceeds from the sale of conservation lands purchased on or after July 1, 2015, are to be deposited into the LATF unless the bond covenants require the proceeds be deposited into the trust fund from which the lands were purchased.

A maximum of \$6.2 million from the LATF may be expended on conservation management contractual arrangements with private parties instead of the five percent of funds allocated in current law. The \$6.2 million is based on projected documentary stamp tax revenue deposits for Fiscal Year 2015-2016 according to the August 2014 Revenue Estimating Conference.

**Section 42** amends s. 375.041, F.S., to designate the LATF within the Department of Environmental Protection (DEP) as the recipient of documentary stamp tax revenues pursuant to Article X, section 28 of the Florida Constitution. The constitution requires no less than 33 percent of documentary stamp tax net revenues be deposited into the LATF within the DEP. The revenue deposited into the LATF must be utilized in the following order:

- Obligations relating to debt service, specifically:
  - Payments relating to Florida Forever bonds;
  - Payments relating to Everglades restoration bonds; and
  - Payments relating to revenue bonds issued by Water Management Districts (WMDs).
- Obligations relating to the debt service on bonds issued before February 1, 2009, by the South Florida and St. Johns River WMDs secured by revenues in the Water Management Lands Trust Fund, which is terminated in this bill;
- Distribution of \$32 million to the South Florida WMD for the Long-Term Plan as defined in s. 373.4592, F.S., relating to Everglades improvement and management; and
- Other expenditures for the purposes set forth in Article X, section 28 of the Florida Constitution.

The bill specifies that moneys accruing to other agencies for expenditures relating to Article X, section 28 of the Florida Constitution must be transferred back to the LATF in the DEP utilizing nonoperating budget authority. All transferred moneys available from reversions or reductions in other agencies must be transferred back to the LATF in the DEP within 15 days after such reversion or reduction.

**Section 45** amends s. 375.075, F.S., related to Florida Recreation Development Assistance Program (FRDAP), by eliminating the five percent minimum deposit of revenue requirement tied to the LATF for developing and planning the program. The bill now ties the development and planning to funding appropriated by the Legislature.

**Section 52** amends s. 379.212, F.S., related to the LATF within the Fish and Wildlife Conservation Commission (FWC), to conform with the LATFs created in other agencies and limits revenues deposited into the fund to only those transferred from the DEP's LATF. The funds deposited into the trust fund must be utilized for the purposes set forth in Article X, section 28 of the Florida Constitution, and the FWC must maintain the integrity of such funds.

**Section 53** specifies that all unobligated balances and certified appropriations remaining in the FWC's Land Acquisition Trust Fund are transferred to the Grants and Donations Trust Fund within the FWC, effective June 30, 2015.

**Section 54** amends s. 379.362, F.S., to require the Department of Agriculture and Consumer Services (DACS) to use funds appropriated from the LATF within DACS to fund the oyster management and restoration programs in Apalachicola Bay and other oyster harvest areas in the state.

**Section 67** amends s. 403.9325, F.S., to revise the definition of "public lands set aside for conservation or preservation" within the Mangrove Trimming and Preservation Act to include lands and interests acquired with money from the LATF.

#### **Chapter 259, Florida Statutes, Land Acquisitions for Conservation or Recreation**

**Section 17** amends s. 259.032, F.S., to rename the section as "Conservation and recreation lands." The bill removes obsolete language relating to all references of the terminated Conservation and Recreation Lands Program (CARL) Trust Fund. References include deposits into the fund in addition to allowable expenditures made from the fund. This includes an appropriation of \$250,000 to the Plant Industry Trust Fund within DACS. The bill also eliminates obsolete language related to P2000 and Florida Forever bonds.

The bill eliminates obsolete language relating to conservation and recreation lands, as it refers to the list describing acquisition projects under Acquisition and Restoration Council (ARC).

The bill authorizes state agencies to contract with local governments and soil and water conservation districts to manage lands acquired for conservation and recreation lands with funds from the LATF in accordance with Article X, section 28 of the Florida Constitution.

The bill amends the requirements in s. 259.032(11)(b), F.S., to specify the conservation and recreation lands acquired pursuant to this section must be acquired with funds in accordance with Article X, section 28 of the Florida Constitution or former s. 259.032, F.S. Additionally the bill deletes the amount transferred to the Plant Industry Trust Fund.

**Section 18** amends s. 259.035, F.S., to add conforming language to preserve sections of 2014 Florida Statutes repealed by this bill in addition to correcting cross references to the P2000 Act. The bill also deletes obsolete language relating to the CARL Trust Fund. It also requires ARC to develop rules defining specific criteria and numeric performance measures needed for lands that are to be acquired for a public purpose with funds deposited into the LATF pursuant to Article X, section 28 of the Florida Constitution.

**Sections 21 and 22** correct cross references in ss. 259.04 and 259.041, F.S., respectively, to remove obsolete language related to the P2000 bonds.

**Section 23** amends s. 259.101, F.S., to modify the P2000 Act by eliminating obsolete provisions relating to P2000 bond proceeds and the P2000 Trust Fund. The bill adds conforming language to preserve sections of 2014 Florida Statutes repealed by this bill. This section also provides that a state agency or WMD that acquired lands using P2000 funds must manage the lands to make them available for public recreational use if the recreational use does not interfere with the protection of the land. The bill authorizes agencies to transfer management authority to another appropriate agency and requires control of invasive species.

**Section 24** amends s. 259.105, F.S., to correct cross references related to the Florida Forever Act and removes obsolete language applying to only the 2014-2015 fiscal year. The section also makes conforming changes setting a maximum amount of \$6.2 million from the LATF that may be expended on conservation management contractual arrangements with private parties.

### **Deposits of Revenues**

**Section 6** amends s. 161.054, F.S., to redirect the fines or awards of damages relating to beach and shore preservation in the Ecosystem Management Trust Fund to the Florida Coastal Protection Trust Fund.

**Section 8** amends s. 211.3103, F.S., to redirect the deposits of the state's tax on severance of phosphate rock from the CARL Trust Fund to the State Parks Trust Fund.

**Section 15** amends s. 253.7824, F.S., to require the proceeds from the removal and sale of products from conservation lands purchased before July 1, 2015, be deposited into the Florida Forever Trust Fund instead of the fund from which the land was acquired. Proceeds from the removal and sale of products from conservation lands purchased on or after July 1, 2015, are to be deposited into the LATF unless the bond covenants require the proceeds be deposited into the trust fund from which the lands were purchased. For non-conservation lands or lands acquired by gift, donation, or no consideration, proceeds from the removal and sale of products shall be deposited into the Internal Improvement Trust Fund.

**Section 16** amends s. 258.435, F.S., to redirect the deposits of gifts and donations received to promote the public use of aquatic preserves and their associated uplands from the LATF to the Grants and Donations Trust Fund for administration, development, improvement, promotion, and maintenance of aquatic preserves and their associated uplands.

**Section 29** amends s. 373.129, F.S., directs revenues from civil penalties recovered by a water management district be retained by the district that collected the money and used exclusively by the district. Civil penalties recovered by the DEP will be redirected from the Water Management Lands and Ecosystem Management and Restoration Trust Funds to the Water Quality Assurance Trust Fund.

**Sections 32** amends s. 373.430, F.S., to redirect the deposits of penalties and damages relating to management and storage of surface waters recovered by the state from the Ecosystem

Management and Restoration Trust Fund and Water Management Lands Trust Fund to the Florida Permit Fee Trust Fund within the DEP. All penalties and damages recovered by the water management districts are retained by the district which collected the money and used exclusively within the territory of the district.

**Section 41** amends s. 375.031, F.S., to direct the proceeds from the sale or disposition of conservation lands acquired by the Outdoor Recreation and Conservation Act of 1963 purchased before July 1, 2015, to the Florida Forever Trust Fund instead of the fund from which the land was acquired. Proceeds from the sale or disposition of conservation lands purchased on or after July 1, 2015, are to be deposited into the LATF unless the bond covenants require the proceeds be deposited into the trust fund from which the lands were purchased. For non-conservation lands or lands acquired by gift, donation, or no consideration, proceeds from the removal and sale of products shall be deposited into the Internal Improvement Trust Fund.

**Section 46** amends s. 376.11, F.S., to redirect the deposits into the Florida Coastal Protection Trust Fund, including:

- Fines and awards of damages relating to coastal construction and reconstruction; and
- Funds from sources otherwise specified by law.

The bill also amends the uses of the Florida Coastal Protection Trust Fund to include:

- Funding relating to the prevention of, and clean up and rehabilitation after, a pollutant discharge, and damages;
- Funding of detailed planning and implementation of management and restoration of ecosystems programs; and
- Funding activities restoring polluted areas defined by the DEP to conditions prior to pollution or enhancing pollution control.

**Section 48** amends s. 376.307, F.S., to redirect the deposits into the Water Quality Assurance Trust Fund previously deposited into other trust funds:

- Civil penalties recovered by a WMD, local board, or local government delegated by the DEP in actions relating to water resources;
- Funds appropriated by the Legislature for the Surface Water Improvement and Management Act, storm water programs, and the Geneva Freshwater Lens Protection Act;
- Funds collected pursuant to ch. 403 F.S., relating to environmental control and designated for deposit into the Water Quality Assurance Trust Fund;
- Funds recovered by the state from actions, initiated by the DEP, against a person for violation of chs. 373 or 403, F.S., relating to water resources and environmental control;
- Funds available for the Leah Schad Memorial Ocean Outfall Program;
- Funds received by the state for injury or destruction of coral reefs; and
- Funds from other sources otherwise specified by law.

The bill also amends the uses of the Water Quality Assurance Trust Fund to include:

- Funding detailed planning and implementation of management and restoration of ecosystems programs;
- Funding development and implementation of surface water improvement and management plans and programs;



- Funding activities restoring polluted areas, as defined by the DEP, to conditions before the pollution occurred or enhancing pollution control;
- Funding activities by the DEP to recover moneys from actions against persons for violation of ch. 373 F.S., relating to water resources;
- Funding activities for the Leah Schad Memorial Ocean Outfall Program; and
- Funding activities to restore or rehabilitate injured or destroyed coral reefs.

The bill specifies that a settlement entered into by the DEP may not limit the Legislature's authority to appropriate money from the trust fund. The DEP may enter into a settlement in which it agrees to request moneys received due to a settlement in its legislative budget request. The bill also specifies the DEP may enter into a settlement involving joint enforcement with the Hillsborough County pollution control program provided that the moneys are deposited into the local program's pollution recovery fund.

**Section 51** amends s. 379.206, F.S., to require the deposits into the FWC Grants and Donations Trust Fund include development-of-regional impact wildlife mitigation contributions.

**Section 58** amends s. 380.508, F.S., to direct the deposits of all moneys from the operation, management, lease, or other disposition of land, water areas, related resource, and facilities acquired or constructed under ch. 380 F.S., to the Internal Improvement Trust Fund. The bill also requires funds above eligible project costs after completion of a project under chapter 380, Florida Statutes, be deposited into the Florida Forever Trust Fund.

In addition, the proceeds from the sale of reserved lands purchased before July 1, 2015, must be deposited into the Florida Forever Trust Fund instead of the fund from which the land was acquired. Proceeds from the sale of reserved lands purchased on or after July 1, 2015, are to be deposited into the LATF unless the bond covenants require the proceeds be deposited into the trust fund from which the lands were purchased. For non-conservation lands or lands acquired by gift, donation, or no consideration, proceeds from the sale of such lands must be deposited into the Internal Improvement Trust Fund.

**Section 59** amends s. 380.510, F.S., to require deposits from the FCT be placed into the Internal Improvement Trust Fund. The bill also requires each deed or lease relating to real property acquired with funds received by the trust from the Florida Forever Trust Fund after July 1, 2015, to contain covenants and restrictions that the use of the property complies with Article X, section 28, of the Florida Constitution.

**Section 62** amends s. 403.08601, F.S., to redirect the funds relating to the Leah Schad Memorial Ocean Outfall Program from the terminated Ecosystem Management and Restoration Trust Fund to the Water Quality Assurance Trust Fund.

**Section 71** amends s. 570.71, F.S., to replace the fund for deposits and expenditures from the CARL Program Trust Fund, other than from the LATF, within DACS to the Incidental Trust Fund relating to acquiring conservation easements and entering into agricultural protection agreements.

### **Trust Fund Terminations**

**Sections 1, 44, 60, and 64** terminate the following trust funds within the DEP:

- Preservation 2000 Trust Fund;
- Florida Communities Trust Fund;
- Ecosystem Management and Restoration Trust Fund;
- Water Management Lands Trust Fund; and
- Conservation and Recreation Lands Trust Fund.

All funds and encumbrances certified forward for operations and fixed capital outlay projects are permitted to stay in the terminated funds until the encumbrances are satisfied. The remaining balances of the FCT and the P2000 Trust Funds are transferred to the Florida Forever Trust Fund. The remaining balances of the Ecosystem Management and Restoration, Water Management Lands, and CARL Trust Funds are transferred to the Water Quality Assurance Trust Fund.

**Sections 2, 3, 50, and 69** terminate the CARL Program Trust Fund within DACS and the FWC after all outstanding debts or obligations are satisfied.

### **Technical Cross Reference Corrections**

**Section 5** repeals s. 161.05301, F.S., which appropriated six positions and \$449,918 for the 1998-1999 fiscal year to the Ecosystem Management and Restoration Trust Fund to assist in the administration of the Beach and Shore Preservation program.

**Sections 9, 10-12, 19, 20, 25, 26, 30, 33, 35-37, 39, 40, 47, 49, 55, 57, 61, 63, 65, 66, 70, and 72** make technical changes removing obsolete trust fund references relating to the trust funds terminated in this bill in addition to technical statutory cross-reference corrections relating to changes occurring in the bill.

**Section 27** amends s. 373.026, F.S., to repeal obsolete language related to the South Florida Water Management District's five year work plan for the Save Our Rivers and the P2000 programs.

**Sections 28, 31, 34, and 57** add conforming language to preserve sections of 2014 Florida Statutes repealed by this bill.

**Section 38** amends s. 373.59, F.S., to retitle the section "Payment in lieu of taxes for lands acquired for water management district purposes" and repeals obsolete language relating to the Water Management Lands Trust Fund, which is terminated in this bill.

**Section 43** amends s. 375.044, F.S., to remove obsolete language relating to Save Our Coast bonds.

**Section 56** repeals obsolete language relating to the Green Swamp Land Authority in s. 380.0677, F.S.

**Section 68** amends s. 403.93345, F.S., to change the funding of the Florida Coral Reef Protection Act from the terminated Ecosystem Management and Restoration Trust Fund to the Water Quality Assurance Trust Fund.

**Section 73** provides an effective date of July 1, 2015, except as otherwise expressly provided.

**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:

PCS/SB 584 terminates trust funds listed below and transfers the estimated fund balances to the following funds:<sup>84</sup>

| <b>Funds Terminated/Agency</b>  | <b>Estimated Fund Balance as of June 30, 2015</b> | <b>Recipient Fund of Estimated Balances</b> |
|---|---|---|
| Conservation and Recreation Lands Trust Fund/Department of Environmental Protection (DEP) | \$11,318,069                                      | Water Quality Assurance Trust Fund          |
| Ecosystems Management and Restoration Trust Fund/DEP                                      | \$5,975,004                                       | Water Quality Assurance Trust Fund          |

<sup>84</sup> Information contained in this portion of the bill analysis is from the analysis for SB 584 by the Senate Appropriations Subcommittee on General Government (Feb. 2015) (on file with the Senate Committee on Environmental Preservation and Conservation). The estimated fund balances are based on the DEP’s March 2015 financial statements.

|   |              |                                    |
|---|--------------|------------------------------------|
| Florida Communities Trust Fund/DEP  | \$388,978    | Florida Forever Trust Fund         |
| Florida P2000 Trust Fund/DEP  | \$244,500    | Florida Forever Trust Fund         |
| Water Management Lands Trust Fund/DEP   | \$15,185,397 | Water Quality Assurance Trust Fund |
| Conservation and Recreation Lands Program Trust Fund/Department of Agriculture and Consumer Services (DACS) | \$3,360,592  | General Revenue Fund               |
| Conservation and Recreation Lands Program Trust Fund/Fish and Wildlife Conservation Commission (FWC)        | \$65,540     | General Revenue Fund               |

The bill transfers the following revenue sources from trust funds being terminated to the funds listed below:

| <b>Revenues</b>   | <b>Terminated Fund</b>   | <b>Recipient Fund of Revenues</b>  |
|---|--|--|
| Beach Administrative Fines  | Ecosystem Management and Restoration   | Coastal Protection Trust Fund  |
| Severance of Phosphate Rock   | Conservation and Recreation Lands Trust Fund   | State Park Trust Fund  |
| Civil Penalties, Water Resource Penalties and Damages for Water Management Districts                      | Water Management Lands Trust Fund and Ecosystems Management and Restoration Trust Fund | Funds retained by the Water Management Districts                         |
| Civil Penalties, Water Resource Penalties and Damages for the Department of Environmental Protection(DEP) | Ecosystem Management and Restoration and Water Management Lands Trust Funds            | Water Quality Assurance Trust Fund and the Florida Permit Fee Trust Fund |
| Surface Water Improvement and Management  | Ecosystem Management and Restoration Trust Fund  | Water Quality Assurance Trust Fund                                       |
| Damages Recovered for Coral Reefs   | Ecosystem Management and Restoration Trust Fund  | Water Quality Assurance Trust Fund                                       |
| Leah Shad Memorial Funds  | Ecosystem Management and Restoration Trust Fund  | Water Quality Assurance Trust Fund                                       |
| Settlement Funds for Pollution Control  | Ecosystem Management and Restoration Trust Fund  | Water Quality Assurance Trust Fund                                       |
| Land and Water Management Disposition of Lands  | Florida Communities Trust Fund   | Appropriate trust fund   |
| Land and Water Management Nonprofits and Local Governments  | Florida Communities Trust Fund   | Internal Improvement Trust Fund  |
| Environmental Control Enforcement Penalties   | Ecosystem Management and Restoration Trust Fund  | Water Quality Assurance Trust Fund                                       |

The bill transfers the following revenue sources from the LATF within the DEP to the funds listed below:

| <b>Revenues</b>                         | <b>Current Trust Fund</b>   | <b>Recipient Fund of Revenues</b>            |
|---|-----------------------------|--|
| Proceeds from the Sale of Products      | Land Acquisition Trust Fund | Appropriate trust fund determined by the DEP |
| Aquatic Preserves - Gifts and Donations | Land Acquisition Trust Fund | Grants and Donations Trust Fund              |

The bill states that funds in the LATF may not be invested as provided in s. 17.61, F.S., but shall be retained in those trust funds with the interest appropriated to the General Revenue Fund. This will have an indeterminate impact on the General Revenue Fund.

The bill eliminates the \$250,000 annual transfer from the DEP CARL Trust Fund (a terminated trust fund) to the DACS Plant Industry Trust Fund for the Endangered or Threatened Native Flora Conservation Grants program. Since the CARL Trust Fund within the DEP is terminated, future funding for this program may be provided from other sources, as determined by the Legislature.

The bill replaces the funding for contractual agreements with private parties for the acquisition of conservation lands under the Florida Forever program from five percent of documentary stamp tax deposited into the CARL and Water Management Lands Trust Funds (both trust funds are terminated) to \$6.2 million from the LATF. This amount is based on projected documentary stamp tax deposits for Fiscal Year 2015-2016, according to the August 2014 Revenue Estimating Conference.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 17.61, 161.054, 161.091, 211.3103, 215.20, 215.618, 215.619, 253.027, 253.03, 253.034, 253.7824, 258.435, 259.032, 259.035, 259.036, 259.037, 259.04, 259.041, 259.101, 259.105, 259.1051, 338.250, 373.026, 373.089, 373.129, 373.1391, 373.199, 373.430, 373.459, 373.4592, 373.45926, 373.470, 373.584, 373.59, 373.5905, 373.703, 375.031, 375.041, 375.044, 375.075, 376.11, 376.123, 376.307, 376.40, 379.206, 379.212, 379.362, 380.0666, 380.507, 380.508, 380.510, 403.0615, 403.08601, 403.121, 403.885, 403.9325, 403.93345, 570.321, 570.71, and 895.09.

This bill repeals the following sections of the Florida Statutes: 161.05301, 375.045, 379.202, 380.0677, 380.511, 403.1651, 403.8911, and 570.207.

This bill reenacts the following sections of the Florida Statutes: 260.015(1)(c), 258.015(3)(b), and 287.0595(2).

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

**Recommended CS by Appropriations Subcommittee on General Government on March 11, 2015:**

The committee substitute:

- Clarifies the disposition of trust fund balances and the authorization of the Department of Environmental Protection to pay all outstanding obligations of terminated trust funds as required.
- Designates the Grants and Donations Trust Fund within the Department of Environmental Protection as the repository for gifts and donations received to promote the public use of aquatic preserves.
- Deletes the repeal of s. 373.026(8)(c), F.S., in its entirety and revises that paragraph to repeal obsolete language related to the South Florida Water Management District's five year work plan for the Save Our Rivers and the P2000 programs.
- Provides that penalties recovered by water management districts that are designated for use by the districts be retained in the districts.
- Specifies that all unobligated balances and certified forward appropriations remaining in the Fish and Wildlife Conservation Commission's Land Acquisition Trust Fund are transferred to the Grants and Donations Trust Fund within FWC, effective June 30, 2015.
- Removes unnecessary reenactments.
- Modifies effective date of the bill so the bill will be effective July 1, 2015, except as otherwise expressly provided in the bill.

**B. Amendments:**

None.