

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 Appropriations Subcommittee on General Government

BILL: CS/SB 586

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Dean

SUBJECT: Implementation of the Water and Land Conservation Constitutional Amendment

DATE: March 10, 2015 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Gudeman | Uchino | EP | Fav/CS |
| 2. | Betta | DeLoach | AGG | Pre-meeting |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 586 revises the statutory distributions of revenues derived from the excise tax on documents to satisfy the recently approved water and land conservation constitutional amendment. The bill requires the Land Acquisition Trust Fund (LATF) to receive 33 percent of net revenues from the excise tax on documents. It also requires payment of debt service for Florida Forever and Everglades bonds out of the LATF, and deletes existing distributions to trust funds that serve environmental purposes. The bill maintains the existing effective percentage distributions to the transportation, affordable housing, and grants and donations trust funds, but actual distributions to these trust funds are reduced because they receive a remainder of the revenues after moneys are first distributed to the LATF. The bill maintains existing distributions to the State Economic Enhancement and Development Trust Fund, and provides a specific distribution for making payments in lieu of taxes to local governments. See Section V. for information on the fiscal impact of the bill.

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

II. Present Situation:

Excise Tax on Documents

Chapter 201, F.S., levies a tax on two classes of documents. Deeds and other documents related to real property are taxed at the rate of 70 cents per \$100. (The tax rate on documents relating to

realty is 60 cents per \$100 in Miami-Dade County, which since 1983 has levied a discretionary surtax on deeds of 45 cents per \$100 of consideration except for deeds on single family residences.) Certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements are taxed at 35 cents per \$100, but the tax on any one document may not exceed \$2,450. Revenue from the tax on documents is divided between the General Revenue Fund and various trust funds.

Distribution of Tax Revenues

Section 201.15, F.S., prescribes the distribution of revenues from the tax on documents. Revenues are pledged to fund debt service for Florida Forever and Everglades bonds and are distributed to fifteen trust funds and the General Revenue Fund. Eight percent of total collections is deducted as the General Revenue service charge, and deductions are made for costs of collection and enforcement of the tax. The table in the Fiscal Impact Statement section of this analysis shows the amounts distributed under current law.

After deductions of the General Revenue service charge required by s. 215.20(1), F.S., and the costs of collection and enforcement, the remaining revenues from the tax on documents are distributed pursuant to s. 201.15, F.S.

- 63.31 percent of revenues are distributed as follows:
 - Debt service for Preservation 2000, Florida Forever, and Everglades Restoration bonds;¹
 - Of the remainder of the 63.31 percent after payment of debt service:
 - The lesser of 38.2 percent or \$541.75 million in each fiscal year, to the State Transportation Trust Fund is used for the following purposes:
 - The first \$75 million must be transferred to the State Economic Enhancement and Development (SEED) Trust Fund in the Department of Economic Opportunity;
 - After the transfer to the SEED Trust Fund, capital funding for the New Starts Transit Program and the Small County Outreach Program each receive 10 percent of the remainder; and
 - Of the remainder after moneys for the SEED trust fund and the other two programs are accounted for, 75 percent for the Strategic Intermodal System, and 25 percent for the Transportation Regional Incentive Program, of which the first \$60 million is annually allocated to the Florida Rail Enterprise.
 - The lesser of 0.23 percent or \$3.25 million in each fiscal year, to the Grants and Donations Trust Fund in the Department of Economic Opportunity;
 - The lesser of 2.12 percent or \$30 million in each fiscal year, to the Ecosystem Management and Restoration Trust Fund;
 - The lesser of 0.02 percent or \$300,000 in each fiscal year, to the General Inspection Trust Fund in the Department of Agriculture and Consumer Services to fund oyster management and restoration;
 - The remainder to the General Revenue Fund.
- The following distributions are based on revenues from the tax on documents after deduction of the General Revenue service charge imposed in s. 215.20(1), F.S., and the costs of collection and enforcement.

¹ The reference to Preservation 2000 bonds is currently in statute; however, the program is obsolete.

- The lesser of 7.56 percent or \$84.9 million in each fiscal year to the LATF for any lawful purpose, after payments of \$6.3 million to the General Revenue Fund;²
- The lesser of 1.94 percent or \$26 million in each fiscal year to the LATF for acquiring or managing coastal lands, after paying debt service on bonds issued before February 1, 2009, and paying \$11 million to the General Revenue Fund;
- The lesser of 4.2 percent or \$60.5 million in each fiscal year to the Water Management Lands Trust Fund, which must transfer to the General Revenue Fund an amount equal to the debt service on Everglades bonds authorized in 2014;³
- 3.52 percent to the Conservation and Recreational Lands (CARL) Trust Fund, with 11.15 percent of that amount being transferred to the State Game Trust Fund for land management activities;
- The lesser of 2.28 percent or \$34.1 million to the Invasive Plant Control Trust Fund;⁴
- The lesser of 0.5 percent or \$9.3 million in each fiscal year to the State Game Trust Fund for implementing the Lake Restoration 2020 Program;⁵
- 0.25 percent each to the Water Quality Assurance Trust Fund and to the General Inspection Trust Fund in the Department of Agriculture and Consumer Services;
- 7.53 percent to the State Housing Trust Fund, the first \$35 million of which is transferred to the SEED Trust Fund, and, of the remainder, half remains in the State Housing Trust Fund and half is distributed to the Local Government Housing Trust Fund;
- 8.66 percent to State Housing Trust Fund, the first \$40 million of which is transferred to the SEED Trust Fund and of the remainder 12.5 percent remains in the State Housing Trust Fund and 87.5 percent is distributed to the Local Government Housing Trust Fund; and
- The remainder to the General Revenue Fund.

From year to year, the appropriations made from each trust fund are specified in the General Appropriations Act and may be more or less than the annual statutory distributions.

Payment in Lieu of Taxes

Section 259.032(12), F.S., directs the Legislature to provide funds from the CARL Trust Fund to the Department of Environmental Protection (DEP) for payment in lieu of taxes to qualifying local governments for all actual tax losses incurred as a result of land acquisitions under the Florida Forever program or the Preservation 2000 program. Payment is available to counties that have a population of 150,000 or fewer and other local governments located in those counties. Payment is also available to Glades County from funds in the Department of Correction's budget to offset the loss of ad valorem tax revenue related to privately owned and operated juvenile justice facilities.

² If the amount to be distributed increases from the prior fiscal year, the stated maximum amount in this distribution is increased by an amount equal to 10 percent of the increase in the amount to be distributed multiplied by the applicable percentage.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

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.⁶ 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.⁷

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

- As provided by law, to finance or refinance:
 - 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 the moneys deposited into the LATF from being commingled with the General Revenue Fund of the state.⁸

⁶ 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).

⁷ 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.

⁸ 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."

III. Effect of Proposed Changes:

Section 1 amends s. 201.15, F.S., to conform to the requirement of the constitutional amendment that the LATF receive at least 33 percent of net revenues derived from the existing excise tax on documents. It provides that revenue distributed to the LATF is not subject to the General Revenue service charge and provides that all revenue from the tax on documents is pledged and must first be made available to make payments on Florida Forever and Everglades bonds. Amounts necessary to make bond payments must be deposited in the LATF. Any remainder of the 33 percent of all revenues from the tax on documents after the costs of collection and enforcement are deducted and after bond payments are made must be deposited in the LATF.

The bill requires that funds deposited in the LATF must first be used for debt service payments for Florida Forever bonds and Save Our Everglades bonds. The bill specifies that the bonds issued pursuant to s. 215.618, F.S., or s. 215.619, F.S., are equally and ratably secured by funds distributed to the LATF. In addition, the bill removes obsolete language related to Preservation 2000 bonds and Save our Coast bonds, which have been retired.

After the required distributions to the LATF and deduction of the General Revenue service charge, the bill provides for certain distributions of the remainder in each fiscal year.

- The lesser of 24.18442 percent of the remainder or \$541.75 million is distributed to the State Transportation Trust Fund;⁹
- The Grants and Donations Trust Fund in the Department of Economic Opportunity receives the lesser of 0.1456 percent of the remainder or \$3.25 million to fund technical assistance to local governments;¹⁰ and
- The sum of \$1.16 million is credited to the Internal Improvement Trust Fund for the purpose of making payments in lieu of taxes pursuant to s. 259.032(12)(b), F.S.

The two current-law percentage distributions to the State Housing Trust Fund are unchanged by the bill. However, the portion of the excise tax revenues to which those percentages apply is reduced by the bill.

The bill deletes distributions of revenue from the tax on documents to:

- The Ecosystem Management and Restoration Trust Fund;
- The General Inspection Trust Fund for oyster management and restoration programs;
- The Water Management Lands Trust Fund;
- The CARL Trust Fund;
- The Invasive Plant Control Trust Fund;
- The State Game Trust Fund;
- The Water Quality Assurance Trust Fund; and
- The Department of Agriculture and Consumer Services General Inspection Trust Fund.

Existing distributions to the LATF are also deleted.

⁹ Even though the statutory percentage is reduced from 38.2 to 24.18442 percent, the effective percentage remains the same. The bill calculates this distribution as a percentage of the whole after the LATF distribution, not as a percentage of the 63.31 percent as required by current law.

¹⁰ The effective percentage has not changed. See the above footnote for a more detailed explanation.

Sections 2-20 repeal obsolete provisions of statute and contain technical and conforming changes related to this act.

Section 21 reenacts subsection (2) of s. 201.031, F.S., subsection (6) of s. 339.2818, F.S., subsection (5) of s. 339.2819, F.S., subsection (3) of s. 339.61, F.S., subsection (6) of s. 341.051, F.S., paragraph (e) of subsection (4) of s. 373.470, F.S., and subsection (1) of s. 420.9079, F.S., for the purpose of incorporating the changes made by the bill to s. 201.15, F.S.

Section 22 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill amends s. 201.15, F.S., to satisfy the requirement of Article X, section 28 of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 586 revises distributions of revenue from the tax on documents to multiple trust funds and general revenue. The extent of the impact on the private sector will depend on how programs funded from affected trust funds or general revenue are impacted, which cannot be determined at this time.

C. Government Sector Impact:

| Current and Proposed Distribution of Tax on Documents | | | |
|--|-------------|------------------------|------------|
| Fiscal Year 2015-2016 estimate | | | |
| (\$ millions) | | | |
| | Current Law | SB 586 Distribution | Difference |
| Total Tax on Documents | 2,305.90 | 2,305.90 | - |
| DOR Administrative Costs | 9.80 | 9.80 | - |
| 33 percent LATF Distribution | - | 757.71 | 757.71 |
| General Revenue Service Charge | 184.47 | 123.85 | (60.62) |
| Environmental Debt Service* | 173.30 | - | (173.30) |
| DEO Grants and Donations TF | 2.68 | 2.06 | (0.62) |
| DEP Ecosystem Management and Restoration TF | 24.70 | - | (24.70) |
| DACS General Inspection TF | 0.23 | - | (0.23) |
| DOT State Transportation TF (STTF) | 369.50 | 267.10 | (102.40) |
| DEO SEED TF (from STTF) | 75.00 | 75.00 | - |
| Land Acquisition TF (current law) | 79.90 | - | (79.90) |
| LATF Coastal Lands | 15.00 | - | (15.00) |
| Water Management Lands TF | 48.90 | - | (48.90) |
| Conservation and Recreational Lands TF | 66.00 | - | (66.00) |
| Invasive Plant Control TF | 34.50 | - | (34.50) |
| State Game TF | 17.70 | - | (17.70) |
| Water Quality Assurance TF | 5.30 | - | (5.30) |
| General Inspection TF | 5.30 | - | (5.30) |
| Payment in lieu of taxes | - | 1.16 | 1.16 |
| DEO SEED TF (from State Housing TF) | 75.00 | 75.00 | - |
| State Housing TF | 79.86 | 46.07 | (33.79) |
| Local Housing TF | 187.01 | 107.95 | (79.06) |
| General Revenue | 851.75 | 840.20 | (11.56) |
| Summary | | | |
| Distributions for Environmental Purposes | 470.83 | 757.71 | 286.88 |
| Distributions to Other Trust Funds: | | | |
| Transportation | 369.50 | 267.10 | (102.40) |
| Economic Development | 152.68 | 152.06 | (0.62) |
| Affordable Housing | 266.87 | 154.02 | (112.85) |
| Payment in lieu of taxes | - | 1.20 | 1.20 |
| Distributions to General Revenue | 1,036.19 | 964.07 | (72.12) |
| Totals may not match due to rounding | | | |
| *Debt Service is paid out of the 33 percent LATF distribution under SB 586 | | | |

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 201.15 and 375.075.

This bill repeals the following sections of the Florida Statutes: 161.05301, 161.091(3), and 375.045.

This bill reenacts the following sections of Florida Statutes: 201.031(2), 339.2818(6), 339.2819(5), 339.61(3), 341.051(6), 373.470(4)(e), and 420.9079(1).

This bill makes conforming changes to the following sections of the Florida Statutes: 201.0205, 215.618, 215.619, 259.032, 259.1051, 339.0801, 339.55, 341.303, 343.58, 369.252, 379.214, 379.362, 403.8911, 420.5092, and 420.9073.

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

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

CS by Environmental Preservation and Conservation on February 18, 2015:

The committee substitute resolves the technical deficiency that was present in the bill by including the cross reference to s. 201.15(2), F.S.

B. Amendments:

None.