

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 359 Sale of Surplus Lands

SPONSOR(S): Agriculture and Natural Resources Subcommittee, Porter and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N, As CS	Gregory	Harrington
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

A water management district (WMD) may acquire, own, manage, and dispose of real property in its own name to further its goals and mission. When selling land, a WMD must follow the procedures set forth in ss. 373.056 and 373.089, F.S.

The bill makes several changes to the surplus procedures for WMDs to create efficiencies in the process. Specifically the bill:

- Extends the time a WMD may use appraisals from 120 to 360 days from the effective date of the contract for sale;
- Extends the time a WMD must publish in a newspaper notice of its intent to sell surplus land from no more than 45 days to no more than 360 days before the sale of the surplus land;
- Authorizes a WMD to sell lands acquired with Florida Forever funds without offering the land to the Board of Trustees of the Internal Improvement Trust Fund first if the portion of the overall purchase was determined to be surplus at the time of acquisition; and
- Authorizes a WMD to sell surplus lands valued at \$25,000 or less through an expedited process. Specifically, the bill authorizes a WMD to:
 - Only publish notice of intent once in a newspaper, post notice of intent on the WMD's website, and provide notice to the neighboring property owners by certified mail;
 - Sell to neighboring property owners 14 days after publication of notice. If two or more neighboring owners exist, the WMD may accept sealed bids and sell to the highest bidder; and
 - Accept sealed bids and sell the property to the highest bidder 30 days after publication of notice.

The bill may have an indeterminate positive fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Nature and Extent of Water Management District Lands

A water management district (WMD) may acquire real property for flood control; water storage; water management; conservation and protection of water resources; aquifer recharge; water resource and water supply development; and preservation of wetlands, streams, and lakes.¹ Further, a WMD may accept real property from state and local governments when it is in the public interest and for public convenience and welfare, for the public benefit, necessary for carrying out the works or improvement of any WMD for the protection of property and the inhabitants in the WMD against the effects of water, and for assisting the WMD to acquire land at least public expense.² Unlike most state lands, these lands are held and conveyed in the name of the WMD, not the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees).³

The five WMDs own approximately 2,441,013 acres of land.⁴ Approximately 1,710,894 acres are held in fee simple, while 730,260 acres are held in conservation easements.⁵ In addition to the purposes described above, WMDs manage their lands for recreation, camping, trial use, hunting, and revenue generation.⁶ Lands held by a WMD are not subject to taxes or special assessments so long as the title or rights remain held by the WMD.⁷

Sale of WMD Lands

WMD lands determined by the governing board to be surplus may be sold at any time by the WMD.⁸ If a WMD decides to sell its real property, or interest therein, it must follow the procedures in ss. 373.056 or 373.089, F.S.⁹ These lands must be sold at the highest price obtainable, but not less than the appraised value of the land determined by a certified appraiser 120 days before the sale.¹⁰ Such sales must be in cash and on the terms set by the governing board of the WMD.¹¹ The WMD must publish notice of its intent to sell the land in a newspaper in the county where the land is located.¹² The notice of intent must be published three times for three successive weeks at least 30 days, and not more than 45 days, before any sale.¹³ The notice of intent must describe the land to be sold or the interest or rights to be sold.¹⁴

Public and private entities may request that WMD lands which are not essential or necessary to meet conservation purposes be made available for purchase when:

¹ Section 373.139(2), F.S.

² Section 373.056(1)(a), F.S. State and local governments may require WMDs to return the land if the WMD ceases to use the land for the purposes described above. Section 373.056(2), F.S.

³ Section 373.099, F.S.

⁴ DEP and WMD Presentation on Management of State-Owned Lands, Agriculture and Natural Resources Subcommittee, October 21, 2015, available at:

<http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2852&Session=2016&DocumentType=Meeting%20Packets&FileName=anrs%2010-21-15.pdf>

⁵ Id.

⁶ Id.

⁷ Section 373.056(5) and (6), F.S.

⁸ Section 373.089(1), F.S.

⁹ Section 373.139(6), F.S.

¹⁰ Section 373.089(1), F.S.

¹¹ Section 373.089(2), F.S.

¹² Section 373.089(3), F.S.

¹³ Id.

¹⁴ Id.

- The land is located in a county with a population of 75,000 or fewer or within a county with a population of 100,000 or fewer that is contiguous to a county with a population of 75,000 or fewer; and
- More than 50 percent of the lands within the county boundary are federal lands and lands titled in the name of the state, a state agency, a WMD, or a local government.¹⁵

When such a request is made, and the lands are determined to be surplus, priority consideration must be given to public or private buyers who are willing to return the property to productive use so long as the property can be reentered onto the county ad valorem tax roll.¹⁶

When deciding whether to sell lands designated as acquired for conservation purposes, the governing board of the WMD must determine by a two-thirds vote that the land is no longer needed for conservation purposes.¹⁷ For all other lands, the governing board of the WMD must determine by a majority vote that the land is no longer needed.¹⁸

Prior to selling land, a WMD must first offer title to lands acquired in whole or in part with Florida Forever funds to the Board of Trustees unless:

- The land will be used for linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances;
- The WMD will sell the fee interest in the land and retain a conservation easement to fulfill the conservation objectives for which the land was acquired;
- The land will be exchanged for other lands that meet or exceed the conservation objectives for which the original land was acquired; or
- The land will be used by a governmental entity for a public purpose.¹⁹

If the Board of Trustees declines to accept title to the land, the land may be disposed of by the WMD.²⁰

Effect of Proposed Changes

The bill makes several changes to the surplus procedures for WMDs, specifically the bill:

- Extends the time a WMD may use appraisals to determine the lowest acceptable sale price for surplus lands from 120 to 360 days from the effective date of the contract for sale, by amending subsection 373.089(1), F.S.;
- Extends the time a WMD must publish notice of its intent to sell surplus land from no more than 45 days to no more than 360 days before the sale of the surplus land by amending subsection 373.089(3), F.S. Notice must still be published 3 times in a newspaper and at least 30 days before the sale;
- Authorizes a WMD to sell lands acquired with Florida Forever funds without first offering the land to the Board of Trustees if the portion of an overall purchase was determined to be surplus at the time of acquisition by creating paragraph 373.089(7)(e), F.S.; and
- Authorizes a WMD to sell property valued at \$25,000 or less through an expedited process by creating subsection 373.089(8), F.S. Specifically the bill authorizes a WMD to:
 - Only publish notice of intent once in a newspaper (rather than three times), post notice of intent on the WMD's website, and provide notice to the neighboring property owners by certified mail;
 - Sell to neighboring property owners 14 days after publication of notice. If two or more neighboring owners exist, the WMD may accept sealed bids and sell to the highest bidder. This gives property owners who neighbor surplus WMD lands valued at \$25,000 or less the opportunity to purchase the property before the rest of the public; and

¹⁵ Section 373.089(5), F.S.

¹⁶ Id.

¹⁷ Section 373.089(6)(a), F.S.

¹⁸ Section 373.089(6)(b), F.S.

¹⁹ Section 373.089(7), F.S.

²⁰ Id.

- Accept sealed bids and sell the property to the highest bidder 30 days after publication of notice.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 373.089, F.S., relating to WMDs selling lands, or the interests or rights in land.
- Section 2.** Reenacts s. 373.139, F.S., relating to WMDs acquisition of real property.
- Section 3.** Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on WMDs by allowing more time for potential purchasers to perform due diligence on surplus WMD property. Thus, potential purchasers may increase their purchase price because there will likely be less unknown issues about the property at the time of purchase.

2. Expenditures:

The bill may have an indeterminate positive fiscal impact on WMDs by allowing them to use older appraisals to establish the lowest acceptable sale price for surplus lands rather than requiring WMDs to acquire new appraisals after 120 days.

The bill may have an indeterminate positive fiscal impact on WMDs by allowing them to publish notice of their intent to sell surplus lands no more than 360 days in advance as opposed to no more than 45 days in advance. Thus, WMDs will not have to publish a new notice of intent and extend the date of closing if closing extends beyond 45 days from the date of publication.

The bill may have an indeterminate positive fiscal impact on WMDs selling surplus lands valued at \$25,000 or less by only requiring them to publish notice of intent once, rather than three times, in the newspaper.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Lands owned by a WMD are exempt from taxes and special assessments.²¹ The bill may have an indeterminate positive fiscal impact in local governments if WMDs are able to more efficiently sell their surplus property to owners who may be taxed by local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on property owners neighboring surplus WMD lands valued at \$25,000 or less by providing them with the first opportunity to buy the property before the general public has an opportunity to competitively bid for the land.

D. FISCAL COMMENTS:

²¹ Section 373.056(5) and (6), F.S.
STORAGE NAME: h0359a.ANRS
DATE: 2/4/2016

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues: Timing of Sale

The bill requires a WMD to notice its intent to sell property valued at \$25,000 or less once in the newspaper, on the WMD's website, and by certified mail. Fourteen days after such notice, the WMD may sell the parcel to an adjacent owner. As drafted, the provision may create difficulty when counting the days because these notices may occur on separate days.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 2, 2016, the Agriculture and Natural Resources Subcommittee adopted a strike-all amendment and reported the bill favorably with committee substitute. Specifically, the amendment:

- Authorizes a WMD to sell lands acquired with Florida Forever funds without first offering the land to the Board of Trustees if the portion of an overall purchase, rather than the entirety of the land acquisition, was determined to be surplus at the time of acquisition;
- Authorizes a WMD to sell property valued at \$25,000 or less to the adjacent property owner 14 days after publication of notice, rather than within 14 days;
- Authorizes a WMD to accept sealed bids and sell the property to the highest bidder 30 days after publication of notice, rather than within 30 days; and
- Removes a WMD's authority to restrict the future use of property valued at \$25,000 or less as a condition of the sale.