

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 703 Water Management District Surplus Lands

SPONSOR(S): Burgess, Jr.

TIED BILLS: HB 705 **IDEN./SIM. BILLS:** SB 806

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	13 Y, 0 N	Gregory	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee	12 Y, 0 N	White	Pigott
3) Government Accountability 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:

- Requires a WMD to publish notice of its intent to sell surplus property at least 30 days, but not more than 360 days, before the WMD approves a sale;
- Authorizes a WMD to sell land valued at \$25,000 or less to an adjacent property owner, rather than giving such property owners the opportunity to purchase the property before the rest of the general public;
- Requires a WMD, if the governing board elects to offer for sale the parcel to adjacent property owners, to publish the notice of intention to offer to sell land valued at \$25,000 or less to adjacent property owners in the newspaper in the county where the land is located only one time;
- Defines "adjacent property owners" as those owners whose property abuts the parcel; and
- Removes the requirement that a WMD accept sealed bids and either sell the property to the highest bidder, or reject all offers thirty days after publication of notice if the WMD does not sell the land to the adjacent property owner. Instead, if the WMD does not sell the parcel to the adjacent property owner, the bill authorizes a WMD to sell the parcel valued at \$25,000 or less to the general public for the highest price obtainable at any time.

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

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

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 1,908,969 acres of conservation land. Approximately 1,481,129 acres are held in fee simple, while 427,840 acres are held in conservation easements.⁴ In addition to the purposes described above, WMDs manage their lands for recreation, camping, trail use, hunting, and revenue generation. 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.⁵

Sale of WMD Lands

A WMD may sell lands its governing board determines to be surplus at any time.⁶ 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.⁷ 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 360 days before the sale.⁸ Such sales must be in cash and on the terms set by the governing board of the WMD.⁹ The WMD must publish notice of its intent to sell the land in a newspaper in the county where the land is located.¹⁰ The notice of intent must be published three times for three successive weeks at least 30 days, and not more than 360 days, before any sale.¹¹ The notice of intent must describe the land to be sold or the interest or rights to be sold.¹²

Public and private entities may request that a WMD make its lands available for purchase when those lands are not essential or necessary to meet conservation purposes, and when:

- 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

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 Florida Natural Areas Inventory, *Summary of Florida Conservation Lands February 2017*, available at: http://www.fnai.org/PDF/Maacres_201702_FCL_plus_LTF.pdf (last visited January 22, 2018).

⁵ Section 373.056(5) and (6), F.S.

⁶ Section 373.089(1), F.S.

⁷ Section 373.139(6), F.S.

⁸ Section 373.089(1), F.S.

⁹ Section 373.089(2), F.S.

¹⁰ Section 373.089(3), F.S.

¹¹ *Id.*

¹² *Id.*

- 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.¹³

When public and private entities make such a request, and the lands are determined to be surplus, the WMD must give priority consideration to public or private buyers who are willing to return the property to productive use so long as the property can reenter the county ad valorem tax roll.¹⁴

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.¹⁵ For all other lands, the governing board of the WMD must determine by a majority vote that the land is no longer needed.¹⁶

Prior to selling land, a WMD must first offer title to lands acquired in whole or in part with Florida Forever fund 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;
- The land will be used by a governmental entity for a public purpose; or
- The portion of an overall purchase deemed surplus at the time of the acquisition.¹⁷

If the Board of Trustees declines to accept title to the land, the WMD may dispose of the land.¹⁸

A WMD may expedite the disposal of land valued at \$25,000 or less. If a parcel of land is no longer essential or necessary for conservation purposes and is valued at \$25,000 or less, as determined by a certified appraisal obtained within 360 days before the effective date of a contract for the sale, the governing board of the WMD may determine that the parcel of land is surplus. Unlike other surplus parcels, the WMD must publish the notice of intention to sell in the newspaper in the county where the land is located only one time. The WMD must send the notice of intention to sell the parcel to adjacent property owners by certified mail and publish the notice on its website. Fourteen days after publication of notice, the WMD may sell the parcel to an adjacent property owner. If there are two or more owners of adjacent property, the WMD may accept sealed bids and sell the parcel to the highest bidder or reject all offers. Thirty days after publication of notice, the WMD must accept sealed bids and may sell the parcel to the highest bidder or reject all offers.¹⁹

Effect of the Proposed Changes

The bill changes various procedures, allowing a WMD to more efficiently sell any surplus lands.

The bill amends s. 373.089(3), F.S., to require a WMD to publish notice of its intent to sell surplus property at least 30 days, but not more than 360 days, before the WMD *approves a sale*. Current law however, specifies that the required notice must occur at least 30 days, but not more than 360 days, before the sale. Depending on how a particular WMD interprets this notice requirement, this may extend the publication time for the WMD's intent to sell its land.

¹³ Section 373.089(5), F.S.

¹⁴ *Id.*

¹⁵ Section 373.089(6)(a), F.S.

¹⁶ Section 373.089(6)(b), F.S.

¹⁷ Section 373.089(7), F.S.

¹⁸ *Id.*

¹⁹ Section 373.089(8), F.S.

The bill amends s. 373.089(8)(a), F.S., to authorize a WMD to sell land valued at \$25,000 or less to the adjacent property owner rather than giving such property owners the opportunity to purchase the property before the rest of the general public. Thus, a WMD may opt to sell the land to adjacent property owners first or offer the land to the general public, regardless of whether they are neighboring property owners. If the governing board elects to offer for sale the parcel to adjacent property owners, the bill also requires the governing board to publish the notice of intention to offer to sell land valued at \$25,000 or less in the newspaper in the county where the land is located only once. In addition, the governing board must send the notice of intention to sell the parcel to adjacent property owners by certified mail and publish the notice on its website. A WMD must still wait 14 days after publication of notice before selling the parcel to the adjacent property owner. The bill defines “adjacent property owners” as those owners whose property abuts the parcel.

Lastly, the bill amends s. 373.089(8)(c), F.S., to remove the requirement that a WMD accept sealed bids and sell the property to the highest bidder or reject all offers 30 days after publication of notice, if the WMD does not sell the land to the adjacent property owner. Instead, if the WMD does not sell the parcel to the adjacent property owner, the bill authorizes a WMD to sell the parcel valued at \$25,000 or less at any time to the general public for the highest price obtainable. The bill further removes the provision which specifically gives the WMD one of two directives: to either sell the parcel to the highest bidder or reject all offers.

B. SECTION DIRECTORY:

Section 1. Amends s. 373.089, F.S., relating to the sale or exchange of lands, or interest or rights in lands.

Section 2. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on a WMD selling surplus lands valued at \$25,000 or less by authorizing it to more efficiently sell surplus property by removing the requirement that the WMD:

- Offer the land to the adjacent owner first; and
- Use competitive bidding procedures to sell lands not sold to the adjacent property owners.

2. Expenditures:

The bill may have an indeterminate positive fiscal impact on a WMD selling surplus lands valued at \$25,000 or less, by removing the requirement that a WMD use competitive bidding procedures to sell lands not sold to adjacent property owners.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Lands owned by a WMD are exempt from taxes and special assessments.²⁰ The bill may have an indeterminate positive fiscal impact on local governments if a WMD is able to more efficiently sell their surplus property to owners who may be taxed by local governments.

²⁰ Section 373.056(5) and (6), F.S.
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DATE: 2/6/2018

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.