

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 290

INTRODUCER: Senator Ausley

SUBJECT: Surplus State-owned Nonconservation Lands

DATE: January 28, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Rogers	EN	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 290 provides that if the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) determines that certain nonconservation lands are no longer needed, they may be disposed of at a value for not less than the sale price as established pursuant to existing law, if agreed to by an affirmative vote of at least three members, or for less than the sale price as established pursuant to existing law, if agreed to by an affirmative vote of four members.

When disposing of nonconservation lands for less than the sale price, the Board of Trustees may:

- Donate the land to a fiscally constrained county for a public purpose, or
- Sell or lease such land in a fiscally constrained county to a private entity, if the use of the land is expected to create economic development or new full-time jobs in the county.

II. Present Situation:

Surplus of State Lands

State law designates the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees)¹ as the entity responsible for determining which state lands (the title to which are vested in the Board of Trustees) may be surplus.² The statute addresses two different categories of state-owned lands: conservation lands and nonconservation lands:³

- For all conservation lands, the Acquisition and Restoration Council⁴ must first make a recommendation to the Board of Trustees, then the Board of Trustees determines whether the

¹ The Board of Trustees is a four-person board consisting of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. *See* s. 253.02(1), F.S.

² Section 253.0341(1), F.S.

³ *Id.*

⁴ The Acquisition and Restoration Council (ARC) is a 10-member group with representatives from four state agencies, four appointees of the Governor, one appointee by the Fish and Wildlife Conservation Commission, and one appointee by the

lands are no longer needed for conservation purposes.⁵ If it determines that they are no longer needed, it may dispose of such lands by an affirmative vote of at least three members.⁶

- For nonconservation lands, the Board of Trustees determines whether they are no longer needed. If it determines that they are no longer needed, it may dispose of such lands by an affirmative vote of at least three members.⁷

The statute also provides that local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, must be expedited throughout the surplusing process. Property jointly acquired by the state and other entities may not be surplusd without the consent of all joint owners.⁸

The Division of State Lands is responsible for determining the sale price of lands determined to be surplus lands.⁹ It must consider an appraisal of the property or, if the estimated value of the land is \$500,000 or less, a comparable sales analysis or a broker's opinion of value. The value must be based upon the highest and best use of the property, considering all applicable development rights, to ensure the maximum benefit and use to the state consistent with state law. "Highest and best use" means the reasonable, probable, and legal use of vacant land or an improved property which is physically possible, appropriately supported, financially feasible, and results in the highest value.¹⁰

A unit of government that acquires title to surplus lands for less than appraised value cannot sell or transfer title to all or any portion of the lands to any private owner for 10 years.¹¹ Moreover, a unit of government seeking to transfer or sell lands must first give the Board of Trustees an opportunity to reacquire such lands for the price at which the Board of Trustees sold such lands to the unit of government.¹²

Parcels with a market value over \$500,000 must be initially offered for sale by competitive bid.¹³ Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of \$500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.¹⁴

Commissioner of Agriculture and Consumer Services. Section 259.035, F.S. ARC has responsibility for the evaluation, selection and ranking of state land acquisition projects on the Florida Forever priority list, as well as the review of management plans and land uses for all state-owned conservation lands. Dep't of Environmental Protection, *Acquisition and Restoration Council*, <https://floridadep.gov/lands/environmental-services/content/acquisition-and-restoration-council-arc> (last visited Jan. 21, 2022); *see also* s. 253.0341(6), F.S. (providing that before any decision by the Board of Trustees, ARC must review and make recommendations to the Board of Trustees concerning the request for surplusing, and must determine whether the request is compatible with the resource values of and management objectives for such lands).

⁵ Section 253.0341(1), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Section 253.0341(8), F.S.

¹⁰ *Id.*

¹¹ Section 253.0341(8)(b), F.S.

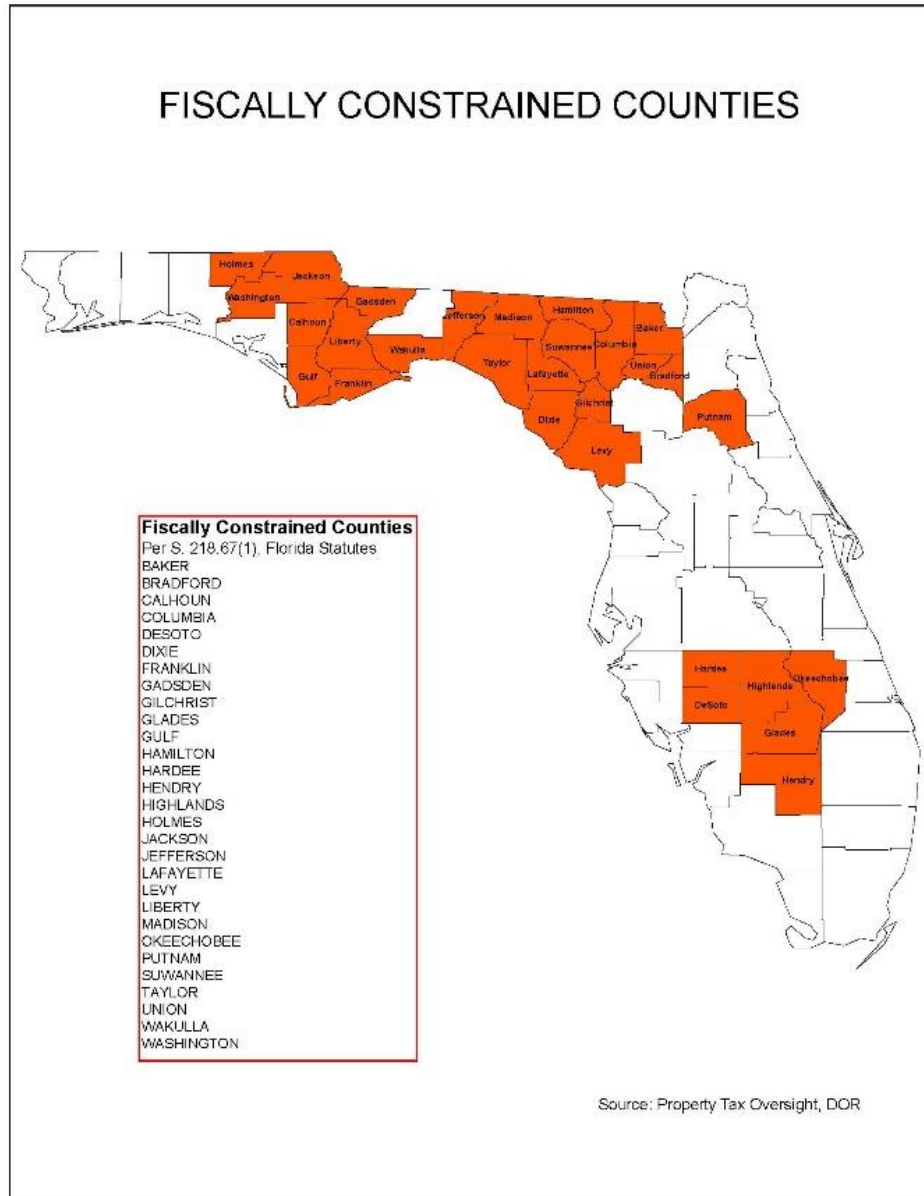
¹² *Id.*

¹³ Section 253.0341(9), F.S.

¹⁴ *Id.*

Fiscally Constrained Counties and Rural Areas of Opportunity

A “fiscally constrained county” is a county that is “entirely within a rural area of opportunity [RAO] as designated by the Governor pursuant to s. 288.0656” or “for which the value of a mill will raise no more than \$5 million in revenue, based on the taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1[.]”¹⁵ There are 29 fiscally constrained counties: Baker, Bradford, Calhoun, Columbia, DeSoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla, and Washington.¹⁶



¹⁵ See s. 218.67(1), F.S.

¹⁶ Florida Dep’t of Revenue, *Fiscally Constrained Counties*, <https://floridarevenue.com/property/Documents/fcco081210.pdf> (last visited Jan. 21, 2022).

An RAO is a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.¹⁷ The three designated RAOs are the:

- Northwest RAO; which includes Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport;
- South Central RAO; which includes DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the Cities of Pahokee, Belle Glade, South Bay, and Immokalee; and
- North Central RAO; which includes Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.¹⁸

III. Effect of Proposed Changes:

The bill amends s. 253.0341, F.S., to provide that if the Board of Trustees of the Internal Improvement Trust Fund determines that certain nonconservation lands are no longer needed, they may be disposed of at a value:

- For not less than the sale price¹⁹ as determined by the Division of State Lands based upon existing criteria for valuing land at the highest and best use of the property, if agreed to by an affirmative vote of at least three members.
- For less than the sale price as determined by the Division of State Lands based upon existing criteria for valuing land at the highest and best use of the property, if agreed to by an affirmative vote of four members, by either:
 - donating the land to a fiscally constrained county for a public purpose; or
 - selling or leasing such lands located in a fiscally constrained county to a private entity, if the use of the land is expected to create economic development or new full-time jobs in such county.

The bill clarifies, consistent with other changes, that local government requests for the state to surplus conservation or nonconservation lands may be for donation in addition to purchase or exchange.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁷ Section 288.0656(2)(d), F.S.

¹⁸ Florida Dep't of Economic Opportunity, *RAO*, available at <http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Jan. 21, 2022).

¹⁹ The criteria for valuing land at the highest and best use of the property already exist in law and may be found in s. 253.0341(8), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill will positively impact the private sector in fiscally constrained counties. It will benefit private entities by making it possible for them to acquire state-owned, underutilized, nonconservation lands at a discounted value.

C. Government Sector Impact:

The bill will positively impact the government sector in fiscally constrained counties. It will make it easier for fiscally constrained counties to acquire state-owned, underutilized, nonconservation lands from the state and make use of them for public purposes.

To the extent nonconservation lands are donated to a fiscally constrained county for a public purpose, said donations may reduce the funds donated into the Internal Improvement Trust Fund or the Architects Incidental Trust Fund.²⁰

VI. Technical Deficiencies:

None.

²⁰ DEP, 2022 Legislative Session, Bill # SB 290, 1-2 (2021) (on file with the Florida Senate Environment and Natural Resources Committee).

VII. Related Issues:

DEP's bill analysis on SB 290 discusses how it believes the Board of Trustees already has the legal authority it needs to convey surplus property by sale, gift, or exchange.²¹ DEP also expresses concern that the bill will allow land within fiscally constrained counties to be sold or leased to a private entity based only on the mere expectation – not requirement – of economic development or job creation, which could result in abuse.²²

VIII. Statutes Affected:

This bill substantially amends section 253.0341 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²¹ DEP, 2022 Legislative Session, Bill # SB 290, 1-2 (2021) (on file with the Florida Senate Environment and Natural Resources Committee).

²² *Id.*