

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 Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1476

INTRODUCER: Environment and Natural Resources Committee and Senator Simon

SUBJECT: State Acquisition of Lands

DATE: April 17, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1476 directs the Department of Environmental Protection to disclose otherwise confidential appraisal reports related to the acquisition of state lands to private landowners or their representatives, provided they agree to maintain the confidentiality of the reports or information. In addition, the bill requires the contract to state that the final purchase price must be the fair market value as determined by the highest appraisal.

Regarding acquisitions of conservation easements by the Department of Agriculture and Consumer Services, the bill provides that option contracts for such acquisitions must state that final purchase price must be the fair market value as determined by the highest approved appraisal.

The bill has an effective date of July 1, 2023.

The bill has no fiscal impact on state revenues or expenditures.

II. Present Situation:

Acquisition of State Lands

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) holds state lands in trust for the use and benefit of the people of the state pursuant to Art. II, s. 7 and Art. X,

s. 11 of the State Constitution. The Governor, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture constitute the trustees of the internal improvement trust fund.¹ The Department of Environmental Protection (DEP) performs all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees.²

Section 253.025, F.S., outlines the procedures the state must follow when acquiring lands. Prior to the acquisition of land, a state agency is required to coordinate with the Division of State Lands (DSL) within the DEP to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed.³ Each parcel of land that is to be acquired must have at least one appraisal.⁴ If the cost of land exceeds \$1,000,000, two appraisals are required. If a parcel is estimated to be worth \$100,000 or less and the director of the DSL finds that the cost of an outside appraisal is not justified, a comparable sales analysis, an appraisal prepared by the DSL, or other reasonably prudent procedures may be used by the DSL to estimate the value of the parcel, provided the public's interest is reasonably protected.⁵ The maximum amount that the state may pay for a parcel to be acquired is the value indicated in a single approved appraisal if only one appraisal is required.⁶ If two appraisals are required and their values do not differ significantly the maximum amount that may be paid is the higher value indicated.⁷

Appraisal reports are confidential and exempt from public records requirements for use by the agency and the Board of Trustees until an option contract is executed or, if no option contract is executed, until two weeks before a contract or agreement for purchase is considered for approval by the Board of Trustees.⁸ Appraisal reports may be disclosed to private landowners during negotiations⁹ for acquisitions using alternatives to fee simple techniques if the DEP determines the disclosure of such reports will bring the proposed acquisition to closure.¹⁰ However, the private landowner must agree to maintain the confidentiality of the reports.¹¹ In addition, appraisal information may be disclosed to public agencies or nonprofit organizations that agree to maintain the confidentiality of the information when joint acquisition of property is contemplated or when a public agency or nonprofit organization enters into a written multiparty agreement with the DEP.¹²

¹ FLA. CONST. Art. IV s. 4.

² Section 253.002, F.S.

³ Section 253.025(2), F.S.

⁴ Section 253.025(8), F.S. Appraisals are not required for lands donated to the state.

⁵ *Id.*

⁶ Fla. Admin. Code R. 18-1.006.

⁷ *Id.*

⁸ Sections 253.025(8)(f), F.S. *See also* 570.715(5), F.S. (providing identical requirements for acquisitions by the Department of Agriculture and Consumer Services (DACS))

⁹ "Negotiations" does not include preliminary contacts with the property owner to determine the availability of the property, existing appraisal data, existing abstracts, and surveys. Sections 253.05(6), F.S. *See also* 570.715(4), F.S. (providing the same for DACS acquisitions).

¹⁰ Sections 253.025(8)(f), F.S. *See also* 570.715(5), F.S. (providing the same for DACS acquisitions).

¹¹ *Id.*

¹² *Id.*

Before the appraisal of parcels approved for purchase, the DEP may enter into option contracts to buy less than fee simple interest in such parcels.¹³ Any such option contract must state that the final purchase price is subject to approval by the Board of Trustees and an appropriation by the Legislature and may not exceed the maximum offer authorized by law.¹⁴

An agreement to acquire real property must be approved by the DEP and, if any of the following conditions are met, the Board of Trustees:

- The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the Board of Trustees;
- The contract price agreed to by the seller and the acquiring agency exceeds \$1 million;
- The acquisition is the initial purchase in a Florida Forever project; or
- Other conditions that the Board of Trustees may adopt by rule.¹⁵

Upon the initiation of negotiations, the state agency must inform the owner in writing that all agreements for purchase are subject to approval by the Board of Trustees.¹⁶ Within 45 days after the DEP receives the agreement for purchase, the Board of Trustees or, if the purchase price does not exceed \$100,000, its designee must reject or approve the agreement.¹⁷

Rural and Family Lands Protection Program

The Rural and Family Lands Protection Program, created within the Department of Agriculture and Consumer Services (DACS), is an agricultural land preservation program designed to protect important agricultural lands through the acquisition of permanent agricultural land conservation easements.¹⁸ Since its inception, the program has successfully acquired conservation easements consisting of over 64,361 acres of working agricultural land.¹⁹

Under the program, the DACS, on behalf of the Board of Trustees, is authorized to acquire perpetual, less-than-fee interest in land and enter into resource conservation agreements and agricultural protection agreements for the following public purposes:²⁰

- Promotion and improvement of wildlife habitat;
- Protection and enhancement of water bodies, aquifer recharge areas, wetlands, and watersheds;
- Perpetuation of open space on lands with significant natural areas; or
- Protection of agricultural lands threatened by conversion to other uses.²¹

To achieve these purposes, the DACS may accept applications for project proposals that:

- Purchase “conservation easements.”

¹³ Sections 253.025(8)(j). *See also* 570.715(1)(d), F.S. (providing the same for DACS acquisitions).

¹⁴ *Id.*

¹⁵ Section 253.025(4), F.S.

¹⁶ Section 253.025(9)(c), F.S.

¹⁷ Section 253.025(9)(h), F.S.

¹⁸ DACS, *Rural and Family Lands Protection Program*, <https://www.fdacs.gov/Consumer-Resources/Protect-Our-Environment/Rural-and-Family-Lands-Protection-Program> (last visited Mar. 16, 2023).

¹⁹ *Id.*

²⁰ Section 570.71(1), F.S.

²¹ *Id.*

- Purchase rural-lands-protection easements pursuant to this section.
- Fund resource conservation agreements pursuant to this section.
- Fund agricultural protection agreements pursuant to this section.²²

“Conservation easements” means a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses and which prohibits or limits any or all of the following:²³

- Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.
- Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.
- Removal or destruction of trees, shrubs, or other vegetation.
- Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.
- Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- Acts or uses detrimental to such retention of land or water areas.
- Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.²⁴

The DACS is also authorized to acquire perpetual conservation easements that achieve the objectives of the Florida Forever program.²⁵ The DACS must follow the same appraisal process outlined above when acquiring conservation easements.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 253.025, F.S., regarding the acquisition of state lands. Currently, the DEP may disclose otherwise confidential appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques if the DEP determines that disclosure of such reports will bring the proposed acquisition to closure.²⁷ The bill amends this provision by *requiring* the DEP to disclose appraisal reports to private landowners *or their representatives*, regardless of whether alternatives to fee simple techniques are used or such disclosure would bring the proposed acquisition to closure. The bill requires such representatives to agree to maintain the confidentiality of the reports or information, as the law currently requires of private landowners.

²² Section 570.71(1), F.S.

²³ Section 704.06(1), F.S.

²⁴ *Id.*

²⁵ Section 259.105(3)(i), F.S.

²⁶ *See* section 570.715, F.S.

²⁷ Section 253.025(8)(f), F.S.

In addition, the bill provides that option contracts must state that the final purchase price must be the fair market value as determined by the highest appraisal.

Section 2 amends s. 570.715, F.S., relating to the DACS's purchase of conservation easements. The bill amends this provision by *requiring* the DACS to disclose appraisal reports to private landowners *or their representatives*, regardless of whether such disclosure will bring the proposed acquisition to closure. The bill requires such representatives to agree to maintain the confidentiality of the reports or information, as the law currently requires of private landowners. The bill provides that option contracts must state that final purchase price must be the fair market value as determined by the highest approved appraisal.

Section 3 provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.025 and 570.715

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

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

CS by Environment and Natural Resources on March 20, 2023:

The amendment restores language deleted in the underlying bill that option contracts must state that the final purchase price is subject to approval by the Board of Trustees of the Internal Improvement Fund or, if applicable, the Secretary of Environmental Protection.

B. Amendments:

None.