

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1603 Okeechobee County

**SPONSOR(S):** Tuck

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	17 Y, 0 N	Roy	Darden
2) Postsecondary Education & Workforce Subcommittee	13 Y, 0 N	Kiner	Kiner
3) State Affairs Committee	15 Y, 0 N	Roy	Williamson

### SUMMARY ANALYSIS

The State of Florida owns lands for many purposes including preservation, conservation, recreation, water management, historic preservation, and administration of government. Most of these lands are held by the Board of Trustees of the Internal Improvement Trust Fund (Board), consisting of the Governor and Cabinet. The Board may acquire, sell, transfer, and administer state lands in the manner consistent with state law.

Indian River State College (IRSC) is a member of the Florida College System serving Indian River, Martin, Okeechobee, and St. Lucie Counties. IRSC operates five campuses and serves approximately 30,000 students.

The Arthur G. Dozier School for Boys was a reform school operated by the state in Marianna from 1900 to 2011, and a second campus was opened on Okeechobee in 1955. After a 2009 inspection of the Marianna campus revealed unmarked graves on the property, both facilities were closed in 2011. An investigation of the Okeechobee location was conducted by the Okeechobee County Sheriff's Office and as of December 2022, no similar graves to the ones discovered at the Marianna location were discovered.

The bill directs the Board of Trustees of the Internal Improvement Trust Fund to convey in fee simple to the Board of Trustees of IRSC property in Okeechobee County consisting of approximately 205.52 acres. The parcel is a portion of the property that previously housed the Florida School for Boys at Okeechobee. The bill requires the Board of Trustees of the Internal Improvement Trust Fund to convey the property within 60 days of the bill taking effect.

The bill requires a cultural resource assessment survey to be commenced within 90 days after IRSC takes legal title to the property. The assessment must be conducted in accordance with the National Historic Preservation Act of 1966 and Florida Historical Resources Act and the scope of the work and reports produced must meet the requirements of the Archaeological Historical Report Standards and Guidelines in the Florida Administrative Code. The final report must be provided to the Speaker of the House of Representatives and the President of the Senate.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### State Lands

The State of Florida owns lands for many purposes including preservation, conservation, recreation, water management, historic preservation, and administration of government. These lands include:

- All swamp and overflowed lands held by the state or that may inure to the state;
- All lands owned by the state by right of its sovereignty;<sup>1</sup>
- All internal improvement lands proper;
- All tidal lands;
- All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;
- All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way; and
- All lands that have accrued or may accrue to the state.<sup>2</sup>

State lands are held in trust for the use and benefit of the people of Florida by the Board of Trustees of the Internal Improvement Trust Fund.<sup>3</sup> The board consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture.<sup>4</sup> This body may acquire, sell, transfer, and administer state lands in the manner consistent with state law.<sup>5</sup>

The Department of Environmental Protection, through its Division of State Lands, generally performs all staff duties and functions related to the acquisition, administration, and disposition of state lands, although certain staff duties related to state lands may be performed by water management districts, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.<sup>6</sup>

College and university facilities owned by the state total over 163 million square feet of space statewide.<sup>7</sup>

##### Indian River State College

Originally established as Indian River Junior College in 1959, Indian River State College (IRSC) moved to its present primary campus on Virginia Avenue in Fort Pierce in 1963.<sup>8</sup> IRSC merged with Lincoln Junior College in 1965 to create one institution serving students in Indian River, Martin, Okeechobee

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<sup>1</sup> These are "sovereignty submerged lands," which include but are not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated. R. 18-21.003(67), F.A.C.

<sup>2</sup> S. 253.03(1), F.S.

<sup>3</sup> S. 253.001, F.S.

<sup>4</sup> S. 253.02(1), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> S. 253.002(1), F.S.

<sup>7</sup> Dept. of Environmental Protection, *State of Florida Lands and Facilities Inventory Search*, <https://prodenv.dep.state.fl.us/DsIPi/splash?Create=new> (last visited Mar. 10, 2023) (Data can be found by running a search of "State Facilities" and selecting all Florida College System (FCS) and Statute University System (SUS) institutions in the "Agency" field).

<sup>8</sup> Indian River State College, *History*, <https://irsc.edu/about/history.html> (last visited Mar. 10, 2023).

and St. Lucie Counties. IRSC currently enrolls approximately 30,000 students and has received national recognition as a community college of excellence.<sup>9</sup> IRSC currently operates five campuses:

- Massey Campus in Fort Pierce;
- Chastain Campus in Stuart;
- Dixon Hendry Campus in Okeechobee;
- Mueller Campus in Vero Beach; and
- Pruitt Campus in Port St. Lucie.<sup>10</sup>

### Florida School for Boys at Okeechobee

The Arthur G. Dozier School for Boys was a reform school operated by the state in Marianna from 1900 to 2011, and a second campus was opened in Okeechobee in 1955.<sup>11</sup> After a 2009 inspection of the Marianna campus revealed unmarked graves on the property, a number of historical and recent allegations were brought forward and both facilities were closed permanently in 2011.<sup>12</sup>

A 2015 investigation of the Okeechobee location examined similar claims of potential unmarked graves.<sup>13</sup> The investigation consisted of historical research; interviews with previous attendees of the school, their families, and other involved persons; searches of suspected areas by cadaver dogs and law enforcement; and confirmation of death for missing persons associated with the location. The Okeechobee County Sheriff's Office performed the investigation and audit of claims made against the facility, and presented a report that accounts for former occupants of the reform school who were reported deceased.<sup>14</sup> As of December 2022, no similar graves have been discovered at the Okeechobee location and all missing persons associated with the school have been accounted for.<sup>15</sup>

### National Historic Preservation Act of 1966 (NHPA)

The NHPA was passed to acknowledge the importance of protecting our nation's heritage from development.<sup>16</sup> The NHPA requires any federal agency with jurisdiction over a proposed federal or federally-assisted project to consider the effect of the property on any historic property before expending funds or issuing any license.<sup>17</sup>

The NHPA requires the Governor of each state to appoint a state historic preservation officer (SHPO) to administer its historical preservation programs.<sup>18</sup> The SHPO is responsible for directing and conducting a comprehensive statewide survey of historical property in coordination with federal and state agencies, local governments, and private organizations.<sup>19</sup> The NHPA also requires the SHPO to:

- Identify and nominate eligible property to the National Register and otherwise administer application for listing historical property on the Register;
- Prepare and implement comprehensive statewide historical preservation plans;
- Administer the state programs of federal assistance for historic preservation within the state;
- Advise and assist federal and state agencies in carrying out historical preservation responsibilities;

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<sup>9</sup> Aspen Institute, *2019 Aspen Prize for Community College Excellence Awarded to Florida's Indian River State College and Miami Dade College*, <https://www.aspeninstitute.org/news/press-release/2019-aspen-prize-for-community-college-excellence/> (last visited Mar. 10, 2023).

<sup>10</sup> Indian River State College, *Campuses*, <https://irsc.edu/about/campuses.html> (last visited Mar. 10, 2023).

<sup>11</sup> Florida Dept. of Law Enforcement, Office of Executive Investigations. *Arthur G. Dozier School for Boys Abuse Investigation. Case No. EI-04-0005*. Jan. 29, 2010, (Last visited Mar. 11, 2023.)

<sup>12</sup> United States Department of Justice, Civil Rights Division. *Investigation of the Arthur G. Dozier School for Boys and the Jackson Juvenile Offender Center, Marianna, Florida*. Dec. 1 2011 (Last accessed March 11, 2023).

<sup>13</sup> Okeechobee County Sheriff's Office, Report No. 14S08996, *History of the Florida School for Boys at Okeechobee*.

<sup>14</sup> *Id.*

<sup>15</sup> See *id.* at 135.

<sup>16</sup> National Conference of State Historic Preservation Officers, *National Historic Preservation Act of 1966*, <https://ncshpo.org/resources/national-historic-preservation-act-of-1966/> (last visited Mar. 10, 2023)

<sup>17</sup> 54 U.S.C s. 306108

<sup>18</sup> 54 U.S.C s. 302301

<sup>19</sup> 54 U.S.C s. 302303

- Cooperate with other federal and state agencies, local governments, and private organizations and individuals to ensure that historic property is taken into consideration at all levels of planning and development;
- Provide public information, education, and training and technical assistance in historic preservation;
- Cooperate with local governments in the development of local historic preservation programs;
- Consult with appropriate federal agencies in accordance with federal law on federal undertakings and the content and sufficiency of any plans developed to protect, manage, or reduce harm to the property; and
- Advise and assist in the evaluation of proposals for rehabilitation projects that qualify for Federal assistance.<sup>20</sup>

### Florida Historical Resources Act (Act)

Florida law states the rich and unique heritage of historic properties in this state, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations. <sup>21</sup> The destruction of these nonrenewable historical resources will engender a significant loss to the state's quality of life, economy, and cultural environment.

Similar to requirements for federal agencies under the NHPA, the Act requires each state agency that has direct or indirect jurisdiction over a proposed state or state-assisted project to, in accordance with state policy, consider the effect of the undertaking on any historic property included or eligible for inclusion in the National Register of Historic Places before expending any state funds on the project. The agency must provide the Division of Historical Resources (Division) of the Department of State a reasonable opportunity to comment on such an undertaking.<sup>22</sup>

The Division may designate an archaeological site as a "state archaeological landmark" if it finds the location is of significance to the scientific study or public representation of the state's historical, prehistoric, or aboriginal past.<sup>23</sup> In addition, the Division may publicly designate an interrelated grouping of significant archaeological sites as a "state archaeological landmark zone." However, no site or grouping of sites may be designated without the express written consent of the private owner. Upon designation of an archaeological site, the owners and occupants of each designated state archaeological landmark or landmark zone must be given written notification of such designation by the Division. Once designated, no person may conduct field investigation activities without first securing a permit from the Division.<sup>24</sup>

### Archaeological and Historical Report Standards and Guidelines

The Archaeological and Historical Report Standards and Guidelines (Guidelines) specifies criteria by which the Division reviews reports of cultural resource activities on federally assisted, licensed or permitted projects; projects on state owned or controlled property or state assisted, licensed, or permitted projects; and local projects for which the Division has review authority.<sup>25</sup> The reports of the results of archaeological fieldwork and historical fieldwork activities must contain sufficient detail for the Division to review for completeness and sufficiency. For projects of limited scope, topics that are not applicable may be omitted when a justification for the decision as to the completeness and sufficiency of the report is provided.<sup>26</sup>

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<sup>20</sup> 54 U.S.C ss. 302303(b)(2)-(10)

<sup>21</sup> S. 267.061(1)(a), F.S.

<sup>22</sup> S. 267.061(2)(a), F.S.

<sup>23</sup> S. 267.11, F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Fla. Admin. Code 1A-46.001(1)

<sup>26</sup> Fla. Admin. Code 1A-46.001(3)

## Effect of Proposed Changes

The bill directs the Board of Trustees of the Internal Improvement Trust Fund to convey in fee simple to the Board of Trustees of IRSC property in Okeechobee County consisting of approximately 205.52 acres. The parcel is a portion of the property that previously housed the Florida School for Boys at Okeechobee. The bill requires the Board of Trustees of the Internal Improvement Trust Fund to convey the property within 60 days of the bill taking effect.

The bill requires a cultural resource assessment survey to be commenced within 90 days after IRSC takes legal title to the property. The assessment must be conducted in accordance with the NHPA and Florida Historical Resources Act. The scope of the work and reports must meet the requirements of the Archaeological Historical Report Standards and Guidelines in the Florida Administrative Code. The bill requires the final report to be provided to the Speaker of the House of Representatives and the President of the Senate.

According to the Economic Impact Statement, the bill will result in \$1.5 million in expenditures in the first fiscal year and \$3.5 million in the second fiscal year, reflecting the cost of IRSC redeveloping the property for use. The bill will reduce expenditures by the Department of Management Services to maintain the facility, currently estimated at \$200,000 per year.

### B. SECTION DIRECTORY:

- Section 1: Requires the Board of Trustees of the Internal Improvement Trust Fund to convey property in fee simple to the Board of Trustees of IRSC, and provides a description of the property.
- Section 2: Provides a timeframe for the Internal Improvement Trust Fund to convey the land to IRSC.
- Section 3: Provides a timeframe for a cultural resource assessment survey to be commenced.
- Section 4: Provides an effective date of July 1, 2023, or upon becoming law, whichever occurs earlier.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 18, 2023

WHERE? Lake Okeechobee News, a weekly newspaper of general circulation published in Okeechobee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes  No

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

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.