

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7047 PCB ACR 23-01 State Land Acquisition

SPONSOR(S): Infrastructure Strategies Committee, Agriculture, Conservation & Resiliency Subcommittee, Buchanan and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture, Conservation & Resiliency Subcommittee	17 Y, 0 N	Gawin	Moore
1) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	Byrd	Pigott
2) Infrastructure Strategies Committee	18 Y, 0 N, As CS	Gawin	Harrington

SUMMARY ANALYSIS

The Florida Forever Program is the state's conservation and recreation lands acquisition program. Since 2001, the state has purchased more than 899,574 acres of land for approximately \$3.3 billion. Florida Forever supports a wide range of goals, including water resource protection, coastal resiliency, preservation of cultural resources, public access to outdoor recreation, and the restoration and maintenance of public lands. The Rural and Family Lands Protection Program (RFLPP) is a land preservation program within the Department of Agriculture and Consumer Services (DACS) that was created to protect agricultural lands through the acquisition of permanent agricultural land conservation easements.

The bill makes various changes to the Florida Forever Program and RFLPP to increase transparency in the acquisition process, improve the efficiency of the process, and prioritize the acquisition of critical conservation lands. Specifically, with respect to the Florida Forever Program, the bill:

- Dedicates \$100 million annually to the program from the Land Acquisition Trust Fund;
- Increases the contract price for a land acquisition agreement that requires approval by the Board of Trustees of the Internal Improvement Trust Fund (Board) from \$1 million to \$5 million;
- Revises appraisal requirements to increase the appraisal amount that requires a second appraisal to be conducted from \$1 million to \$5 million;
- Requires the Department of Environmental Protection (DEP) to disclose appraisals to private land owners or their representatives during negotiations for acquisition;
- Clarifies that the Board or, when applicable, DEP may acquire parcels of land for the full value of that parcel as determined by the highest approved appraisal; and
- Requires the Acquisition and Restoration Council (ARC) to give increased priority to projects within the Florida Wildlife Corridor and projects in imminent danger of development, loss of significant natural attributes or recreational open space, or subdivision.

In addition, for RFLPP, the bill:

- Requires DACS to update the RFLPP priority list, give priority to lands in imminent danger of development or degradation and lands in the Florida Wildlife Corridor, and disclose appraisal reports during acquisition negotiations;
- Revises appraisal requirements to increase the appraisal amount that requires a second appraisal to be conducted from \$1 million to \$5 million; and
- Specifies that DACS acquisitions only require approval by the Board when the purchase price exceeds \$5 million.

The bill may have an indeterminate fiscal impact on state government and the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Forever

The Florida Forever Program is the state's conservation and recreation lands acquisition program.¹ Since 2001, the state has purchased more than 899,574 acres of land for approximately \$3.3 billion.² Florida Forever supports a wide range of goals, including water resource protection, coastal resiliency, preservation of cultural resources, public access to outdoor recreation, and the restoration and maintenance of public lands.³

The Acquisition and Restoration Council (ARC) is a 10-member body that makes recommendations on the acquisition, management, and disposal of state-owned lands.⁴ The Department of Environmental Protection (DEP) provides primary staff to support ARC. ARC is responsible for developing the Florida Forever priority list, which consists of ranked land acquisition projects that are deemed suitable as conservation property and meet Florida Forever goals.⁵ ARC members determine the priority of lands based on weighted criteria for all of the following: the coordination and completion of projects; biodiversity; protection, restoration, and maintenance of natural functions; water quality; recreation; archaeological and historical resources; sustainable agriculture and forest lands; and urban open spaces.⁶ In addition to these factors, the members must give increased priority to certain projects.⁷

Anyone can propose a project for consideration for the priority list. To develop the list, ARC accepts applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and private individuals for project proposals eligible for Florida Forever funding.⁸ ARC then submits the list to the Board of Trustees of the Internal Improvement Trust Fund (Board) for approval.⁹ The Board comprises the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture and Consumer Services. The Florida Forever priority list is used by DEP to prioritize projects with the available Florida Forever funds allocated annually by the Legislature. To be considered for acquisition, a project must have a willing seller and be on the list.

Before a parcel may be approved for acquisition by the Board or DEP, an appraisal must be conducted.¹⁰ Where the estimated value of a parcel exceeds \$1 million, two appraisals must be done.¹¹ If both appraisals of a parcel exceed \$1 million and differ significantly, a third appraisal may be conducted.¹² Fees associated with the appraisal process are paid by the agency proposing the acquisition of lands.¹³ Appraisal reports are confidential and exempt from public records disclosure until an option contract is executed, if applicable, or until two weeks before a contract or agreement for purchase is considered for approval by the Board.¹⁴ However, DEP may disclose an appraisal report to a private landowner during negotiations for acquisitions using alternatives to fee simple techniques if

¹ Section 259.105, F.S. Such acquisitions include less-than-fee agreements.

² Department of Environmental Protection (DEP), *Florida Forever*, <https://floridadep.gov/floridaforever> (last visited Mar. 22, 2023).

³ See s. 259.105(2)(a), F.S.

⁴ Section 259.035(3), F.S.

⁵ Section 259.105(8)-(9), F.S.

⁶ Section 259.105(9), F.S.

⁷ Section 259.105(10), F.S.

⁸ Section 259.105(7)(a), F.S.

⁹ Section 259.04(1)(c), F.S.

¹⁰ Section 253.025(8), F.S.

¹¹ Section 253.025(8)(b), F.S.

¹² *Id.*

¹³ Section 253.025(8)(c), F.S.

¹⁴ Section 253.025(8)(f), F.S.

DEP determines doing so will bring a proposed acquisition to closure.¹⁵ A landowner must agree to maintain the confidentiality of such reports.¹⁶

The Board must approve of any agreement to acquire land where the contract price agreed to by the seller and the acquiring agency exceeds \$1 million, or if the acquisition is the initial purchase in a Florida Forever project.¹⁷

Rural and Family Lands Protection Program

The Rural and Family Lands Protection Program (RFLPP) is a land preservation program within the Department of Agriculture and Consumer Services (DACS) that was created to protect agricultural lands through the acquisition of permanent agricultural land conservation easements.¹⁸ Through the RFLPP, DACS, on behalf of the Board, is authorized to allocate money to acquire perpetual, less-than-fee interests in land, enter into agricultural protection agreements, and enter into resource conservation agreements.¹⁹ To qualify for acquisition, the agricultural land must protect the integrity and function of working landscapes, ensure opportunities for viable agricultural activities on working lands threatened by conversion to other uses, and meet at least one of the following public purposes:

- Perpetuating open space on working lands that contain significant natural areas.
- Protecting, restoring, or enhancing water bodies, aquifer recharge areas, wetlands, or watersheds.
- Promoting a more complete pattern of protection, including buffers to natural areas, ecological greenways, functioning ecosystems, and military installations.
- Promoting the restoration, enhancement, or management of species habitat, consistent with the purposes for which the easement is acquired.²⁰

Under the RFLPP, lands must be acquired pursuant to a priority ranking process that is similar to the process for creating the Florida Forever priority list.²¹ To develop the priority list, DACS first reviews applications to evaluate the agricultural operation, whether best management practices (BMPs) are being implemented, and the suitability of the land for long-term agricultural use. This information is then compiled into an evaluation report and provided to the Rural and Family Lands Selection Committee (Committee), which is appointed by the Commissioner of Agriculture and Consumer Services.²² At a publicly noticed meeting, the Committee receives public comment, considers the eligibility of both new applications and projects on the existing priority list, and adopts a new list of projects in tiered priority order that qualify for acquisition under the RFLPP.²³ The Committee must give preference to ranch and timber lands that are managed using certain sustainable practices.²⁴ The priority list is then sent to the Board for approval.²⁵ The newly approved priority list supersedes any previous priority lists.²⁶

The same appraisal procedures and requirements outlined above for the Florida Forever Program also apply to less than fee simple acquisitions through the RFLPP.²⁷

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 253.025(4)(b)-(c).

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. 22, 2023).

¹⁹ Section 570.71(1), F.S.

²⁰ *Id.*

²¹ Section 259.105(3)(i)1., F.S.

²² Rule 5I-7.007(1), F.A.C.

²³ Rule 5I-7.007(4), F.A.C.

²⁴ Section 570.71(10), F.S., Rule 5I-7.007(2), F.A.C.

²⁵ Rule 5I-7.007(6), F.A.C.

²⁶ Rule 5I-7.007(11), F.A.C.

²⁷ *See* s. 570.715, F.S.

Through the RFLPP, the state has acquired conservation easements for over 64,361 acres of working agricultural land.²⁸ All perpetual easements acquired under the RFLPP must adhere to BMPs established by DACS.²⁹

Florida Wildlife Corridor

The ability to migrate plays an important role in supporting biodiversity by enabling animals to safely travel in order to find mates, food, and shelter. Due to human development, many habitats have become fragmented, creating blockades such as residential areas, industrial parks, and roads.³⁰ Wildlife corridors are sections of land that connect two or more wildlife habitats together and allow animals to avoid roads and other developments.³¹

The Florida Wildlife Corridor (Corridor), depicted below,³² is a geographically defined area comprising over 18 million acres of land, which include 10 million acres of conservation lands and 8 million acres of opportunity areas that do not have conservation status.³³



In 2021, the Legislature created the Wildlife Corridor Act (Act) to codify the Corridor and recognize that lands and waters that provide the state's green infrastructure and vital habitat for wide-ranging wildlife need to be preserved and protected.³⁴ The purpose of the Act was to create incentives for conservation and sustainable development while preserving the green infrastructure.³⁵ The Act, in pertinent part, directed DEP to promote and encourage various methods of investing in and protecting the Corridor, including encouraging all agencies that acquire lands to include in their land-buying efforts the acquisition of sufficient legal interest in opportunity areas to ensure the continued viability of the Corridor; encouraging investment in conservation easements voluntarily entered into by private landowners to conserve opportunity areas; and encouraging private landowners, through existing and future incentives and liability protections, to continue to allow their private property to be used for the

²⁸ 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. 22, 2023).

²⁹ Rule 5I-7.014(3), F.A.C.

³⁰ Ersi, *Importance of Wildlife Corridors*,

<https://www.arcgis.com/apps/Cascade/index.html?appid=6b87112414f84c8392c842dabab9f9a1> (last visited Mar. 22, 2023).

³¹ University of Florida, *Connecting Nature to Nature: Wildlife Corridors*, <http://blogs.ifas.ufl.edu/pinellasco/2015/04/03/connecting-nature-to-nature-wildlife-corridors/> (last visited Mar. 22, 2023).

³² Florida Wildlife Corridor, *FL Wildlife Corridor*, available at <https://floridawildlifecorridor.org/wp-content/uploads/2021/08/FLWildlifeCorridor.pdf> (last visited Mar. 22, 2023).

³³ DEP, *Florida Wildlife Corridor*, available at https://floridadep.gov/sites/default/files/Florida_Wildlife_Corridor.pdf (last visited Mar. 22, 2023).

³⁴ Chapter 2021-181, L.O.F.

³⁵ Section 259.1055(3), F.S.

preservation and enhancement of the Corridor.³⁶ Because there is no land acquisition program specifically for acquiring lands that are located within the Wildlife Corridor, initiatives such as the Florida Forever Program and the Rural and Family Lands Protection Program are used to acquire such lands.

Effect of the Bill

Florida Forever

The bill increases the contract price for a land acquisition agreement that requires approval by the Board from \$1 million to \$5 million. The bill also removes the requirement that an agreement for an acquisition that is the initial purchase in a Florida Forever project must be approved by the Board.

Additionally, the bill revises the appraisal requirements applicable to Florida Forever acquisitions to increase the appraisal amount that requires a second appraisal to be conducted from \$1 million to \$5 million. If both appraisals of a parcel exceed \$5 million and differ significantly, a third appraisal may be conducted. The bill also requires DEP to disclose appraisals to private land owners or their representatives during negotiations for acquisition.

The bill clarifies the Board may or, when applicable, DEP may acquire parcels of land for the full value of that parcel as determined by the highest approved appraisal.

The bill specifies that the Board is authorized to acquire lands that complete critical linkages through fee or less-than-fee acquisition that will help preserve and protect the state's green and blue infrastructure and vital habitat for wide-ranging wildlife, such as the Florida panther, within the Corridor.

The bill requires ARC to give increased priority to projects in imminent danger of development, loss of significant natural attributes or recreational open space, or subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished. ARC must also give lands located within the Corridor increased priority.

The bill requires \$100 million to be appropriated annually to DEP from the Land Acquisition Trust Fund for the acquisition of lands through the Florida Forever Program.

RFLPP

Notwithstanding any other law or rule, the bill requires DACS to submit a land acquisition purchase agreement to the Board for approval only if the purchase price exceeds \$5 million, instead of requiring Board approval for all purchase agreements.

By March 1, 2024, the bill requires DACS to update the RLFPP priority list and submit it to ARC. Any acquisitions for which funds have been obligated before July 1, 2023, to pay for an appraisal may not be impacted by the updated priority list.

The bill requires DACS to give priority to lands in imminent danger of development or degradation as well as lands within the Corridor.

Additionally, the bill revises the appraisal requirements applicable to RFLPP acquisitions to increase the appraisal amount that requires a second appraisal to be conducted from \$1 million to \$5 million. If both appraisals of a parcel exceed \$5 million and differ significantly, a third appraisal may be conducted. The bill also requires DACS to disclose appraisal reports to private land owners or their representatives during negotiations for acquisition.

B. SECTION DIRECTORY:

Section 1. Amends s. 253.025, F.S., related to acquisition of state lands.

Section 2. Amends s. 259.032, F.S., related to conservation and recreation lands.

³⁶ Section 259.1055(5), F.S.
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- Section 3. Amends s. 259.105, F.S., related to the Florida Forever Act.
- Section 4. Amends s. 375.041, F.S., related to the Land Acquisition Trust Fund.
- Section 5. Amends s. 570.71, F.S., related to the RFLPP.
- Section 6. Amends s. 570.715, F.S., related to RFLPP acquisition procedures.
- Section 7. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate positive fiscal impact on DEP as it revises the requirements for second appraisals and approval by the Board for land acquisitions from \$1 million to \$5 million.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate negative fiscal impact on local government as lands that are purchased will be removed from the local tax roll thereby reducing ad valorem collections. However, the counties where the property is acquired may be eligible for payment in lieu of taxes.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill provides a consistent annual appropriation of funds to the Florida Forever Program and improves the land acquisition process to be more efficient and expeditious which may encourage more land owners, including those located in the Florida Wildlife Corridor, to consider selling their lands to the state for conservation and preservation of critical natural resources.

D. FISCAL COMMENTS:

The bill provides for an annual appropriation of \$100 million to DEP for the Florida Forever Program from the Land Acquisition Trust Fund to acquire critical conservation lands. This will provide DEP with a consistent level of funding each year to better plan for land acquisition opportunities.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 17, 2023, the Infrastructure Strategies Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Removed the requirement that land management agencies must review all conservation lands every five years as part of their land management plans;
- Delayed the date by which DACS must update its priority list from December 1, 2023, to March 1, 2024, and specified that certain projects may not be impacted by the updated list;
- Specified that DACS acquisitions only require Board approval when the purchase price exceeds \$5 million; and
- Revised appraisal requirements for RFLPP to increase the appraisal amount that requires a second appraisal to be conducted from \$1 million to \$5 million.

This analysis is drafted to the committee substitute as approved by the Infrastructure Strategies Committee.