

**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.)

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

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BILL: SB 1142

INTRODUCER: Senator Rodriguez

SUBJECT: Release of Conservation Easements

DATE: March 14, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	<b>Pre-meeting</b>
2.			JU	
3.			RC	

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## **I. Summary:**

SB 1142 directs water management districts to release conservation easements upon application by the fee simple owner of a parcel of land subject to a conservation easement if the land is less than 15 acres and bordered on at least three sides by impervious surfaces; if any undeveloped adjacent parcels are less than 15 acres and similarly bordered on three or more sides by impervious surfaces; if the land contains no historical, architectural, archaeological, or cultural significance; and if the applicant has secured sufficient mitigation credits.

The bill provides that upon the release of the conservation easement, the ad valorem taxes on the property must be based on the just value of the property. Further, the property may be used for development that is consistent with the zoning designation of the adjacent lands.

## **II. Present Situation:**

### **Conservation Easements**

As pressure on Florida's natural areas increases, it is necessary for the state's conservation and recreational land acquisition agencies to augment their traditional, fee simple acquisition programs with alternatives to fee simple acquisition of conservation land.<sup>1</sup> Conservation easements are a method of less-than-fee acquisition that allow more land to be brought under public protection for conservation for a lower cost.<sup>2</sup> A conservation easement is a right or interest in real property that is held to:

- Retain land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition;
- Retain such areas as suitable habitat for fish, plants, or wildlife;

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<sup>1</sup> Section 253.0251, F.S.

<sup>2</sup> *Id.*

- Retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance, including abandoned and neglected cemeteries that are 50 or more years old; or
- Maintain existing land uses.<sup>3</sup>

Conservation easements also limit or prohibit any or all of the following:

- Constructing or placing buildings, roads, signs, billboards, or other advertising, utilities, or other structures on or above the ground;
- Dumping or placing soil or other substance or material as landfill or dumping or placing trash, waste, or unsightly or offensive materials;
- Removing or destroying trees, shrubs, or other vegetation;
- Excavating, dredging, or removing loam, peat, gravel, soil, rock, or other material substance in a manner that affects 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 the retention of land or water areas; and
- 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, including abandoned and neglected cemeteries that are 50 or more years old.<sup>4</sup>

A conservation easement can be acquired by any governmental body or agency or charitable corporation or trust whose purposes include:

- Protecting natural, scenic, or open space values of real property;
- Assuring its availability for agricultural, forest, recreational, or open space use;
- Protecting natural resources;
- Maintaining or enhancing air or water quality; or
- Preserving sites or properties of historical, architectural, archaeological, or cultural significance, including abandoned and neglected cemeteries that are 50 or more years old.<sup>5</sup>

Conservation easements “run with the land,” which means they bind the current and subsequent owners in perpetuity to the easement’s restrictions.<sup>6</sup> By granting or selling a conservation easement, a property owner can retain title to the property along with certain negotiated rights, while protecting their property’s natural, historical, and archaeological resources.<sup>7</sup>

Article X, section 18 of the State Constitution governs the disposition of a fee interest held by an entity of the state for conservation purposes. However, a conservation easement may be disposed

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<sup>3</sup> Section 704.06(1), F.S.

<sup>4</sup> Section 704.06(1)(a)-(h), F.S.

<sup>5</sup> Section 704.06(3), F.S.

<sup>6</sup> Section 704.06(2), F.S.; Florida Department of Environmental Protection, *Conservation Easements FAQs*, <https://floridadep.gov/lands/environmental-services/content/conservation-easements-faqs> (last visited March 12, 2025).

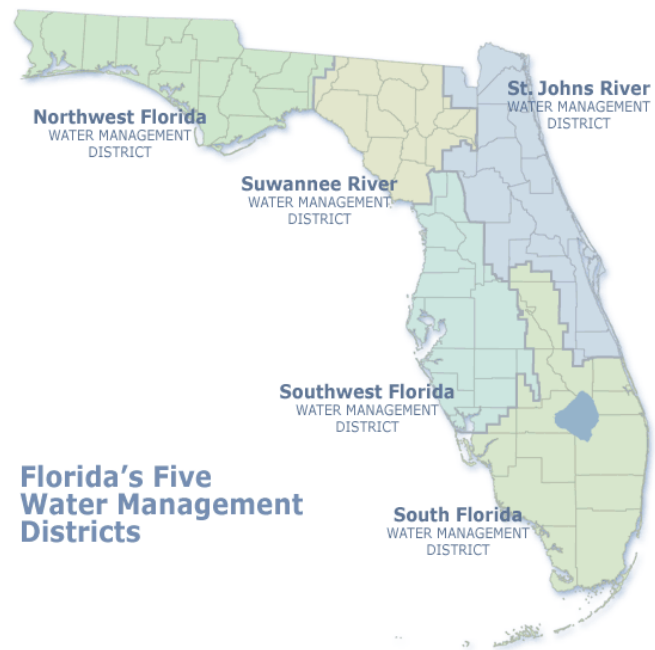
<sup>7</sup> *Id.* A conservation easement can be acquired in the same manner as other interests in property, except by eminent domain, which includes condemnation. Conservation easements are not unassignable to other governmental bodies or agencies, charitable organizations, or trusts for lack of benefit to a dominant estate. Section 704.06(2), F.S.

of as provided by law because it is a less-than-fee interest in land.<sup>8</sup> A conservation easement may be released by the easement holder to the holder of the fee even though the holder of the fee may not be a governmental body or a charitable corporation or trust.<sup>9</sup> The governing board of any public agency, the Board of Trustees of the Internal Improvement Trust Fund, or a charitable corporation or trust that holds title to a development right may not convey that right to anyone other than the governing board of another public agency or a charitable corporation or trust or the record owner of the fee interest in the land to which the development right attaches.<sup>10</sup> The conveyance to the owner of the fee must be made only after a determination that it would not adversely affect the interest of the public.<sup>11</sup>

### Water Management District Conservation Easements

Florida's water management districts are responsible for administering water resources at a regional level.<sup>12</sup> Their core focus is on water supply (including alternative water supply and the water resource development projects identified in a district's regional water supply plans), water quality, flood protection and floodplain management, and natural systems.<sup>13</sup>

Water management districts have numerous conservation easements for various purposes, including stormwater management. These conservation easements may be located in urban or rural areas. GIS maps are available that show the location of water management conservation easements.<sup>14</sup> The map on the following page shows examples of water management district conservation easements in and around Miramar, FL, some of which may be affected by this bill.



<sup>8</sup> See FLA. CONST. art. X, s. 18.

<sup>9</sup> Section 704.06(4), F.S.

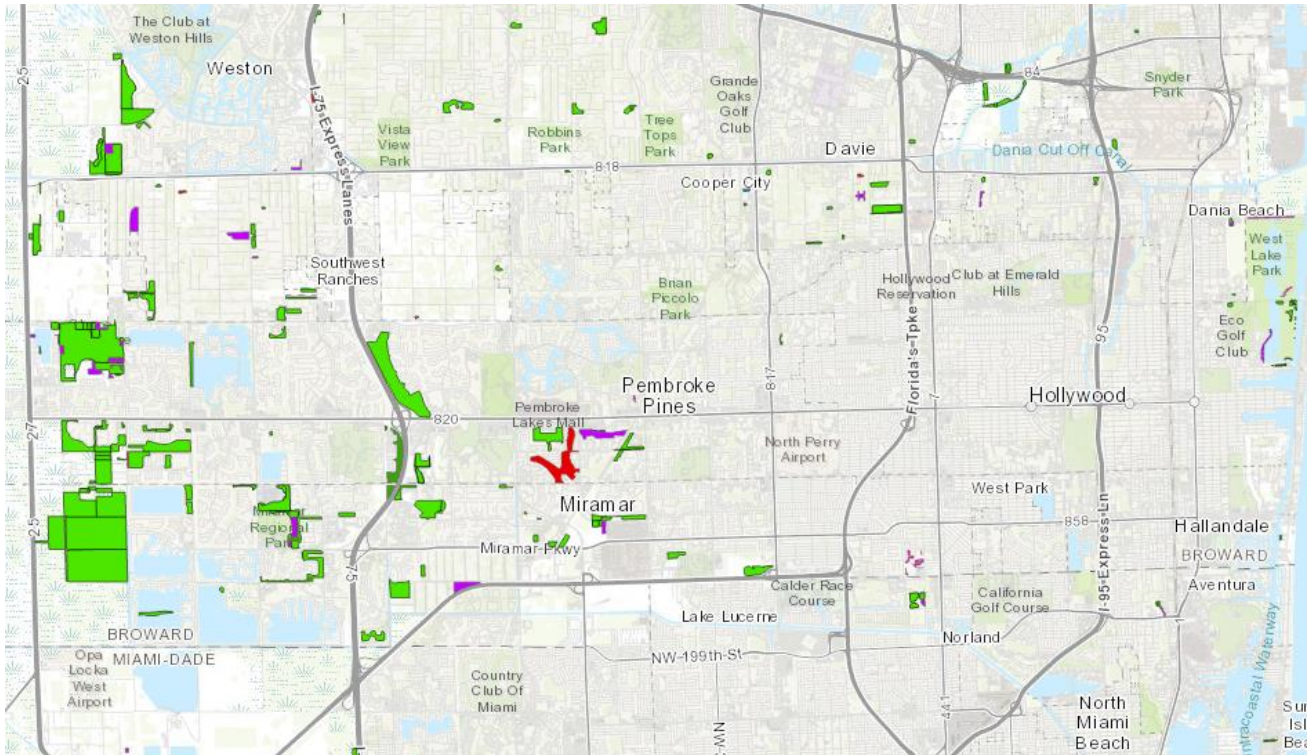
<sup>10</sup> Section 193.501(5), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Florida Department of Environmental Protection (DEP), *Water Management Districts*, <https://floridadep.gov/owper/water-policy/content/water-management-districts> (last visited Feb. 14, 2025); section 373.069, F.S.

<sup>13</sup> DEP, *Water Management Districts*; section 373.535(1)(a)2., F.S.

<sup>14</sup> South Florida Water Management District, *ArcGIS Regulation Conservation Easements*, <https://geoportal.sfwmd.gov/portal/home/item.html?id=df8534163bfe7c0d9538bed7e> (last visited March 13, 2025); Southwest Florida Water Management District, *ArcGIS SWFWMD Conservation Easements*, <https://hub.arcgis.com/datasets/FDEP::swfwmd-conservation-easements/about> (last visited March 13, 2025); St. Johns River Water Management District, *SJRWMD-owned Conservation Easement*, <https://www.arcgis.com/home/item.html?id=66d4b93879b14b81b0af5c47fec20e68> (last visited March 13, 2025).



A water management district's governing board may release any easement, reservation, or right-of-way interests conveyed to the district if the interest has no present or apparent future use under the terms and conditions determined by the board.<sup>15</sup> For example, the St. Johns River Water Management District provides that property owners may request the release of a regulatory conservation easement on their land in exchange for mitigation credits or another piece of property.<sup>16</sup> Following receipt of the offer, the district's staff determine whether to recommend approval or denial of the request. The determination is based on whether the district would receive an exchange of property that has an equal or greater ecological value than the property being released or whether the requestor would purchase mitigation credits providing an equal or greater ecological value in exchange for the release.<sup>17</sup>

<sup>15</sup> Section 373.096, F.S.

<sup>16</sup> St. Johns River Water Management District, *Conservation Easements*, <https://www.sjrwmd.com/permitting/conservation-easements/#FAQ-16> (last visited March 12, 2025).

<sup>17</sup> *Id.* An example involving a state agency releasing a conservation easement occurred in 2024 when the Florida Fish and Wildlife Conservation Commission (FWC) approved a partial release of a conservation easement in the Split Oak Forest Wildlife and Environmental Area for the proposed route of the Osceola Parkway Extension. FWC staff worked with the surrounding counties to identify alternatives that would minimize and mitigate the anticipated impacts and ensure a net positive conservation benefit. These alternatives include donation of conservation lands and funds for restoration and management in exchange for the partial release of the Split Oak conservation easement. FWC, *Split Oak Forest Wildlife and Environmental Area Conservation Easement Release*, 2-5 (Dec. 2023), available at <https://myfwc.com/media/32632/7e-presentation-splitoakforest.pdf>; FWC, *FWC secures conservation benefit with the partial release of easements at Split Oak Forest WEA*, <https://myfwc.com/news/all-news/split-oak-524/> (last visited March 12, 2025).

## Ad Valorem Taxation

The ad valorem tax, or “property tax,” is an annual tax levied by a local government. The Florida Constitution prohibits the state from levying ad valorem taxes on real and tangible personal property,<sup>18</sup> and instead authorizes local governments, including counties, school districts, and municipalities to levy ad valorem taxes. Special districts may also be given this authority by law.<sup>19</sup>

The property appraiser annually determines the “just value”<sup>20</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>21</sup> Tax bills are mailed in November of each year, and payment is due by March 31.<sup>22</sup> The tax is based on the taxable value of property as of January 1 of each year.<sup>23</sup>

### *Tax Assessment of Lands Subject to Conservation Easements*

When a landowner conveys the development right in real property by conservation easement to the governing board of any public agency, the Board of Trustees of the Internal Improvement Trust Fund, or certain charitable corporations or trusts, or a covenant has been executed and accepted by the Board of Trustees or charitable corporation or trust, the lands will be assessed as follows:

- If the covenant or conveyance extends for ten or more years from January 1 in the year the assessment is made, the property appraiser must consider only factors relative to the value of the land’s present use, as restricted by any covenant or conveyance, in valuing the land for tax purposes.<sup>24</sup>
- If the covenant or conveyance is for less than ten years, the land must be assessed based on the just value of the property, recognizing the nature and length of any restriction placed on the land’s use by the covenant or conveyance.<sup>25</sup>

<sup>18</sup> Art. VII, s. 1(a), FLA. CONST.

<sup>19</sup> Art. VII, s. 9., FLA. CONST.

<sup>20</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. (Art. VII, s. 4, FLA. CONST.). Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>21</sup> Section 192.001(2), (16), F.S. In arriving at just valuation, property appraisers must take the following factors into account: the present cash value of the property, the highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, the property’s location, the size of the property, the cost of the property and the present replacement value of any improvements to the property, the condition of the property, the income of the property, and the net proceeds of the sale of the property after certain deductions. Section 193.011, F.S.

<sup>22</sup> Sections 197.322 and 197.333, F.S.

<sup>23</sup> Section 192.042, F.S.

<sup>24</sup> Section 193.501(3)(a), F.S.

<sup>25</sup> Section 193.501(3)(b), F.S. In arriving at just valuation, property appraisers must take the following factors into account: the present cash value of the property, the highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, the property’s location, the size of the property, the cost of the property and the present replacement value of any improvements to the property, the condition of the property, the income of the property, and the net proceeds of the sale of the property after certain deductions. Section 193.011, F.S.



## Mitigation Banking

Mitigation banking refers to the practice of buying and selling the wetland ecological value equivalent of the complete restoration of one acre with the intent to mitigate unavoidable wetland impacts within a defined region.<sup>26</sup> The mitigation bank is the site itself and a wetland ecological value equivalent is equal to one mitigation credit.<sup>27</sup> The agencies permitting the mitigation bank determine the number of potential credits available in the bank.<sup>28</sup>

The Uniform Mitigation Assessment Method (UMAM) is the method used to determine the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters and to award and deduct mitigation bank credits.<sup>29</sup> UMAM is a standardized procedure for assessing the ecological functions provided by wetlands and other surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss.<sup>30</sup> UMAM evaluates functions through consideration of an ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife utilization, and mitigation risk.<sup>31</sup> This standardized methodology is also used to determine the degree of improvement in the ecological value of proposed mitigation bank activities.<sup>32</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 704.06, F.S., to require a water management to release a conservation easement upon application by the fee simple owner of a parcel of land that is subject to a conservation easement if the following conditions are met:

- The land subject to the easement is less than 15 acres and is bordered on three or more sides by impervious surfaces;
- Any undeveloped adjacent parcels of land are less than 15 acres and similarly bordered on three or more sides by impervious surfaces;
- The land contains no historical, architectural, archaeological, or cultural significance; and
- The applicant has secured sufficient mitigation credits using the uniform mitigation assessment method from a mitigation bank in Florida to offset the loss of wetlands located on the land subject to the conservation easement.

The bill provides that upon the water management district's release of the conservation easement, the ad valorem taxes on the property must be based on the just value of the property, and the property may be used for development that is consistent with the zoning designation of the adjacent lands.

**Section 2** provides an effective date of July 1, 2025.

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<sup>26</sup> Florida Department of Environmental Protection, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited March 12, 2025).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> See section 373.414(18), F.S.

<sup>30</sup> DEP, *The Uniform Mitigation Assessment Method (UMAM)*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/uniform-mitigation-assessment> (last visited March 12, 2025).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

**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 identified.

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

None.

**B. Private Sector Impact:**

Indeterminate.

**C. Government Sector Impact:**

Water management districts may experience a negative fiscal impact from the loss of the value of conservation easements.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 704.06 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.

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

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