

Land Acquisition in Florida

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Acronyms

ARC – Acquisition and Restoration Council
Board or Board of Trustees– Board of Trustees of the Internal Improvement Trust Fund
CARL – Conservation and Recreational Lands Program
DACS – Department of Agriculture and Consumer Services
DCA – Department of Community Affairs
DEP – Department of Environmental Protection
DHR – Division of Historical Resources (DOS)
DOF – Division of Forestry (DACS)
DOS – Department of State
FNAI – Florida Natural Areas Inventory
FRDAP – Florida Recreation Development Assistance Program (DEP)
DRP – Division of Recreation and Parks (DEP)
DSL – Division of State Lands (DEP)
FCT – Florida Communities Trust Program (DCA)
FWCC – Fish and Wildlife Conservation Commission
LAMAC – Land Acquisition and Management Advisory Council
NFWFMD – Northwest Florida Water Management District
OES – Office of Environmental Services (DEP)
OGT – Office of Greenways and Trails (DEP)
P2000 – Preservation 2000 Program
SFWMD – South Florida Water Management District
SJRWMD – St. John’s River Water Management District
SRWMD – Suwannee River Water Management District
SWFWMD – Southwest Florida Water Management District

Summary

Land Acquisition in Florida¹

Florida has a long history of land acquisition dating back to 1855, with the creation of the Board of Trustees, and has the most unique and ambitious land acquisition program in the nation.

Funding for the acquisition of conservation lands began in the 1960's with the establishment of a \$20 million bond program to acquire recreational lands. In the early 1970's, an additional \$40 million outdoor recreational bond program was created as well as the \$200 million Environmentally Endangered Lands Program (EEL). In 1979, the landmark CARL program was established to preserve Florida's unique natural heritage.

In 1990, Florida established the P2000 program in an effort to protect Florida's water resources, wildlife habitat, recreational areas, wetlands, and forests from a rapidly growing population. During the 10-year, \$3 billion program, more than 1.7 million acres were acquired to ensure that future generations can enjoy Florida's unique and fragile ecosystem.

The Florida Forever program was created in 1999 as a successor program to P2000, and authorizes the issuance of not more than \$3 billion in bonds for land acquisition, water resource development projects, the preservation and restoration of open space and greenways, and for outdoor recreation purposes. As part of Florida Forever, the Legislature provided public land acquisition agencies with the authority to purchase eligible properties using alternatives to fee simple² acquisitions. Since 2001, the Florida Forever program has acquired more than 601,000³ acres of land at a cost of over \$2.6⁴ billion.

Background

Preservation 2000 (P2000)

The P2000 program was created in 1990 as a \$3 billion land acquisition program funded through the annual sale of bonds. Each year for 10 years, the majority of

¹ Information provided by the Department of Environmental Protection

² The legal term for the maximum interest in land available to a person, or the maximum of legal ownership. Equivalent in many ways, for practical purposes to absolute ownership.

³ Total acreage includes acquisitions approved by the Board for the 2007-2008 fiscal year

⁴ Includes funds provided under the Florida Forever Act as well as monies provided from other sources.

\$300 million in bond proceeds (less the cost of issuance) was distributed to the DEP for the purchase of lands prioritized on the CARL list, the five water management districts for the purchase of water management lands, and the DCA for land acquisition loans and grants to local governments under FCT. The remainder of the bond proceeds was distributed to smaller acquisition programs at DEP, DACS, and FWCC. Under P2000, lands purchased by DEP, DACS, and the FWCC were required to be titled in the name of the Board. Lands purchased by the water management districts are titled in the name of the acquiring district. Under FCT, lands acquired by the Trust for permanent state ownership were required to be titled in the name of the Board but lands acquired in partnership with a city or county were titled in the name of the local government.

The first series of P2000 bonds was authorized by the Legislature in 1990 (ch. 90-217, Laws of Florida) and issued in the spring of 1991, and the last series was authorized in 1999 and issued in the spring of 2000. More than \$3 billion in bond proceeds and interest earnings have been distributed to the recipients. The debt service for these bonds comes from documentary stamp tax revenues. Through July 1, 2007, principle and interest payments have totaled more than \$2.9 billion.

Florida Forever

The Florida Forever program was created by the Legislature in 1999 (ch. 99-247, Laws of Florida) as a successor program to P2000, and authorized the issuance of not more than \$3 billion in bonds for land acquisition, water resource development projects, the preservation and restoration of open space and greenways, and for outdoor recreation purposes. As part of Florida Forever, the Legislature provided public land acquisition agencies with the authority to purchase eligible properties using alternatives to fee simple acquisitions.

In each year that bonds are issued or other revenues are used, the proceeds are deposited into the Florida Forever Trust Fund to be administered by DEP. The DEP distributes revenues from the trust fund to the five water management districts, DACS, FWCC, and FCT. Lands purchased under the Florida Forever program are titled in the name of the Board, except that lands purchased by a water management district vest in the name of that district. Lands purchased under FCT in partnership with a county or city vest in the name of the acquiring local government. Lands purchased by a nonprofit organization using grant funds provided by FCT must remain permanently in public use through a reversion of title to local or state government, a conservation easement, or another appropriate mechanism.

The first series of bonds was authorized by the Legislature in 2000 and issued in the spring of 2001. Through July 2007, the Legislature has authorized a total of \$1.7 billion in bonds, of which \$400 million is left to be sold⁵. In addition to authorized bonding, \$1.01 billion has been spent utilizing general revenue and monies transferred from other trust funds bringing the total Florida Forever expenditures to just over \$2.6 billion while acquiring more than 601,000⁶ acres of land⁷.

Conservation Lands

For the purposes of discussion within this report, the term conservation lands, as defined in Chapter 259.032, Florida Statutes, are lands that meet the following criteria:

- Environmentally unique and irreplaceable lands that contain native, relatively unaltered flora and fauna representing a natural area unique to, or scarce within, a region of the state or larger geographic area;
- Lands within designated areas of critical state concern, if the proposed acquisition relates to the natural resource protection purposes of the designation;
- Native species habitat or endangered or threatened species, emphasizing long-term protection for endangered or threatened species designed G-1⁸ or G-2⁹ by FNAI, and especially those areas that are special locations for breeding and reproduction;
- Important ecosystems, landscapes, and forests, if the protection and conservation of such lands is necessary to enhance or protect significant surface water, groundwater, coastal, recreational, timber, or fish or wildlife resources which cannot otherwise be accomplished through local and state regulatory programs;
- Lands that promote water resource development that benefits natural systems and citizens of the state;
- Facilitation of the restoration and subsequent health and vitality of the Florida Everglades;

⁵ Information provided by the Division of Bond Finance

⁶ Total acreage includes acquisitions approved by the Board for the 2007-2008 fiscal year

⁷ Information provided by the Department of Environmental Protection

⁸ G-1 designations are critically imperiled globally because of extreme rarity (5 or fewer occurrences or less than 1000 individuals) or because of extreme vulnerability to extinction due to some natural or man-made factor.

⁹ G-2 designations are imperiled globally because of rarity (6 to 20 occurrences or less than 3000 individuals) or because of vulnerability to extinction due to some natural or man-made factor.

- Lands that provide areas, including recreational trails, for natural resource based recreation and other outdoor recreation on any part of any site compatible with conservation purposes;
- Lands that preserve significant archaeological or historic sites; or
- Lands that conserve urban open spaces suitable for greenways or outdoor recreation which are compatible with conservation purposes.

Land Acquisition Process and Goals

Under P2000, a list of proposed acquisitions was prepared, on an annual basis, and ranked by the Land Acquisition and Management Advisory Council (Council) for approval by the Board. The Council, which was the predecessor to ARC¹⁰, was composed of the heads of the DEP and DCA, as well as the heads of the former Game and Fresh Water Fish Commission, DOF, DHR, and a designated employee of the DEP. Once approved, acquisitions were made in their order of ranking, to the greatest extent practicable. The information provided by the council included a management prospectus, an interim management budget, and the designated lead management agency or agencies.

Under Florida Forever, a list of proposed acquisitions is developed by ARC on an annual basis. The list includes acquisition applications that meet a combination of conservation goals including, but not limited to, protecting Florida's water resources and natural groundwater recharge. Priority is given to projects that were previously placed on the CARL or P2000 list or for which matching funds were available. Applications for proposed Florida Forever projects and acquisitions must be submitted in writing to the DEP, and must be reviewed by staff within 30 days of receipt to determine if the application contains sufficient information. Within 60 days after the staff review or at the next scheduled meeting, applications deemed sufficiently complete are initially reviewed by the ARC.

After the initial review, a project can only move forward with the approval of at least five ARC members. A Project Evaluation Report is prepared by the staff for ARC approval after a project is approved for full review. In preparing the Project Evaluation Report, department staff confirms or revises the information contained in the initial project application, provides a review of the natural resource and other application components to determine the number of Florida Forever criteria, goals and measures being met, confirms the project boundary as contained in the

¹⁰ The ARC is comprised of 4 Gubernatorial appointees, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Agriculture and Consumer Services, the Executive Director of the Fish and Wildlife Conservation Commission, the Director of the Division of Historical Resources of the Department of State, and the Secretary of the Department of Community Affairs.

application, and includes a recommended manager for the project along with a management policy statement and a management prospectus.

After a full review has been completed, the ARC develops a list of projects for consideration by the Board. At least five members of the ARC must vote to place a project on the Board's list. Projects of highest priority are on the "A" acquisition list. Projects that are not of the highest priority are ranked on the "B" acquisition list. Three sub-groups of projects are contained in both the "A" and "B" lists:

- Fee simple or large holdings;
- Multi-parcel or small holdings; and
- Less-than-fee acquisitions.

Prior to approval of the list by the board, the ARC must submit a report, with the list of proposed projects, which outlines the following:

- The stated purpose of each included project.
- Costs to achieve the acquisition goals.
- An interim management budget.
- Specific performance measures.
- Plans for public access.
- Identification of the essential parcels within the project boundary.
- Identification of parcels, within each project boundary, which should be acquired by fee simple or less-than-fee simple methods.
- Identification of lands being acquired for conservation purposes.
- A management policy statement and a management prospectus.
- An estimate of land value.
- A map delineating the project boundaries.
- An assessment of the project's ecological, recreational, forest, and wildlife value as well as ownership patterns, utilization and location.
- Identification of alternative uses for the property and what those uses are; and
- A designation of the management agency or agencies.

Upon receipt, the Board of Trustees must provide final approval of the Florida Forever acquisition list each year. The Board may remove projects but may not add projects to the list or rearrange project rankings.

All lands acquired under Florida Forever shall be managed for multiple-use purposes, when compatible with the resource values and management objectives for such lands. In order to achieve the purposes and objectives for which the program was created, it was the intent of the Legislature that projects and acquisitions which received funding achieve the following goals:

- Enhance the coordination and completion of land acquisition projects by:
 - Contributing to the completion of P2000 or earlier programs;

- Increasing acres protected through the use of less-than-fee acquisition; or
- Partnering with other funding sources such as local or federal government interests.
- Increase the biodiversity of species, natural communities and landscape levels.
- Protect, restore and maintain the quality and natural functions of land, water and wetland systems.
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
- Increase natural resource-based public recreational and educational opportunities.
- Preserve significant archaeological and historic sites.
- Increase the amount of forest land available for sustainable management of natural resources.
- Increase the amount of open space in urban areas.

Once projects are approved for placement on the acquisition list by the Board or on a 5-year plan authorized by water management district governing boards¹¹, negotiations may begin with the individual property owners. The active process begins with an appraisal of value for the listed parcel. Each parcel to be acquired shall have at least one appraisal. When parcel values exceed \$1 million in estimated value, two appraisals are required. When two appraisals are required, a third appraisal shall be obtained if the two appraisals differ significantly. Two appraisals shall be considered to differ significantly if the higher of the two values exceeds 120 percent of the lower value. However, a third appraisal shall not be obtained if the decision is made by the director of the DSL to attempt to negotiate an acquisition price of no more than 120 percent of the lower of the two appraisals. If two appraisals are required and their values do not differ significantly, the maximum amount that may be paid by the State for the parcel shall be the higher value indicated in the two approved appraisals. If a third appraisal is obtained and approved, the maximum amount that may be paid for the parcel shall be the value contained in the higher of the two closest appraisals as long as the two closest appraisals do not differ significantly. If the two closest appraisals differ significantly, 120 percent of the lower of the two appraisals shall be the maximum value.

¹¹ The appraisal and acquisition of real property by water management districts is authorized under Chapter 373.139, Florida Statutes, and is substantially similar to that of the DSL.

When a parcel is estimated to be worth \$100,000 or less and the director of the DEP DSL finds that the cost of an outside appraisal is not justified, a comparable sales analysis or other reasonably prudent procedures may be used by DSL to estimate the value of the parcel, provided the public's interest is reasonably protected. The state is not required to appraise the value of lands and appurtenances that are being donated to the state.

The appraisal process is handled through the DSL's Bureau of Appraisal acting in behalf of the Board. The bureau hires independent fee appraisers to conduct the majority of the appraisals and appraisal reviews used in this process. In addition, appraisals are obtained as a decision making tool in the disposition of state owned lands. All appraisals and appraisal reviews conducted for the bureau for acquisition or disposition of state owned lands must be conducted by appraisers on the DSL Approved Appraiser List per DEP rule. The bureau has also been entrusted with obtaining appraisals when land is acquired for various other state agencies and programs such as Florida Fish and Wildlife Conservation Commission, Department of Education, and circuit courts.

When an appraisal is required, a solicitation will be posted on the DEP DSL website briefly describing the property as well as providing full details of the project along with the staff appraiser to contact for additional information. Respondents must be on DSL's Approved Appraiser List and registered with the Department of Management Services. All appraisals for Board acquisitions must conform to the Uniform Standards of Professional Appraisal Practice (USPAP)¹² and the Supplemental Appraisal Standards for Board of Trustees Land Acquisitions¹³. Approved appraisers will be given a stated time to submit a response to the solicitation.

Rules governing the acquisition and management of lands under the Florida Forever program are located in Chapter 18-24 of the Florida Administrative Code. Under these rules, projects and acquisitions proposed for funding must meet at least two of the Florida Forever goals. Exceptions to this requirement include:

- In-holdings and additions for property not exceeding \$500,000 in value.
- Acreage purchased to complete a project removed from the CARL list because at least 90 percent of the property is already in state ownership.
- Emergency acquisitions approved by the Board.

¹² USPAP standards are determined by The Appraisal Foundation per The Financial Institutions Reform, Recovery and Enforcement Act of 1989 authorized by the United States Congress. Information provided at www.appraisalfoundation.org

¹³ As prescribed by Chapters 253 and 259, Florida Statutes.

- De minimis lands which are lands outside of an approved acquisition project boundary when part of the ownership is within an approved project boundary. De minimis lands may or may not have the same resource values as the lands within the approved project boundary, and may not cost more than \$1 million.

Florida Forever funds can be expended for capital improvement projects, including restoration efforts. Applications for capital improvement projects must be submitted to the ARC in writing, and must be included in a land management plan submitted to and approved by the Board in accordance with the provisions of ss. 253.034 and 259.032, F.S. Capital improvement projects proposed for funding are prioritized by ARC and submitted to the Board for approval. Funding for capital improvement projects can not exceed 10 percent of the total annual allocation to the Florida Forever Trust Fund.

Financial Process

In addition to managing the acquisition process described above, the DSL also tracks and maintains financial information detailing the status of the Florida Forever program. This information published monthly, details Board-committed expenditures in relation to available cash and anticipated future commitments. Specifically, these monthly statements provide the following:

- Fiscal year appropriation data;
- Percent distributions to each statutorily defined agency;
- Available appropriation;
- Actual cash expenditures, including total acreage;
- Approved commitments, including total acreage;
- Anticipated acquisitions, including total acreage;
- Estimated cash needs for real estate closings;
- Projected cash needs for acquisitions; and
- Capital project expenditures.

Department of Environmental Protection (DEP)

In each year that bonds are issued, bond proceeds are deposited into the Florida Forever Trust Fund to be administered by DEP. The DEP distributes revenues from the trust fund to the five water management districts, DACS, FWCC, and FCT.

Pursuant to statute, the DEP Division of State Lands (Division) receives annually 35 percent of the Florida Forever funds. These funds, about \$105 million annually, are to be used for land acquisition and capital project expenditures which meet the goals of the Florida Forever program. Lands can be acquired in fee simple or in lesser interests. Acquisitions should enhance the completion of

projects started under P2000 or earlier land acquisition programs, and can include acquisitions to restore environmentally damaged lands and provide increased protection for environmentally sensitive lands.

Capital expenditures¹⁴ are activities deemed necessary to accomplish the purpose of the acquisition and may not exceed 10 percent of the bond funds allocated. Capital improvements or expenditures are to be identified prior to acquisition or approval of the project for the one time expense of completing such improvements. Bonds proceeds for capital projects cannot be used for continued expenditures necessary for such improvements.

The division usually negotiates with willing sellers, but is not authorized to act without the consent of the Board. There are rare instances when the state does use the power of eminent domain to acquire critical environmentally endangered lands. However, the use of the condemnation process must be approved by a majority vote of the Board.

The Office of Greenways and Trails at DEP receives approximately \$4.5 million annually (1.5 percent) of Florida Forever funds to acquire greenways and trails for the Florida Greenways and Trails System, a statewide system to provide open space for the benefit of environmentally sensitive lands and wildlife, and to provide access to people for outdoor recreational opportunities such as horseback riding, hiking, canoeing and jogging.

The Division of Recreation and Parks at DEP receives approximately \$4.5 million annually (1.5 percent) of Florida Forever funds to identify and acquire in-holdings and additions to Florida's state parks, and for capital expenditures which may not exceed 10 percent of the Florida Forever funds designated for the division's use.

The Florida Recreation Development Assistance Program at DEP was created to provide grants to qualified local governments to acquire or develop land for public outdoor recreation purposes. The maximum grant amount is limited to \$200,000 and the local match requirements are based on the total project cost. In addition to funding from other sources, this program receives approximately \$6 million annually in Florida Forever funds (2 percent).

¹⁴ Capital expenditure projects include but are not limited to the initial removal of invasive plants, the construction, improvement, enlargement, or extension of facilities' signs, fire lanes, access roads, and trails, or any activities that serve to restore, conserve, protect, or provide public access, recreational opportunities or necessary services for land and water areas.

Water Management Districts

Florida's five water management districts together receive \$105 million each year in Florida Forever funds (35 percent) for land acquisition and capital project expenditures to implement each water management district's Florida Forever 5-year work plan. Each district must spend at least 50 percent of the funds received on land acquisition. Funding is split among the districts under the following formula:

- The South Florida Water Management District receives \$36.75 million annually (35 percent). In the first two years of the program, \$50 million of those funds were directed to the Save Our Everglades Trust Fund.
- The Southwest Florida Water Management District receives \$26.25 million annually (25 percent).
- The St. Johns River Water Management District receives \$26.25 million annually (25 percent).
- The Suwannee River Water Management District receives about \$7.875 million annually (7.5 percent).
- The Northwest Florida Water Management District receives about \$7.875 million annually (7.5 percent).

Department of Community Affairs – Florida Communities Trust¹⁵

The Florida Communities Trust is an integral part of efforts to help Florida's communities meet the challenges of growth management, reduce the effects of natural disasters, invest in community revitalization, and protect the state's natural and cultural resources.

The FCT is dedicated to working with communities throughout the state to accomplish a collective goal: acquiring lands for recreation and open spaces while furthering their comprehensive plans. The FCT partners with local governments and environmental non-profit organizations to make this goal a reality. Every project funded by FCT is a partnership; always between the FCT and the applicant, but many times with other partners as well. FCT grants foster partnerships among local governments during the acquisition process and, frequently, for management of the properties. Local government applicants often collaborate with environmental non-profit organizations when submitting grant applications. Such partnerships allow communities to better leverage state and local dollars, distribute project management responsibilities, and preserve locally significant lands.

¹⁵ Information provided by the Department of Community Affairs at www.dca.state.fl.us

The FCT receives approximately \$66 million in Florida Forever funds each year (22 percent) to be used by local governments and nonprofit organizations for the acquisition of community-based projects, urban open spaces, and parks and greenways to implement local government comprehensive plans¹⁶. Emphasis is placed on funding projects in low income or otherwise disadvantaged communities. A dollar for dollar local match is required for 75 percent of these funds, and the local government match can consist of federal grants or funds, private donations, or environmental mitigation funds.

Department of Agriculture and Consumer Services – Division of Forestry

The division receives approximately \$4.5 million (1.5 percent) in Florida Forever funds each year. These funds are used to implement the DACS in-holdings and additions land acquisition program designed to assist in the management of state forests by providing for the purchase of lands identified as important to the successful management of state forests. Funds for capital project expenditures may not exceed 10 percent of the funds allocated to the agency.

Fish and Wildlife Conservation Commission

The FWCC receives approximately \$4.5 million in Florida Forever funds each year (1.5 percent) to fund the acquisition of in-holdings and additions to lands managed by the FWCC for the conservation of fish and wildlife. Funds for capital project expenditures may not exceed 10 percent of the funds allocated to the agency.

Florida Natural Areas Inventory (FNAI)¹⁷

FNAI is a non-profit organization founded in 1981 by The Nature Conservancy. Now part of the Florida State University's Florida Resources and Environmental Analysis Center at the Institute of Science and Public Affairs, it is funded through contracts and grants primarily with DEP, but also with the FWCC and other state and federal agencies.

FNAI builds and maintains a GIS database of Florida's biological resources for mapping and analysis. The database includes more than 28,000 occurrences of rare plant and animal species, high-quality natural communities such as state parks

¹⁶ The appraisal and acquisition of real property through the FCT, authorized under Chapter 380, Florida Statutes, and implemented under Department of Community Affairs Rule 9K-8, is substantially similar to the DSL.

¹⁷ www.fnai.org

and wildlife refuges, conservation lands managed by public and private entities, environmental land acquisition project boundaries, and lands with natural habitat potential.

FNAI reviews new proposed land acquisition applications and prepares a preliminary report for each proposal to be considered by the ARC during every six-month Florida Forever review cycle. The review includes establishing a Biological Conservation Priority of high, medium or low, developing a Natural Resource Description, listing rare species on proposed acquisition areas, mapping the proposed site, and preparing a Florida Forever Measures Evaluation.

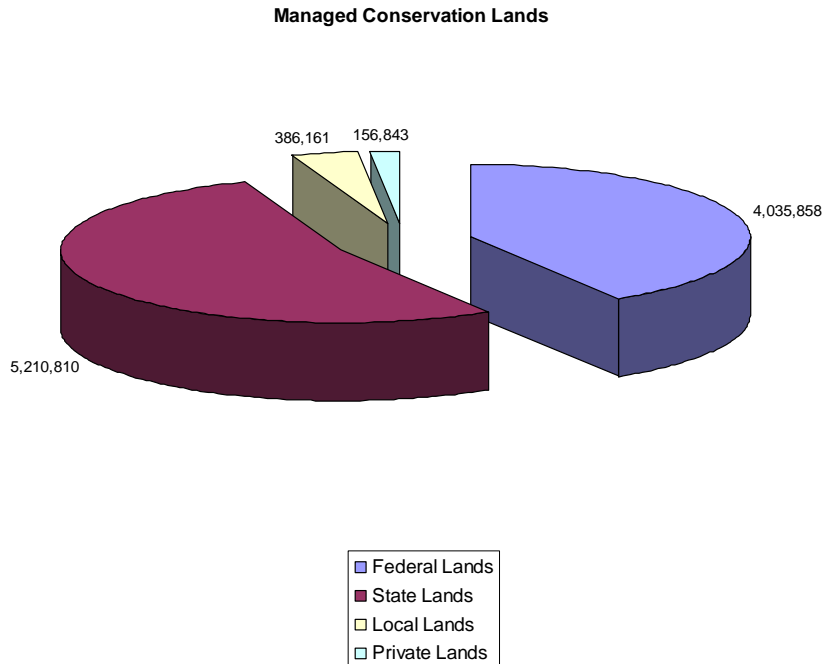
The Florida Forever Measures Evaluation is a demonstration of how a proposed project meets 15 Florida Forever performance criteria, and is based on the Florida Forever Conservation Needs Assessment developed by FNAI when the Florida Forever program was created. The Legislature directed that the former Florida Forever Advisory Council provide a report containing recommendations for the development and identification of performance measures to measure the progress of meeting the goals established under the Florida Forever program. The DEP was authorized to contract with FNAI to fulfill the requirements of developing the goals and measures.

The Florida Forever Conservation Needs Assessment¹⁸ documents natural resource distribution and resource-based land uses for increased conservation attention as required by the Legislature when the Florida Forever program was created. This documentation provides baseline data necessary to create a starting point to measure the future progress of conservation efforts, and to identify program priorities. The Needs Assessment also identifies lands which meet current conservation needs and lands that meet multiple conservation goals, provides a monitoring mechanism to evaluate conservation needs, and tracks and documents the progress of the Florida Forever program on an annual basis.

After an application is approved by the ARC, FNAI prepares a Resource Planning Boundary which recommends boundary modifications to ensure protection of the resources associated with the proposed project, and conducts a field assessment which is incorporated into a multi-agency evaluation report prepared by DEP. The DEP evaluation report and a final ecological summary prepared by FNAI are presented to ARC prior to final vote and project ranking for each cycle.

¹⁸ *"Florida Forever Conservation Needs Assessment, Summary Report to the Florida Forever Advisory Council"*, prepared under the direction of the Division of State Lands, Florida Department of Environmental Protection, by the Florida Natural Areas Inventory, December 2000

In March 2007, FNAI published a new "Summary of Florida Conservation Lands" which provided the following breakdown of conservation lands in Florida:



A little less than 28 percent of Florida's 34,721,280¹⁹ acres of land are state or federally managed lands. Of the more than 9 million acres of non-submerged conservation land in Florida, 515,627 acres (5.3 percent of total conservation lands) are less-than-fee lands.

In May 2007, FNAI published the eleventh *Florida Forever Natural Resource Acquisition Progress Report*²⁰ at the request of DEP. The reports are used to document the progress of the Florida Forever program in meeting the goals and measures established by the Legislature when the program was created. This report, covering the period of time from July 2001 through March 2007, found that excluding the FCT, all entities had acquired 529,583 acres of land.

¹⁹ Source: Atlas of Florida, 1996. E.A. Fernald and E.D. Purdum, eds., University Press of Florida, Gainesville, FL

²⁰ Acreage calculations in this report do not include acreage purchased under the Florida Communities Trust Program at the Department of Community Affairs. Also, no distinction is made in projects acquired with funds other than Florida Forever dollars.

This report also contains an acreage baseline of natural resource measures protected on conservation lands beginning at the start of the Florida Forever program in 2001. The report also measures the success of the Florida Forever program in acquiring additional acreage for each resource measure. Through March 2007, the findings include the following increases of the natural resource measure over the baseline:

- A 10 percent increase in Strategic Habitat Conservation Areas (SHCA)²¹
- A 4 percent increase in FNAI Habitat Conservation Priorities.
- A 4 percent increase in Ecological Greenways.
- A 3 percent increase in Under-represented Natural Communities.
- A 3 percent increase in Natural Floodplain Function lands.
- A 3 percent increase in Surface Water Protection lands.
- A 4 percent increase in Fragile Coastal Resource lands.
- A 4 percent increase in Functional Wetlands.
- A 6 percent increase in Aquifer Recharge lands.
- A 2 percent increase in Recreational Trails.
- A 2 percent increase in Archaeological Sites.
- A 4 percent increase in Sustainable Forestry.

Every six months, FNAI produces a Project Evaluation Report used by the ARC when voting on Florida Forever projects. The report includes an overview of the natural resource values contained in each existing and proposed Florida Forever project. In the May 2007 report, FNAI calculated that 570,600 acres of land are expected to be acquired on Board projects over the life of the Florida Forever program. The estimated acreage likely to be acquired from the report date through the remaining life of the program is approximately 228,600 acres.

Land Management²²

The Office of Environmental Services within the DEP conducts land management reviews under the provisions of s. 259.036, F.S., for the purpose of determining if conservation, preservation and recreation lands owned by the state are being properly managed. Land management review teams evaluate whether or not a management plan is providing an appropriate level of protection to threatened or endangered species, and to significant natural or physical features including geological or hydrological features; evaluates if lands are being managed for the

²¹ Prioritized SHCAs were delineated only outside of Conservation Lands as they existed in June 2000, thus the baseline only reflects lands added to the FNAI database between June 2000 and Oct. 2001.

²² Although this report is directed at evaluating the acquisition process, the issue of managing lands that we have acquired is just as critical and could be the subject of its own report.

purposes for which they were acquired; and assesses whether or not actual management activities are in compliance with the management plan.

The Board is authorized to designate an agency or agencies to manage state-owned lands, and management plans are developed and adopted by the state, regional or local entity designated as the lead manager. For parcels of property more than 160 acres in size, management plans are developed with input from an advisory group that includes the lead managing agency and local private property owners. For properties acquired after 1995, a management plan must be adopted and in place within one year from acquisition of the property. The plans are required to be reviewed and updated every 10 years except that management plans for parcels exceeding 1,000 acres in size must be reviewed by the DEP every 5 years.

The DEP published “*Land Management Review Team Reports, July 2005 – June 2006*” which is a review of the management of 31 properties, involving more than 497,000 acres of land, to determine if the lands were being managed for the purposes for which they were acquired, and in accordance with their management plans. The findings of the reviews include the following:

- On twelve sites (39 percent), over 30 percent of the fire dependent lands had been treated according to prescription. On thirteen sites (42 percent), over 60 percent of the fire dependent lands had been treated according to prescription.
- Six sites (19 percent) have no fire dependent communities;
- On five sites (16 percent), the teams found the burn frequency inadequate to preserve, restore, or maintain the natural communities. On twenty sites (65 percent), the team found fire quality to be excellent (each managing agency is responsible for prescribed burning the lands they manage);
- Control of non-native invasive plants was a management issue on most of the lands reviewed, and the team found control measures inadequate on two sites (6 percent), adequate on two sites (6 percent), and excellent on twenty-seven (87 percent) of the sites reviewed;
- Twenty-one sites (68 percent) had plans that adequately covered testing for degradation of surface waters, and twenty-six sites (84 percent) had adequate testing for groundwater;
- Twenty-one sites (68 percent) were found to be excellent, seven sites (23 percent) were adequate, and three sites (9 percent) were inadequate in actual management practices to protect listed plants and animals on site. For fifteen sites (48 percent), the teams found the management plans inadequate for on-site protection of listed plants and animals or inventories of listed plants and animals;

- On twenty-five sites (81 percent), law enforcement was adequate to excellent to protect the resources; and
- On twenty five sites (81 percent), the public education and outreach programs were found to be adequate to excellent.

For purposes of this review, management review team members included representatives from the county or local government in which the property was located, state agencies, a private land manager, the local Soil and Water Conservation Board, and a conservation organization. Water management district representatives were also included for state properties abutting district lands, and for properties involving joint ownership with a water management district.

In a recent presentation to the Senate Committee on General Government Appropriations, the DEP provided results of the combined reviews of land management activities completed during Florida Forever. Each activity was measured on a scale of below average, average, above average and excellent to ensure compliance with the management plans. The activities measured included:

- | | |
|---------------------|-----------------|
| -Public Access | -Exotic Species |
| -Outreach/Education | -Restoration |
| -Law Enforcement | -Surface Water |
| -Fire Quality | -Ground Water |
| -Fire Frequency | -Funding |
| -Burn Area | -Staffing |
| -Listed Species | -Equipment |

In a review of more than 140 sites, for each of the above activities, results indicated that 98 percent of the sites are managed in accordance with their individual management plans²³ receiving an above average to excellent rating. However, the DEP indicated that in two of the activities listed above, funding and staffing, management review team results were well below average for a majority of the 140 sites reviewed.

Methodology

The first objective of the interim project was to review and analyze all data related to the current state land acquisition program, Florida Forever. This included:

- Evaluation of the effectiveness of the program in meeting its statutory goals and objectives;
- Evaluation of acquisition methods and incentives utilized;

²³ <http://dep.state.fl.us/lands/oes/landmgmt/default.htm>

- Review of acquisition list development; and
- Review of methods used for financing acquisitions.

To assist staff with acquiring the necessary information regarding Florida Forever, all entities receiving funds from the program were asked to provide the following:

- An accounting of all monies received from the Florida Forever Trust Fund;
- A list of all lands acquired utilizing Florida Forever funding; and
- Methods of acquisition.

The second objective of the interim project was to review acquisition programs utilized by the federal government, local governments, and other states. Information was requested from the Legislative Committee on Intergovernmental Relations to assist staff with this objective.

The third objective of the interim project was to compile data on the state's funding methods and history. With the assistance from the Committee on General Government Appropriations, staff compiled a spreadsheet comparing Florida Forever outstanding and authorized debt to the state's overall bonding capacity.

To assist with the completion of the project, staff interviewed representatives from various interest groups to gather information regarding the success of the current program as well as recommendations for the establishment of a successor program.

Findings

Florida Forever 2001 – 2007²⁴

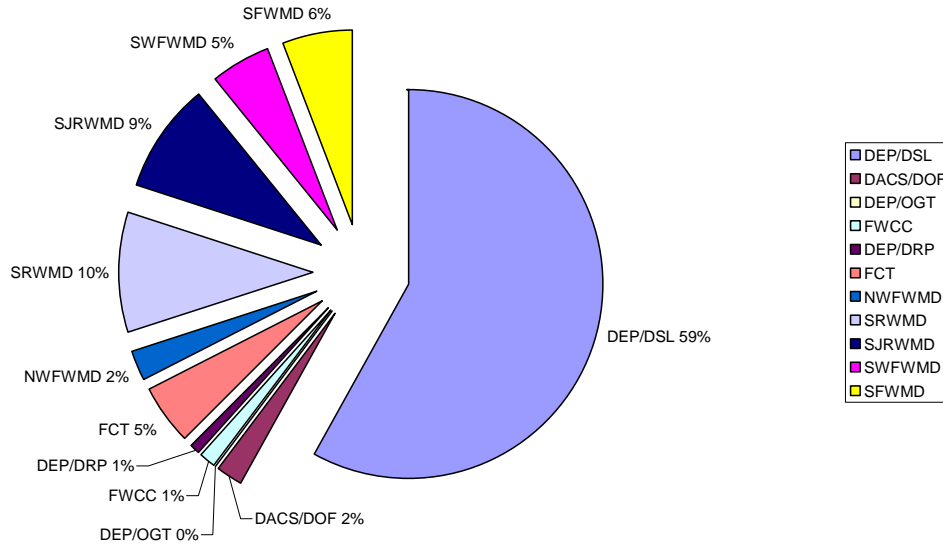
In reviewing the information provided from each source, staff noted the following:

- ❖ 601,640 total acres were acquired under Florida Forever in both full fee and less-than-fee acquisitions. Total acreage acquired by each agency which expended Florida Forever funds is listed below²⁵:

²⁴ Information obtained from the DEP, DCA/FCT, and each of the five water management districts for acquisitions through September 2007. Dollar, percentage, and acreage amounts rounded up or down as appropriate.

²⁵ Percentages represent the portion of the total amount of land acquired by each agency rounded up or down as appropriate.

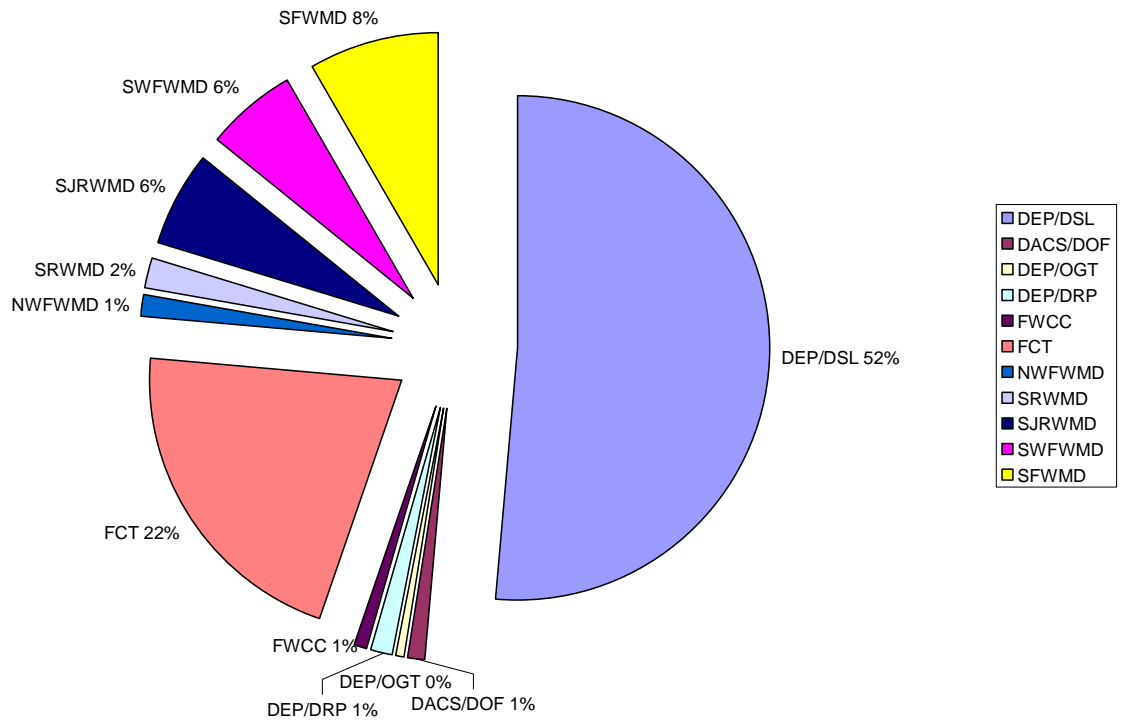
601,640 Total Acres Acquired Under Florida Forever



- DEP/DSL – 349,372
- DACS/DOF – 12,686
- DEP/OGT – 1,381
- FWCC – 7,589
- DEP/DRP – 5,023
- FCT – 30,573
- NFWWMD – 14,624
- SJRWMD – 55,119
- SRWMD – 59,919
- SWFWMD – 30,660
- SFWMD – 34,694

Florida Forever funds expended by each agency are listed below²⁶:

\$1,887,932,206 Florida Forever Funds Expended by Agency



- DEP/DSL - \$970,420,129
- DACS/DOF - \$20,004,780
- DEP/OGT - \$8,822,480
- DEP/DRP - \$26,971,125
- FWCC - \$19,754,188
- FCT - \$394,140,060
- NFWWMD - \$27,709,337
- SJRWMD - \$116,262,921

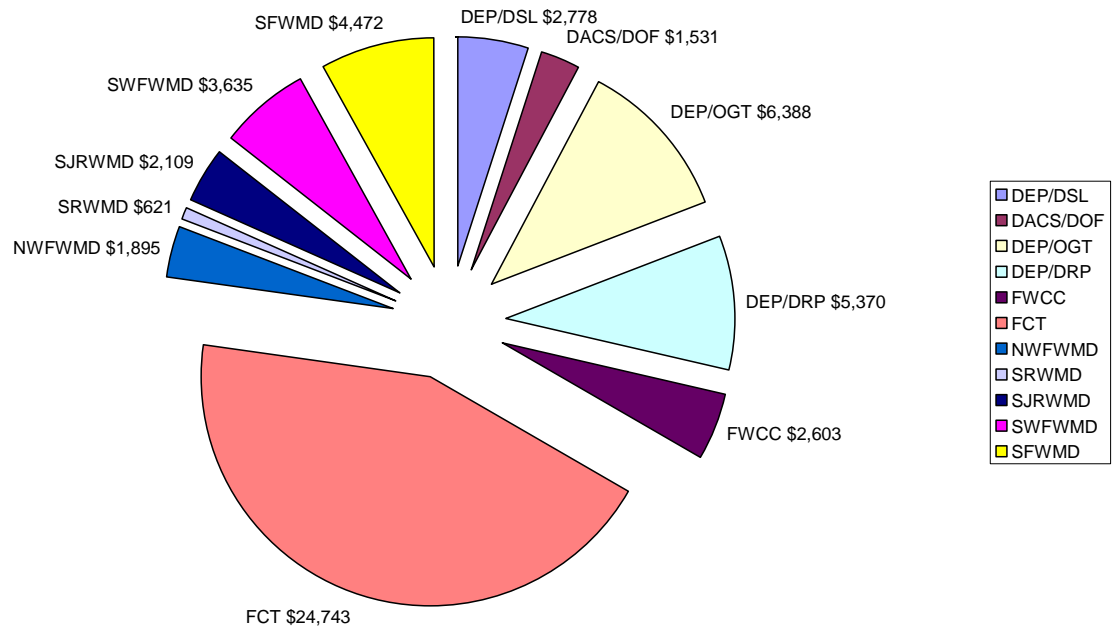
²⁶ Dollar values and percentages represent the portion of the Florida Forever funds expended by each agency rounded up or down as appropriate.

Land Acquisition in Florida

- SRWMD - \$37,246,933
- SWFWMD - \$111,434,217
- SFWMD - \$155,166,036

As identified by the above charts, some agencies were able to acquire land at a much greater value than others. The corresponding chart below outlines the average per acre price paid by each agency:

Average Cost Per Acre



As shown above, the greatest cost per acre is \$24,743 for lands purchased through the FCT program while the least cost per acre is \$621 for lands purchased by SRWMD. These land values appear to follow Florida land value trends when comparing the cost of urban lands to that of rural lands.

Board of Trustees²⁷

- 376,051 acres acquired that required Board approval.
- 63 percent of all Florida Forever lands acquired.
 - 314,558 acres in fee simple or full fee title.
 - 61,493 acres in less-than-fee simple or conservation easement.
- \$1,045,972,702 of Florida Forever funds expended that required Board approval at an average of \$2,781 per acre.
- A complete breakdown for each agency requiring Board approval, which received funding under Florida Forever, is listed below:

| | DEP/DSL | DACS/DOF | DEP/OGT | DEP/DRP | FWCC |
|--|---------------|--------------|-------------|--------------|--------------|
| Fee simple acreage | 287,879 | 12,686 | 1,381 | 5,023 | 7,589 |
| Less-than-fee acreage ²⁸ | 61,493 | 0 | 0 | 0 | 0 |
| Funds expended for fee simple acreage | \$914,842,423 | \$20,004,780 | \$8,822,480 | \$26,971,125 | \$19,754,188 |
| Funds expended for less-than-fee acreage | \$55,577,706 | 0 | 0 | 0 | 0 |
| Average per acre | \$2,778 | \$1,531 | \$6,388 | \$5,370 | \$2,603 |

Water Management Districts

- 195,016 acres acquired in fee simple or less-than-fee acquisitions.
- 32 percent of all Florida Forever lands acquired.
- \$447,819,444 funds expended in fee simple or less-than-fee acquisitions at an average of \$2,296 per acre representing 24 percent of all Florida Forever Funds expended.

²⁷ No information was provided or distinction made regarding the expenditure of funds under the FRDAP program at DEP.

²⁸ No information was provided regarding the breakdown of less-than-fee acreage for DOF, DEP/OGT, DEP/DRP or FWCC from the DEP.

- \$54,426,903 funds were expended for capital improvement projects representing 12 percent of all Florida Forever funds expended by the water management districts.
- A complete breakdown of each water management district acquisitions and expenditures under Florida Forever is listed below:

| | NFWWMD | SRWMD | SJRWMD | SWFWMD | SFWMD |
|---|----------------------------|-------------------------|---------------|-------------------------|---------------------------|
| Total acreage | 14,624 | 59,919 | 55,119 | 30,660 | 34,694 |
| Fee simple acreage | 11,760 | 39,910 | 32,260 | 25,567 | 22,141 |
| Less-than-fee acreage | 2,864 | 20,009 | 22,859 | 5,093 | 12,553 |
| Total state funds expended for acquisitions ²⁹ | \$27,709,337 | \$37,246,933 | \$116,262,921 | \$111,434,217 | \$155,166,036 |
| Funds for fee simple acquisitions | \$24,848,491 | \$26,704,127 | \$74,814,864 | \$106,559,269 | \$112,802,204 |
| Funds for less-than-fee acquisitions | \$2,860,847 | \$10,542,806 | \$19,388,345 | \$4,874,948 | \$42,363,832 |
| Capital improvement expenditures ³⁰ | \$22,237,967 ³¹ | \$250,000 ³² | \$22,059,711 | \$451,927 ³³ | \$9,427,298 ³⁴ |

DCA – FCT

- 30,573 acres acquired in fee simple.
- 5 percent of all Florida Forever lands acquired.

²⁹ This represents the total amount of allocated Florida Forever funds expended for land acquisitions under Florida Forever. This does not include any additional funds expended by the districts or local partners.

³⁰ Capital improvement project funds are expended on a reimbursement basis with contractors and may or may not be utilized, depending on completion of individual projects.

³¹ This includes \$13,298,352 of committed funds for incomplete projects.

³² All funds expended for the Upper Santa Fe emergency watershed protection project.

³³ All funds expended for the Lake Hancock restoration project.

³⁴ SFWMD is unable to provide capital improvement expenditure data for the first 4 years of the program as they did not separate capital improvements from acquisition expenditures.

- \$756,463,960 funds expended in fee simple acquisitions at an average of \$24,743 per acre.
 - \$394,140,060 of Florida Forever funds representing 21 percent of all Florida Forever funds expended.
 - \$362,323,900 of local matching funds expended.

Land Inventory³⁵

- Under the Florida Forever Act, identification of land needs and subsequent acquisition should be based on a comprehensive assessment of Florida's natural resources and planned so as to protect the integrity of ecological systems and provide multiple benefits.
- In 2000, the Florida Forever Advisory Council, with the assistance of the Florida Natural Areas Inventory, developed and approved 15 resource types as the focus of Florida Forever's conservation actions. The assessment of the 15 resource types is an objective science based analysis and represents the consensus of natural resource experts. The resource types have been refined and combined into 12 measures represented below:

³⁵ Information provided by the Florida Natural Areas Inventory www.fnai.org.

Land Acquisition in Florida

| Measures | Total Acres | Baseline Acres Protected | Protected by Florida Forever | Protection by Other Lands | Percent of Total Protected | Remaining Acres |
|---------------------------------------|-------------|--------------------------|------------------------------|---------------------------|----------------------------|-----------------|
| Strategic Habitat | 4,037,580 | 296,360 | 235,960 | 137,840 | 17% | 3,367,420 |
| FNAI Habitat Priorities | 18,001,130 | 6,977,070 | 382,930 | 299,650 | 43% | 10,341,480 |
| Ecological Greenways | 21,565,150 | 3,853,860 | 523,680 | 407,700 | 22% | 16,779,910 |
| Under-represented Natural Communities | 2,989,840 | 1,395,120 | 51,270 | 39,490 | 50% | 1,503,960 |
| Natural Floodplain Function | 2,517,640 | 970,690 | 57,620 | 41,460 | 42% | 1,447,870 |
| Surface Water Protection | 28,574,970 | 3,111,520 | 541,220 | 435,380 | 14% | 24,486,850 |
| Fragile Coastal Resources | 863,170 | 661,500 | 5,080 | 34,710 | 81% | 161,870 |
| Functional Wetlands | 10,610,300 | 5,160,700 | 240,180 | 231,000 | 53% | 4,996,500 |
| Aquifer Recharge | 12,043,220 | 6,397,700 | 536,320 | 120,330 | 59% | 4,988,870 |
| Recreational Trails | 10,386,220 | 2,477,570 | 87,860 | 134,430 | 26% | 7,686,350 |
| Archaeological Sites | 203,920 | 54,610 | 2,720 | 2,470 | 29% | 144,130 |
| Sustainable Forestry | 11,580,380 | 2,366,270 | 265,340 | 138,960 | 24% | 8,809,820 |

- Total acres represent the total amount of conservation lands that exist which satisfies each measure. These lands can overlap with other measures providing multiple conservation benefits.
- Baseline acres protected represents the total amount of protected conservation lands when the Florida Forever program began.
- Protected by Florida Forever represents the amount of acreage protected by the Florida Forever program that satisfies each conservation measure. These lands can overlap with other measures providing multiple conservation benefits.
- Protection by other lands represents conservation lands protected by efforts other than the Florida Forever program.

- Percent of total protected represents the percentage of total acres, for each measure, in public or private conservation ownership.
- Remaining acres represents the amount of acres still available for conservation in each measure.

Federal, State and Local Land Acquisition Programs³⁶

- Between 2000 and 2005, the federal government provided more than \$1.3 billion of funding to states to purchase more than 4 million acres of conservation land.
- From 1998 to 2005, Florida ranked last in federal land acquisition spending (\$7,306,410 per year) for acquisition of conservation lands.
- From 1998 to 2005, Florida ranked first in state land acquisition spending (\$444,862,555 per year) for acquisition of conservation lands; easily outpacing second place California (\$316,159,160 per year) and third place New Jersey (\$106,466,644 per year).
- Florida ranks second in total federal conservation lands (5,634,413 acres) behind only Alaska (6,213,490 acres) but has only one-tenth the total land area of Alaska.

➤ **California³⁷**

- In California, the acquisition program is administered pursuant to the original enabling legislation, "The Wildlife Conservation Law of 1947" and land acquisition is a component of all *Wildlife Conservation Board* (WCB) programs.
 - The WCB acquires real property or rights in real property on behalf of the Department of Fish and Game and can also grant funds to other governmental entities or nonprofit organizations to acquire real property or rights in real property.
 - All acquisitions are made on a "willing seller" basis pursuant to a fair market value appraisal. The acquisition activities are carried out in conjunction with the *California Department of Fish and Game* (DFG), with the DFG recommending priorities for proposed acquisitions. Following the DFG site

³⁶ Information regarding federal land acquisitions was provided by The Trust for Public Land. Professional staff found very little information readily available for other state or local programs. The states and local programs selected for this report were done so to support the data provided by The Trust for Public Lands as well as to highlight some unique approaches to land acquisition.

³⁷ Information provided at <http://www.wcb.ca.gov/>

evaluations, recommendations are submitted to the WCB for consideration for funding.

- In 2002, the California Legislature passed the *Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act* which provided almost \$6 billion dollars for land acquisition programs.
- As of January 2007, all the funds under the Act have been utilized³⁸.

➤ **New Jersey**³⁹

- The New Jersey Green Acres Program was created in 1961 to meet growing recreation and conservation needs. From 1961 through 1995 New Jersey voters overwhelmingly approved nine bond issues, earmarking over \$1.4 billion for land acquisition and park development.
- In 1998 New Jersey voters approved a referendum which creates a stable source of funding for open space, farmland, and historic preservation and recreation development, and on June 30, 1999, the Garden State Preservation Trust Act was signed into law. The bill establishes a stable source of funding for preservation efforts.
- The Garden State Preservation Trust Act dedicates \$98 million annually for ten years and authorizes the issuance of up to \$1 billion in revenue bonds.

➤ **Rhode Island**⁴⁰

- In Rhode Island, the state Department of Environmental Management (DEM) operates to define, assess, develop plans and acquire land consistent with the responsibility to provide recreational lands and save environmentally sensitive open space for future generations. There are four programs designed to accommodate public land acquisitions. They are:
 - Agricultural Land Preservation Program - this program preserves land through the purchase of farmland development rights.
 - State Land Acquisition - this program uses state, federal and foundation funds to acquire property for recreation, hunting, fishing and other outdoor activity.

³⁸ Data regarding the types and size of acquisitions not available.

³⁹ Information provided at <http://www.state.nj.us/dep/greenacres/index.html>

⁴⁰ Information provided at <http://www.dem.ri.gov/programs/bpoladm/plandev/landacq/index.htm>

- Forest Legacy - this program uses federal funds to acquire easements or fee simple title for the purpose of protecting the state's forest resources.
- North American Wetland Conservation Act - this program uses federal funds to acquire easements or fee title to protect waterfowl habitat.
- In 2006, the DEM acquired more than 1428 acres of land at a cost of almost \$20 million (approximately \$14,000 per acre).
- Only 154.5 acres were acquired utilizing full fee or fee simple purchase. The remaining 1273 acres were acquired either by an easement or through the purchase of agricultural development rights.

➤ **City of Portland, Oregon⁴¹**

- The City of Portland, Oregon, Parks and Recreation (PP&R) acquires property for park purposes utilizing a variety of funding resources. In some cases, funds are obtained for purchase of a specific piece of the property through grants or special one-time allocations from City Council. Previous bond measures have also provided resources for park acquisition. However, the park System Development Charge (SDC) is currently the primary funding source to meet the need created by growth for acquisition of land for future parks and recreation facilities. While acquisition is the priority, the funds can also be used for development.
 - SDC funds are generated by a one-time fee that is charged to new residential development at the time the building permit is issued. Since the funds are generated only when new development occurs, the law requires that SDC acquisitions be made in the parts of town experiencing growth. PP&R tracks building trends on an annual basis and adjusts SDC target areas accordingly.
 - PP&R's Land Acquisition and Strategy provides the framework for determining which potential acquisition projects to pursue.
 - PP&R is continually identifying opportunities and gathering information for potential park acquisitions. Community nominations are one of the ways that PP&R learns about these opportunities. The Site Nomination Form provides staff with the basic information needed to evaluate a suggested site. Once the form is received, preliminary research and

⁴¹ Information provided at <http://www.portlandonline.com/parks/index.cfm?c=42035>

review is completed. Then the site information is added to the overall acquisition inventory and the nomination is acknowledged.

➤ **Hillsborough County, Florida⁴²**

- In 1987, a referendum providing for the collection of a .25 mil tax, for four years, for the purchase or protection of environmentally sensitive lands was approved by the voters of Hillsborough County creating the Environmental Lands Acquisition and Protection Program (ELAPP).
- In 1990, a subsequent referendum was passed to extend the program for an additional 20 years.
- The ELAPP program was founded on the basis of citizen involvement. Volunteer citizens, as the Environmentally Sensitive Lands Committee, worked with county staff to develop nomination criteria, program policies, and procedures.
- In order to proceed with the implementation of the ELAPP, Site Assessment Teams, Site Review Teams, and Site Selection Teams were established to evaluate, select, and recommend potential sites for acquisition.
- The program has acquired or participated in the preservation of nearly 43,500 acres at a cost of approximately \$184.4 million.
- A portion of ELAPP revenues, phosphate severance taxes, lease revenues, and restoration grants funds the county's Conservation Services Section consisting of twenty-seven permanent members. This section carries out a variety of land management activities including site security, prescribed burning, exotic plant control, protected species recovery, and public access.

Florida Bond Authorizations⁴³

- Total bonding authorization for Florida Forever to date is \$1,700,000,000.
 - Fiscal year 2000-2001, \$300 million authorized (\$300 million sold)

⁴² Specific data regarding the Hillsborough County ELAPP was obtained from the *Report to the Board of County Commissioners, Recommendations Concerning: Hillsborough County's Environmental Lands Acquisition and Protection Program, 2006 Annual Report*, Parks, Recreation and Conservation Department, Real Estate Department; February 2007.

⁴³ Information provided by the Division of Bond Finance.

- Fiscal year 2001-2002, \$300 million authorized (\$300 million sold)
- Fiscal year 2002-2003, \$300 million authorized (\$300 million sold)
- Fiscal year 2003-2004, \$200 million authorized (\$200 million sold)
- Fiscal year 2004-2005, no bonds authorized, acquisitions funded wholly from cash.
- Fiscal year 2005-2006, \$300 million authorized (\$200 million sold)
- Fiscal year 2006-2007, no bonds authorized, acquisitions funded wholly from cash.
- Fiscal year 2007-2008, \$300 million authorized (\$0 sold)
- There are currently \$400 million of unsold authorized Florida Forever bonds.
- Annual Florida Forever debt service will peak at \$174,366,325 in fiscal year 2012-2013 on all sold bonds then slowly decline until debt service is paid in fiscal year 2025-2026.
- For fiscal year 2007 - 2008, the total annual debt service is approximately \$366 million and will continue until the P2000 bonds begin maturing in fiscal year 2012-2013.

Florida Forever Funding 2008 - 2010⁴⁴

It has been widely perceived that the Florida Forever program sunsets in 2010. However, s.259.1051, F.S., which provides the specific financial authority for the program, explicitly states that the programs only limitation is the existing \$3 billion bonding capacity. Neither this specific statute, nor s.259.105, F.S., which created Florida Forever, provide for a specific sunset date.

Through the course of authoring this report, professional staff compiled fiscal data on Florida Forever through 2010. To assist us in the review of the Florida Forever fiscal data, the Committee on General Government Appropriations provided the following information:

- For fiscal year 2007 – 2008;
 - Approved commitments⁴⁵ total \$179,990,665
 - Anticipated acquisitions⁴⁶ total \$209,160,537

⁴⁴ Funding information provided by the Committee on General Government Appropriations.

⁴⁵ Approved commitments are those acquisitions that have been approved by the Board.

- Although total approved commitments and anticipated acquisitions exceed legislatively authorized bonding by \$89,151,202, DSL anticipates utilizing a portion of the \$400 million of unsold bonds to make up the difference.
- Including previous years commitments, DSL anticipates there will be an approximately \$112 million cash balance at the end of the 2007 – 2008 fiscal year.
- For fiscal year 2008 – 2009;
 - Approved commitments total \$58,610,422
 - Anticipated acquisitions total \$369,187,309
 - Total approved commitments and anticipated acquisitions exceed the available cash balance by \$315,350,016
 - If the 2008 – 2009 Legislature approves Florida Forever funding at the current \$300 million level, the program is still over committed by \$15,350,016 for that fiscal year.
- For fiscal year 2009 – 2010;
 - Approved commitments total \$23,312,179
 - Anticipated acquisitions total \$61,391,315
 - Since the program carries a negative cash balance from the previous fiscal year, the total approved commitments and anticipated acquisitions add an additional \$84,703,494 to the negative balance.
 - If the 2009 – 2010 Legislature approves Florida Forever funding at the current \$300 million level, the program will have a cash balance of approximately \$199 million.
 - There are approximately \$195 million in statutorily defined disbursements to DACS, DCA/FCT, FWCC, DEP Division of Recreation and Parks, DEP Office of Greenways and Trails, FRDAP, and the five water management districts.
 - This leaves a balance of approximately \$4 million of uncommitted funds for the remainder of the program.

Although Chapter 259.041, Florida Statutes, authorizes the DEP to enter into option agreements or contracts with the landowner to buy the property, the state is under no obligation to execute such contracts.

Climatic Impacts

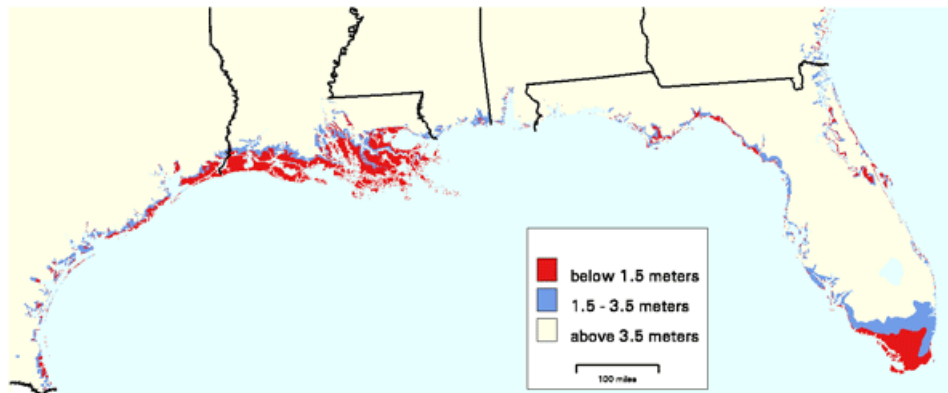
Although the focus of this report is on the successes of the Florida Forever program, professional staff found that there should be at least some level of

⁴⁶ Anticipated acquisitions are those that DSL has indicated there is some level of contractual agreement between the state and the landowner for the state to acquire the property.

discussion on the potential affects of sea level rise to any conservation lands acquisition program. This discussion will not debate the merits or demerits of climate change or sea level rise, but merely state the facts regarding potential impacts to conservation lands should sea levels rise in Florida.

In reviewing relevant data regarding the impacts of sea level rise in Florida, professional staff found:

- Based on measurements obtained from the United States Environmental Protection Agency (USEPA), Florida could expect sea levels to rise up to 60cm (2 feet) in the next century⁴⁷.
- Sea levels could rise by 70cm in the next 120 years.
- With the inclusion of tidal fluctuations and a 70cm sea level rise, the USEPA indicates that areas below a 1.5-meter (5 feet) contour may be impacted by sea level rise.
- Florida has approximately 12,000 square kilometers of land below the 1.5 meter elevation contour.



Conclusions and Recommendations

⁴⁷ *The Probability of Sea Level Rise*, James G. Titus and Vijay Narayanan. 1995. Washington, D.C.: U.S. Environmental Protection Agency. 186 pp. EPA 230-R95-008.

Methodology Objective I

Evaluation of the effectiveness of the program in meeting its statutory goals and objectives:

In reviewing the data provided by each agency, staff concluded that, overall, the Florida Forever program has met its statutory goals. However, there were some inconsistencies in how appraisals of certain parcels were obtained and whether the appraisal price was influenced in any way by DEP. In particular, four such inconsistencies were noted in Auditor General Report No. 2008-109, *Department of Environmental Protection Land Acquisitions Operational Audit*, dated September 2007, which found the following:

- Documentation supporting the Babcock Ranch acquisition gave an appearance of influence of the appraisal amounts by the DEP in the establishment of value estimates on contracted fee appraisers.
- The DEP relied on hypothetical conditions in the appraisal of the Norfolk Southern acquisition; even though it was demonstrated in the appraisal reports that it was unlikely the hypothetical conditions would occur.
- Inconsistencies and deficiencies in the highest and best use analysis and conclusions on appraisals for the Overstreet Ranch and Tiger Island acquisitions may have impacted the value estimates for those parcels.
- There was a lack of documentation of the DEP's appropriate consideration of the prior sale, the value estimates in the appraisal reports, and the negotiation process of the Three Rivers acquisition.

In the report, each finding had a detailed management response from the DEP; however, in each case, the Auditor General found no reason to amend his findings following the response.

Evaluation of acquisition methods and incentives used:

In reviewing the data provided by each agency regarding types of acquisition methods utilized, professional staff concluded the following:

- Overwhelmingly, the method of choice for the acquisition of lands under the Florida Forever program has been full fee or fee simple.
- 84 percent of all acreage acquired by the Board has come with fee simple purchase.
- Collectively, the water management districts have done a better job utilizing less-than-fee alternatives with only 68 percent of lands acquired utilizing full fee options.

As land values and land management costs continue to escalate, less-than-fee alternatives need to be utilized to their advantage. However, the state needs to weigh those costs with the benefits of land conservation and public access before considering less-than-fee options.

Review of acquisition list development:

In reviewing the information provided by DEP regarding how the Florida Forever acquisition list is developed, professional staff concluded the following:

- The development of the acquisition list has been completed within statutory guidelines and goals of prioritizing lands that meet a combination of conservation goals.
- With the assistance of FNAI, the DEP has continued to refine how projects are placed on the list ensuring that they meet specific conservation values.
- The process for ranking certain parcels based on conservation values and needs is not adequately defined in statute.
- The benefit of the State's acquisition of certain parcels, based on conservation values and needs, is not adequately defined in statute.

Although statute clearly defines that acquisitions should be based on the State's expectation of meeting a combination of conservation and resource goals, those goals are too broadly defined with no clear direction as to how they can ever be achieved. Specific targets should be identified for certain conservation values so that the State can meet definable needs.

Review of methods used for financing acquisitions:

In reviewing the methods used for financing acquisitions, professional staff concluded the following:

- The majority of financing for land acquisitions comes from the sale of bonds. Annually, this requires the Legislature to provide approximately \$22 million in additional funds to pay bond debt services.
- For fiscal year 2007 – 2008, the total debt service for all P2000 and Florida Forever bonds is approximately \$366 million.
- On two occasions Florida Forever acquisitions were funded wholly from cash provided from general revenue⁴⁸.

The state should consider using alternatives to bond financing for conservation land acquisitions. Although bond financing provides a quick infusion to a land conservation trust fund, the debt service on those bonds can bind future legislature's ability to finance other programs through recurring debt service.

Methodology Objective II

Review of acquisition programs utilized by the federal government, local governments, and other states:

In attempting to gather information regarding other acquisition programs, staff requested feedback from the Legislative Committee of Intergovernmental Relations as well as from outside land acquisition groups such as Trust for Public

⁴⁸In fiscal years 2004/2005 and 2006/2007, \$300 million was appropriated from general revenue into the Florida Forever Trust Fund for land acquisition.

Lands and the Nature Conservancy. Very little information was readily available regarding other acquisition programs, however most of the federal land acquisition data was provided by the Trust for Public Lands via their online data portal⁴⁹.

In reviewing the information regarding other federal, state and local land acquisition programs, professional staff noted the following:

- Florida ranks last in federal land acquisition funding of all states that received such funds. This could be attributed to:
 - Florida ranking first in state funded acquisition programs limiting the need for federal acquisition dollars; or
 - The states lack of effort in seeking federal land acquisition dollars.
- Although bonding is utilized as financing in other acquisition programs, it does not appear to be the only source for the majority of programs. Other sources of funding such as individual foundations, development impact fees, land trusts, agricultural and conservation easement donations, and federal funding are all utilized in lieu of bonding.

Methodology Objective III

Compile data on the state's funding methods and history:

In reviewing the data compiled on Florida Forever funding methods professional staff noted the following:

- The state has purchased more than 601,000 acres of land at a cost in excess of \$2.3 billion.
- Of the \$2.3 billion authorized, \$1.7 billion has come from bonds.
- Including existing bonds from the P2000 program, the state's annual debt service is approximately \$366 million.
- Although the legislature has not yet appropriated funds for the 2008-2009 and 2009 – 2010 fiscal years, the Board has approved approximately \$82 million in acquisitions for those years.
- DSL has approximately \$430 million of additional anticipated acquisitions for fiscal years 2008 – 2009 and 2009 – 2010.
- Based in the data provided from DSL, the Florida Forever program is almost completely committed through the 2009 – 2010 fiscal year leaving approximately \$4 million for unanticipated acquisitions through the remainder of the program.

The information indicates that certain statutorily designated entities for which Florida Forever funds are disbursed may be overcommitted in fiscal years 2008 -

⁴⁹ Data portal is not yet active for public viewing. Access was provided by Trust for Public Lands staff.

2009 and 2009 – 2010. For example, the DSL has more than \$31 million in Board approved commitments in 2008 – 2009 and \$9 million in 2009 – 2010 even though they indicate an anticipated cash balance of approximately \$16.5 million at the end of fiscal year 2007 – 2008. Although none of the approved commitments are binding unless funds are appropriated by the Legislature, there is at least an appearance of the willingness of the state to acquire real property without Legislative authorization.

Recommendations

The success of Florida’s land acquisition programs is unquestioned. Preservation 2000 and its successor Florida Forever have acquired in excess of 2 million acres of environmentally important lands. The programs have been and still are national models for environmental protection.

However the purpose of this interim project is to evaluate the state’s progress and make recommendations on the potential future of land acquisition efforts. In reviewing the findings, professional staff concluded there were three options for the completion of the current program and development of a successor program. These options include:

Option 1:

- Allow the Florida Forever land acquisition program to end and shift the acquisition of conservation lands to federal, local, or private efforts.
 - Such programs could be funded through various federal grants or private donations.
 - The state could still participate in the acquisition of highly valued “target” parcels that meet multiple needs. Those could be financed through one-time appropriations on an as-needed basis.
 - The state could create a land acquisition grant program funded by dedicated revenue sources such as documentary stamp taxes or by a mechanism similar to that of the City of Portland’s park system development charge.
 - Converting a conservation lands acquisition program over to federal, local, or private efforts could save the state approximately \$22 million annually in debt service payments.

Option 2:

- Modification of the existing Florida Forever program to include:
 - A reworking of the entire acquisition list. The current list, although it follows statutory guidelines, does not provide any mechanism for achieving conservation goals.
 - The development of specific targets for each conservation measure so that acquisition efforts can be tracked and goals can be reached.

- The creation of additional oversight in the acquisition of mega-parcels. As identified in the Auditor General's report, there was some concern over how appraisals were obtained for the Babcock Ranch acquisition, raising the question of should it have required additional legislative oversight. The legislature could put a limit on the size or cost of certain acquisitions that do not require legislative approval thus minimizing the likelihood of departmental influence on mega-parcel appraisals.
- Limiting DSL's ability to enter into any contractual agreements with property owners without prior legislative appropriation or authorization.
- Prohibit the acquisition of or commitment to, purchase lands before adequate legislative authorization or appropriations are provided.
- An increased emphasis on using less-than-fee alternatives. Rising land values and land management issues are significant reasons to seek less-than-fee acquisitions. Types of methods could include conservation contracts, land trusts, and easement donations.
- Consideration of the effects of sea level rise on conservation lands currently in state ownership and any future acquisitions that are located at or below five feet above sea level.
- A sustained funding source for land management. Evaluate sovereignty submerged land leases to determine the potential for dedicating some portion of the lease fees to land management.
- Requiring managing agencies to take advantage of capital improvement dollars available during the time of acquisition. Closer coordination is needed between managing agencies and DSL to identify potential improvements during the appraisal process.
- Expanding land management options that allow for revenue opportunities to pay for the management of the land while not interfering with the intended purpose of the acquisition. Options can include any activities that took place on the land prior to state acquisition such as hunting and agricultural leases, or timber harvesting.
- Developing a database system to track all acquisition activity associated with Florida Forever. One agency should be charged with housing the acquisition data whether it falls on DSL, on another agency currently associated with the program, or an entity created solely for this purpose.

Option 3:

- Creation of an entirely new conservation lands program that includes:
 - Allowing for the completion of the current Florida Forever program to assess conservation land holdings.
 - Identifying additional conservation lands through scientifically definable measures such as those utilized by FNAI.

- Establishing measurable goals for each measure.
- Creating a mix of fiscally responsible funding options for the new program. Such a mix could include bonding, cash, federal grants, donations, development charges, and land trusts. Additional sources could come from the sale of surplus lands that hold minimal or no conservation values.
- Other recommendations also listed in Option 2.

