

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ENRC 08-09 Florida Forever Successor
SPONSOR(S): Environment & Natural Resources Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Environment & Natural Resources Council		Zeiler/Palmer/Perkins	Dixon / Hamby
Committee on Conservation & State Lands	10Y,0N	Palmer	Zeiler
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill extends the current Florida Forever program by 10 years and increases the bonding capacity from an aggregate of \$3 billion to 5.3 billion while maintaining the \$300 million per year cap. The bill requires the legislature beginning July 1, 2010, to analyze the state's debt ratio in relation to projected revenues prior to the authorization of any bonds for land acquisition and directs the legislature to complete an analysis of potential revenue sources for the Florida Forever program by February 1, 2010.

The bill revises the method used to appoint the Director of the Division of States Land (DSL).

The bill designates the Fish and Wildlife Conservation Commission (FWC) and the Department of Agriculture and Consumer Services (DACS) as the state's primary land managers. The Department of State (DOS) and the Department of Environmental Protection (DEP) are designated as specialty land managers. The duties of the primary and specialty land managers are specified.

The bill revises the appraisal thresholds and procedures for state lands acquisition.

The bill requires DSL to initiate an information system to be used in land acquisition and land management decision making and modeling. The requirements of land management plans are revised to include short-term and long-term goals and performance measures that are monitored and reported. The bill expands the uses of state land to include alternative water supply and imperil species habitat.

The bill requires the DSL to conduct an inventory of state lands to determine the value of carbon capture and carbon sequestration on state lands.

The bill requires DACS, DEP, and FWC to develop a formula to allocate interim and long-term land management funds based on the intensity of the management activity required. The allocation formula and the methodology used to develop it are to be approved by the legislature.

The bill revises the allocation of Florida Forever funds by reducing the allocation to the water management districts and establishing an allocation to the DACS to acquire less-than-fee interests in agricultural lands.

The bill requires the Acquisition and Restoration Council and the Board of Trustees to develop and adopt rules defining specific criteria and numeric performance for Florida Forever land acquisitions.

The bill transfers the Florida Communities Trust from the Department of Community Affairs to the DEP.

The bill appears to have a significant fiscal impact on state government and appears to have an insignificant fiscal impact on local government. See Fiscal Comments for a detailed summary.

The bill's effective date is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill extends the Florida Forever program an additional 10 years through 2020 and standardizes land management activities and provides for more detailed accountability reporting by land managers.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 7, Article II, of the State Constitution provides that:

It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law...for the conservation and protection of natural resources.

Section 259.032, F.S., states in part that:

It is the policy of the state that the citizens of this state shall be assured public ownership of natural areas for purposes of maintaining this state's unique natural resources; protecting air, land, and water quality; promoting water resource development to meet the needs of natural systems and citizens of this state; promoting restoration activities on public lands; and providing lands for natural resource based recreation.

Land acquisition has long been recognized as critical for the protection of water and ecological resources. Over the past thirty years, the State of Florida has invested more than \$6 billion to obtain control over approximately 3.5 million acres of land for conservation, recreation, preservation, and restoration. Since 1963 there has been a series of land acquisition programs authorized by statute. These include Outdoor Recreation and Conservation (1963), Environmentally Endangered Lands (1972), Conservation and Recreation Lands (1979), Save Our Rivers (1981), Save Our Coast (1981), Florida Communities Trust (1989), Preservation 2000 (1990), and Florida Forever (2000).

Florida Forever is the state's most recent land acquisition and management blueprint for protecting the state's natural resources. Implemented in 2000 and scheduled to continue through the year 2010, Florida Forever replaced the highly successful P2000 program which was the largest program of its kind in the United States. The Florida Forever Program 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. It provides public land acquisition agencies with the authority to purchase eligible properties and authorizes alternatives to fee simple acquisitions.

The procedures for state land acquisitions, titles to which will vest in the Board of Trustees of the Internal Improvement Trust Fund (trustees), are provided in chs. 253 and 259, F.S., and rule. 18-24, F.A.C. The Department of Environmental Protection (DEP) is charged to be staff to the trustees. This function is provided by the DEP, Division of State Lands (DSL). The DSL is charged to acquire and designate the land managers for state lands as directed by the trustees. Under the Florida Forever program, lands are purchased by:

- the division and are managed by:
 - DEP —
 - Division of Recreation and Parks (DRP);
 - Office of Greenways and Trails (OGT); and
 - Office of Coastal and Aquatic Managed Areas (CAMA);

- Fish and Wildlife Conservation Commission (FWC);
- Department of Agriculture and Consumer Services' (DACS) Division of Forestry (DOF);
- Department of State's (DOS) Division of Historical Resources (DHR)
- the water management districts and are managed by —
 - South Florida Water Management District (SFWMD);
 - Southwest Florida Water Management District (SWFWMD);
 - St. Johns River Water Management District (SJRWMD);
 - Suwannee River Water Management District (SRWMD); and
 - Northwest Florida Water Management District (NFWWMD);
- the Department of Community Affairs' (DCA) Florida Community Trust Program (FCT) grants and are managed by —
 - county or city government; and
 - non-profit organizations.

Lands acquired by the DSL are titled in the name of the Board of Trustees of the Internal Improvement Trust Fund (board). Lands purchased by one of the five water management districts are titled in the name of the district making the acquisition. Lands purchased under the 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 the FCT must remain permanently in public use. Should a non-profit organization cease to manage lands purchased with an FCT grant, the title to those lands reverts to local or state government, a conservation easement, or another appropriate mechanism.

The Florida Forever program is a willing seller program where a land acquisition proposal may be sponsored by a state agency, local government or private citizen. When a sponsor proposes a state land acquisition, an acquisition application is filed with the DSL. In the application the sponsor recommends a manager, and provides an associated management policy statement. These application documents are reviewed by the DSL staff for completeness. If the application is deficient the sponsor is notified and requested to submit additional information.

Once an application is deemed complete, the lands proposed for acquisition are evaluated by the DSL and Florida Natural Areas Inventory (FNAI) staffs for value and suitability with regard to conservation, preservation and recreation attributes. These assessments form the basis for a set of recommendations by the DSL that identify the primary purpose for which the lands would be managed and establish a strategy to optimize that management to incorporate multi-use functions including public access. The recommendations are attached to the application and are submitted to the Acquisition and Restoration Council (ARC). Affected landowners, local governments, regional planning councils and water management districts are notified of the application and staff recommendations.

The ARC is responsible for evaluating, selecting and ranking state land acquisition projects for submission to the trustees for approval. The ARC is composed of nine voting members, four of whom are appointed by the Governor. These four appointees are from scientific disciplines related to land, water, or environmental sciences. The five remaining members are the Secretary of the DEP, the director of the Division of Forestry (DOF) of the Department of Agriculture and Consumer Services, the executive director of the Fish and Wildlife Conservation Commission (FWC), the director of the Division of Historical Resources (DHS) of the Department of State (DOS), and the secretary of the Department of Community Affairs (DCA), or their respective designees.

There are two evaluation cycles that each application goes through before a final vote by the ARC is taken to determine if it is to be included on the acquisition list. These evaluations are a preliminary review and a final assessment. A public hearing regarding the application is held after the preliminary review. The ARC then votes to accept or reject the application. If the application is rejected, it is returned to the sponsor for possible later consideration. If the application is accepted, the division prepares a final project evaluation report (PER).

The PER includes a management recommendation and a recommended manager. These recommendations are derived from consideration of the character of the resource and recreational attributes of the land, which in turn leads to a set of management objectives that can be pursued by the

land manager, the geographic or physical characteristics of the land and how it may fit into a larger landscape objective of one of the possible managers, and negotiations among possible managers where two or more agencies want management of the same proposed acquisitions.

Once a manager has been identified, the managing agency prepares a management prospectus that addresses the purpose for the acquisition and associated uses. The management prospectus delineates the management goals for the property, the conditions that will affect the intensity of management, an estimate of any revenue-generating potential of the property, a timetable for implementing the various stages of management and for providing access to the public, a description of potential multiple-use activities, provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition, the anticipated costs of management including legislative appropriations, recommendations as to how many employees will be needed to manage the property, and recommendations as to whether local governments, volunteer groups, the former landowner or other interested parties can be involved in the management. This prospectus then becomes part of the PER. The ARC then votes whether to accept the report or to seek additional information.

When the PER is accepted by the ARC, affected landowners, local governments, regional planning councils and water management districts are notified, and a public hearing regarding the PER is held. ARC then takes a final vote for project approval. Upon approval the ARC places the proposed acquisition into group-A or group-B lands and ranks the project with respect to other listed approved projects within the assigned group.

Group-A lands are those acquisition projects that the ARC believes make the greatest contribution to achieving the *Florida Forever Act* goals and measures. The number of projects within this group is limited by the total estimated funds available during the acquisition cycle for which the projects are scheduled for consideration by the trustees and the anticipated success of acquiring the targeted lands. Group-B lands are those acquisition projects deemed important but not of the highest priority.

At least twice each year, the projects listed by the ARC are presented to the trustees. Each project receiving a majority affirmative vote by the trustees remains on the ARC priority list. The DSL begins acquiring the project lands.

Once the purchasing of land for an approved project commences, the designated land manager has twelve months to develop a detailed land management plan (LMP) for the project. When the proposed LMP is prepared, it is sent to the division where it is reviewed for completeness and if necessary is returned to the designated land manager for additional information.

Also, once the purchasing of land for an approved project commences, the division establishes a management review team (MRT) that will be responsible for oversight and periodic review of the designated land manager's implementation of the LMP. The MRT is composed of eight members: one person from the local community (or county) within which project is located – this person is selected by the county commission of the county most impacted by the acquisition; one person from the DRP; one person from the DOF; one person from the FWC; one person from the DEP district office in whose jurisdiction the project is located; one person who is a private land manager; one person who is a member of the local soil and water conservation district board of supervisors; and one person who is a member of a conservation organization.

When the LMP is accepted as complete, and the parcel of land being purchased is less than 160 acres in size, the division prepares a letter of delegation of authority to the land manager who then begins implementing the LMP. If the size of the parcel is 160 acres or greater, the LMP is sent to the ARC for review and a public hearing is held to receive comments on the LMP. If, after the public hearing, the ARC finds the LMP deficient, the land manager is required to correct the deficiencies. Upon final approval of the LMP by the ARC, the division is directed to prepare a letter of delegation of authority to the land manager who then begins implementing the LMP.

Each year, after the LMP is implemented, the land manager is required to submit a report of expenditures to the Land Management Uniform Accounting Council (LMUAC). The LMUAC is located within the DEP and consists of the DEP's director of the division, director of the DRP, director of the CAMA and director of the OGT, the director of the DOF, the executive director of the FWC, and the director of DHR, or their respective designees.

The LMUAC is charged with oversight of land management costs. The Auditor General and the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA), or their designees, are directed to advise the LMUAC to ensure that appropriate accounting procedures and uniform methods are used in collecting and reporting cost data. The LMUAC assigns a set of cost accounting categories for each project – no cost is to be assigned more than one category – and prepares an annual report on land management costs for the President of the Senate (President) and the Speaker of the House of Representatives (Speaker). These categories are:

- Resource Management (exotic species control, prescribed burning, cultural resource management, timber management, hydrological management, other);
- Administration (central office headquarters, districts/regions, units/projects);
- Support (land management planning, land management reviews, training/staff development, vehicle purchase, vehicle operations and maintenance, other);
- Capital Improvements (new facility construction facility maintenance);
- Visitor Service/Recreation (information/education, operations); and
- Law Enforcement.

The resource management sub-category "other" includes all resource management activities not captured in the other sub-categories. This includes natural community and habitat restoration through other techniques, biological community surveys, monitoring and research, listed species management, technical assistance, and evaluating and commenting on impacts to state lands from resource utilization.

To determine whether a state land acquisition titled in the name of the trustees is being managed for the purposes for which it was acquired and in accordance with the LMP the land manager submits to a management review by the MRT. This review take place no less than every five years for a project of 1,000 acres or more and no less than every ten years for a project less than 1,000 acres. In conducting the review, the MRT evaluates the extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features. The review also evaluates the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices, including public access, are in compliance with the adopted management plan. A copy of the review, including recommendations for changes to the LMP, is provided to the manager, the DSL and the ARC. The manager incorporates the findings and recommendations in finalizing a required update of the LMP. The ARC includes these reports in their annual report to the President and the Speaker.

Funding for management, maintenance, capital improvement activities, and debt service for trustees lands are provided by the Conservation and Recreation Lands (CARL) Trust Fund. Each year \$10 million dollars from the phosphate rock severance taxes, 3.96 percent of document excise tax revenues (prior years were at 4.2 percent and beginning in 2008 will reduce to 3.52 percent), income from interest on investment of idle CARL Trust Fund monies, and proceeds from the sale of surplus lands are deposited into the CARL Trust Fund. Ten and five-hundredths percent of the annual CARL Trust Fund document excise tax deposit is then transferred to the State Game Trust Fund (prior years were at 9.5 percent and beginning in 2008 will increase to 11.15 percent) to be used for land management activities. An additional transfer from the annual CARL Trust Fund deposit, as necessary but not to exceed \$20 million, is deposited to the Land Acquisition Trust Fund to be used to fund debt service and other obligations with respect to bonds issued to acquire lands through the P2000 or Florida Forever programs. An amount up to 1.5 percent of the cumulative total of funds ever deposited into the P2000 Trust Fund and the FF Trust Fund is to be made available for management, maintenance, and capital improvement activities not eligible for funding by bonds that obligate dedicated state tax revenue. Each

year \$250,000 of these funds are transferred to the Plant Industry Trust Fund for the purpose of funding the Endangered or Threatened Native Flora Conservation Grants Program. CARL Trust Fund monies are also used to reimburse qualifying counties and local governments for tax revenue losses resulting from state land acquisition through the P2000 or Florida Forever programs. In addition, funds are available for state lands management and are distributed to a lead managing agency for interim and long term management in accordance with a memorandum of agreement (MOA) negotiated by the managing agencies. Any unencumbered monies in the CARL Trust Fund may be used for land acquisition.

Interim management is a short term effort needed to open a new land acquisition for immediate public use and to provide for necessary activities while the land management plan is being finalized. Up to one-fifth of the available CARL Trust Fund monies are to be set aside for interim management. Each year \$4.5 million of CARL Trust Fund monies are set aside for this purpose. This funding is separated into two categories — ninety percent to the acreage category for land management activities and ten percent to the special needs category for emergencies and historical sites. The special needs funds and are held separate for the first three quarters of the fiscal year. After the first three quarters, any unexpended special needs funds are moved to the acreage category.

Acreage category funds are distributed to the designated managing agency at the time of closing on a new property according to an estimated needs formula. This formula calculates a per acre dollar amount as directed by the MOA by averaging the acres acquired in the previous fiscal year and the acres anticipated to be acquired in the current fiscal year then dividing that acreage average into the current fiscal year's total available interim management funds. Upon designation as lead manager of a newly acquired land parcel, an agency receives interim management funds in an amount equal to the acres of the acquired parcel times the formula's calculated dollars per acre value (\$77.00 per acre for fiscal year 2007-08).

The annual long term management funds are provided to the managing agencies on the basis of a dollar per acre value calculated by a weighted acreage formula from the MOA. The use of weights as applied in the MOA formula is to some extent based on the directive of s. 259.032(11)(c), F.S.:

(c) In requesting funds provided for in paragraph (b) for long-term management of all acquisitions pursuant to this chapter and for associated contractual services, the managing agencies shall recognize the following categories of land management needs:

- 1. Lands which are low-need tracts, requiring basic resource management and protection, such as state reserves, state preserves, state forests, and wildlife management areas. These lands generally are open to the public but have no more than minimum facilities development.*
- 2. Lands which are moderate-need tracts, requiring more than basic resource management and protection, such as state parks and state recreation areas. These lands generally have extra restoration or protection needs, higher concentrations of public use, or more highly developed facilities.*
- 3. Lands which are high-need tracts, with identified needs requiring unique site-specific resource management and protection. These lands generally are sites with historic significance, unique natural features, or very high intensity public use, or sites that require extra funds to stabilize or protect resources, such as lands with heavy infestations of nonnative, invasive plants.*

The allocation formula assigns a weight of one-half for conservation easement monitoring and private management assistance tracts, one for low need tracts and three for high need tracts. For the lands for which they have been identified as the lead manager, each agency identifies how many acres of each weight class they manage. The dollar per acre value (\$31.37 per acre for fiscal year 2007-08) is equal to the current fiscal year's total available long-term management funds (\$71.5 million for fiscal year 2007-08) divided by the sum over the weight classes of the appropriate weight times the total of all

agency reported acres in that weight class. An agency's allocation of funds is then determined by multiplying this dollar per acre value times the weight times the reported acres in each weight class and summing over the weight classes. In the acreage reporting for this formula, when an agency evaluates a tract regarding the weight to be assigned, the total acres for that tract are assigned the highest weight that would apply to any portion of the tract. For example, if ten percent of a tract area rates a weight of three and ninety percent rates a weight of one, one-hundred percent of the tract area would be reported as having a weight of three.

Since its inception in July 2001 through March 2007, the state's Florida Forever land acquisition program has preserved (Note: These acreages often overlap, and thus should not be added together.):

- 235,960 acres of Strategic Habitat Conservation Areas;
- 382,930 acres of rare species habitat conservation areas;
- 523,680 acres of ecological greenways;
- 51,270 acres of under-represented natural communities;
- 57,620 acres of natural floodplains;
- 541,220 acres important to significant water bodies;
- 5,080 acres of fragile coastline;
- 240,180 acres of functional wetlands;
- 524,833 acres of significant groundwater recharge areas;
- 87,860 acres of land to support priority recreational trails;
- 265,340 acres of sustainable forest land; and
- 2,720 acres of archaeological and historic sites.

Public use is allowed on almost all conservation lands with most of the exceptions being associated with structures supporting either flood control or water supply, lands leased for activities such as agriculture, or during times of infrastructure construction. Although most conservation lands are open to public use there is often a perception that this is not the case. The perception of areas not being open for public use may be based on difficulty in finding access points or to areas closed to particular uses but not to others. Certain uses, such as hunting, are restricted by seasonality or they may be limited due to incompatibility with management goals or other ongoing public uses.

The challenge associated with providing public use and recreational opportunities on publicly owned conservation lands is to provide adequate access and suitable use opportunities to satisfy the public's needs without compromising the managing agencies mission or the natural resource values that led to the acquisition of those lands. For example, the Florida Communities Trust program is designed to acquire lands that are associated with urban open space and provides for an intensive use by the public. The State Parks provide for an intensive use on a limited footprint within a larger landscape. A wildlife management area has limited access and is usually managed to minimize impacts from human activities.

Recreational opportunities provided by a managing agency are a choice about how many services can be provided given their cost. Expanding recreation facilities to levels similar to those found in State Parks including campgrounds, boat ramps, bathrooms, running water, etc., dramatically increase land management costs. Facilities require ever-more maintenance as they age, security and law enforcement expenses increase, as well as utility, commodity, and staffing costs. Privatizing concessions can help, but they are only financially feasible in areas that have high visitation, like beach parks. User fees can be implemented but increase staffing and administration costs.

Effect of Proposed Changes

The bill extends the current Florida Forever (FF) program for a period of ten years. The retirement date for all Florida Forever bonds is extended from December 31, 2030 to December 31, 2040. The aggregate limit on amount bonds issued for Florida Forever purposes is increased from \$3 billion to \$5.3 billion. Beginning July 1, 2010, the bill requires the legislature to analyze the state's debt ratio in relation to projected revenues prior to the authorization of any bonds for Florida Forever land

acquisition and directs the legislature to complete an analysis of potential revenue sources for the Florida Forever program by February 1, 2010.

The bill amends s. 253.002, F.S., to establish two land manager designations, a primary land manager and a specialty land manager. The duties of the each land managers are clarified. The FWC and the DACS are designated the state's primary land managers. Their duties and responsibilities include, but are not limited to, developing the land management plans required pursuant to s. 253.034, F.S., implementing the approved land management plans, and monitoring the results of land management activities conducted pursuant s. 253.034, F.S. The DOS and DEP are designated a specialty land managers. Specialty land managers manage sites that focus on providing education, public access and recreation at sites that include but are not limited to, parks, gardens, aquatic preserves, museums, historical and culture sites. The duties and responsibilities of the state's specialty land manager include, but are not limited to, developing the land management plans required pursuant to s. 253.034, F.S., implementing the approved land management plans, and monitoring the results of land management activities conducted pursuant s. 253.034, F.S.

Each land management agency, in consultation with the ARC is required by October 1, 2008 and biennially thereafter, to request information from private land managers, land management consultation firms and other interested parties experienced in land management to evaluate whether private contractors can accomplish land management duties and responsibilities at a lesser cost than those costs incurred by the agencies. The land management agencies, either individually or collectively, are to compile, review and evaluate private sector proposals and determine whether to contract with private land managers, land management consulting firms and other interested parties experienced in land management to accomplish some or all of these duties and responsibilities the land managing agencies prepare an evaluation demonstrating savings attained by performing such services with existing resources or from an private contractor. The evaluation is to be provided to the ARC, the Executive Office of the Governor, the Speaker of the House Representatives and the President of the Senate.

The bill amends s. 253.025, F.S., transferring rulemaking authority relating to the requirements for selecting appraisers for proposed state lands acquisitions from the DSL to ARC. The bill removes the requirement for a review appraiser to perform a general field inspection of the subject property prior to accepting or rejecting an appraisal. The bill also transfers rulemaking authority relating to waiving the requirements for an appraisal report to contain a sales history of the subject property from the DSL to ARC. The bill changes the agencies that select appraisers. Acquisitions valued at \$500,000 or more require a second appraisal by an appraiser selected by DACS. If the two appraisals differ by 20% or more, a third appraisal must be obtained. The third appraiser is to be selected by the Chief Financial Officer (CFO) and the CFO is to select the review appraiser. Also, the DACS, the CFO, and the DEP are to enter into an interagency agreement providing for the reimbursement of appraisal fees by the DEP.

The bills amends s. 253.025, F.S., authorizes the DSL to prepare appraisals for proposed acquisitions with an estimated value less than \$100,000 and prohibits the current practice that authorizes the payment of up to 150% of the appraised value of a parcel, for joint purchases.

Section 253.03(17), F.S., is repealed. The provision provides for a lease of state lands to Miami-Dade for a public facility. The provision is valid for the 2007-2008 fiscal year and expires July 1, 2008.

Section 253.0325, F.S., is amended to require the DSL to inventory all lands acquired under the Preservation 2000 (P2000) and the Florida Forever programs – including water management district and FCT lands as well as all lands to which title is vested in the BOT. This inventory is to include an element that tracks bond covenants and the expiration of those bond covenants. DEP is to initiate and maintain an information system that will be the basis for land acquisition and land management decision making and modeling. The information system is to map, in an electronic format, the natural communities on each tract of state land and each proposed land acquisition. Natural community is defined as a distinct and recurring assemblage of populations of plants, animals, fungi and microorganisms naturally associated with each other and their physical environment. Each natural

community will be partitioned into natural community categories, each natural community category will be partitioned into natural community groups and each natural community group will be partitioned into natural community types. The FWC and the DACS will assist in the development and standardization of the information system. The DEP may utilize a third party for the development of the information system and its data. However, the information system and its data are to be the property of the state.

The bill amends s. 253.034, F.S., to allow recreational activities on all public lands acquired under P2000 and Florida Forever, not just those designated for natural resource based recreation. The bill requires lands designated as "multiple-use" to be managed in a manner that enhances public access, and revises the types of lands designated as single use by removing parks and wild life management areas and including designated preserves, and provides for enhancing public access to state waters in designated "single use" lands.

The bill amends s. 253.034, F.S., to revise the definition of "multiple use" to include public access to water, water resource development and alternative water supplies. The definition of "single use" is revised to allow the public access to state waters. The definition of "conservation lands" is revised allowing lands that increase public recreation or facilitate a more efficient land management plan to be retained as conservation lands. Definitions for "imperiled species" and "public access" are provided.

Additionally, the bill amends s. 253.034, F.S., revises the requirements for land management plans (LMP). State lands are to be managed to ensure the conservation of the state's plant and animal species and to assure the accessibility of all public lands for the benefit and enjoyment all people of the state, both present and future. Land management agencies are to prepare LMP's for state lands – each LMP is to provide desired future condition with both short-term and long-term goals, and measurable objectives designed to achieve the goals and desired future condition. Short-term and long-term goals are to have measurable objectives for the following:

- Natural communities habitat maintenance, restoration and improvement.
- Wildlife habitat maintenance, restoration and improvement.
- Advancement of imperiled species both plants and animals.
- Public access and recreational opportunities.
- Hydrological preservation and restoration.
- Sustainable forest management.
- Exotic and invasive species maintenance and control.
- Capital facilities and infrastructure.
- Financial sustainability of land management activities.

The LMP is to include the following elements:

- a physical description of the property;
- a quantitative data description of the property to include a survey of forest resources, exotic and invasive plants, hydrological features, capital facilities including recreational facilities -- the description shall be of such detail that objective measures and benchmarks can be established for each tract of land and monitored during the lifetime of the plan, all quantitative data collected are to be aggregated, standardized, collected and presented in an electronic format to allow for management reporting and analysis, and the information collected by the DEP pursuant to s. 253.0325(2), F.S., is to be available to the land manager and their assignee;
- a detailed description of each land management objective and the activities that are to be performed to meet the land management objectives-- each land management objective must be addressed by the land management plan but no land management objective shall be performed to the detriment of the other land management objectives;
- an activity matrix shall be prepared that contains a timeline, quantitative measures, detailed expense and manpower budgets for each activity; and
- a summary budget for the land management activities of the LMP which is to be prepared in such a manner that it facilitates an aggregation of land management costs for all state lands.

Upon completion, the LMP is to be transmitted to the ARC for review. The ARC has 60 days to review and prepare its recommendation for the BOT. If the ARC fails to make a recommendation, the DACS, DEP and FWC shall submit the LMP to the BOT. The LMP becomes operational upon approval by the BOT.

Beginning July 1, 2010 and biennially thereafter, the state lands with an approved land management plan must be monitored by a monitoring team comprised of three members, one from each of agency (DACs, DEP, and the FWC), and reviewed by a third party selected by the ARC. The monitoring team is to prepare a monitoring report that assesses progress toward achieving land management goals and proposes corrective actions for identified deficiencies. The monitoring report is to be submitted to the managing agency and the ARC. The third party reviewer is to prepare an audit of selected land management activities based on a risk based approach and shall identify the progress toward achieving short-term and long-term land management goals and analysis of the management plan shall identify the progress of the management activities. The third party audit is to be submitted to the ARC and the managing agency. The ARC is to review the monitoring report and the third party audit, and determine whether the deficiencies warrant a corrective action plan or revisions to the land management plan. Significant and recurring deficiencies are to be brought before the BOT, which shall determine whether the corrective actions being proposed by the land manager and the ARC sufficiently address the identified deficiencies. Corrective action plans are to be prepared and submitted in the same manner as land management plans. The bill removes the provisions that allows the ARC and the BOT to modify LMP.

During the development of the LMP, at least two public hearings are to be held. The LMP's are to be reviewed on rotating basis on a 10 year cycle.

The bill provides for state lands that are not actively managed by any state agency or for which a land management plan has not been completed be reviewed by the ARC for its recommendation as to whether such lands should be managed by a private contractor or leased.

The bill repeals s. 253.034(6)(f)2, F.S., regarding property gifted prior to 1955 being conveyed back to the grantor. This section becomes obsolete on the effective date of this bill.

The bill requires DACS and DEP to contract for an inventory of all state lands acquired with P2000 and FF funds to determine the value of carbon capture and carbon sequestration.

The bill requires the FWC to prepare a workplan to utilize state lands to protect, manage and restore habitat for native and imperiled species.

The bill amends s. 253.036, F.S., requiring DOF to prepare an analysis that assesses the feasibility of managing timber resources of state lands.

The bill amends s. 253.111, F.S., providing consistency in provisions for noticing local governments by increasing the notice time from 30 days to 45 days.

The bill amends s. 253.82, F.S., removing the limitation for one appraisal for Murphy Act lands.

The bill amends s. 259.032, F.S., providing flexibility for the use of funds in the Conservation and Recreation Lands (CARL) Trust Fund, including the expenditure of monies for restoration, enhancement and management of public lands and the less-than-fee acquisitions for agricultural lands pursuant to s. 570.71, F.S. The bill allows DACS, DEP, and FWC to contract with each other to assist in restoration and management activities. The bill increases the number of public meetings required when developing LMP. The bill removes the exemption for LMP requirements for parcels less than 160 acres. The bill also changes the current ceiling of 1.5% of CARL funds for land management purposes to a floor of 1.5% and provides that the DEP may utilize up to 5% of the funds credited to the CARL trust fund in one year for purposes of maintaining the land records information system.

The Secretary of the DEP, the Executive Director of the FWC, and the Commissioner of Agriculture are to prepare and deliver a report to the BOT, the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2008, that provides the methodology used to develop and a recommendation for a formula to allocate land management funds provided for the interim and long-term management of all state lands. The methodology and formula shall recognize, but not be limited to, the following:

- the assignment of management intensity associated with the natural community categories, groups and types provided in 253.0325(2), F.S., and the related management activities to land management goals provided in 253.034(5), F.S.:
 - The acres of land that require minimal effort for resource preservation or restoration,
 - The acres of land that require moderate effort for resource preservation or restoration,
 - The acres of land that require significant effort for resource preservation or restoration,
- the assignment of management intensity associated with public access, including but not limited to:
 - the acres of land which require minimal effort for resource preservation, development, or restoration — these lands generally are open to the public but offer no more than minimally developed facilities,
 - the acres of land which require moderate effort for resource preservation, development, or restoration — these lands typically have a high degree of public use and offer highly developed facilities, and
 - the acres of land which require significant effort for resource preservation, development, or restoration — these lands generally are sites with historic significance or unique natural features, and a very high degree of public use,
- The location, size and nature of the tract;
- The monitoring activities required pursuant s.253.034, F.S.;
- The acres of land with a secondary manager contributing to the over-all management effort;
- The anticipated revenues generated from management, restoration and repopulation of the lands;
- The acres of land with infestations of non-native or invasive plants, animals, or fish.the acres of land with a secondary manager contributing to the over-all management effort.

Beginning July 1, 2010, no funds provided in paragraph (b) shall be allocated, distributed or expended until the allocation formula for funding land management activities has been adopted by the legislature.

The bill provides that the state is to make payment to county or local governments for lost ad valorem tax revenues from lands acquired by the state. These payments are to apply only to those counties or local governments that have a population less than 150,000 residents. For qualifying governments, payments will continue until the population reaches or exceeds 150,000 residents. However, a qualifying government will receive no less than ten annual payments.

The bill amends s. 259.035, F.S., revising the membership of the ARC. Two members will be appointed by the Governor, one by the Commissioner of Agriculture, and one by the Executive Director of the FWC. The bill provides for the manner that vacancies will be filled. The bill specifies that the Director of the Division of Community Planning of the Department of Community Affairs will sit as a member of the ARC. The bill removes the compensation provisions for ARC members.

The bill requires the ARC, with the assistance of recipient of FF funds, to develop and adopt rules that provide specific acquisition criteria and numeric performance measures to prioritize land acquisitions by July 1, 2009. The rules must be approved by the trustees and then adopted by the legislature.

The bill amends s. 259.036, F.S., revising the representation of the management review teams. DEP representatives are reduced from 2 to 1. Two private land managers are added to the management review teams, one each selected by the DACS and FWC. The bill removes the provision requiring a review for management of a land unit larger than 1,000 acres.

The bill amends s. 259.037, F.S., revising the reporting requirement of each land manager's annual report to the LMUAC. The grouping of land management activities is revised to include restoration, visitor services, support, and law enforcement.

Each reporting entity is to report the following, in addition to the data currently required:

- List the acres of land requiring minimal management effort, moderate management effort, and significant management effort pursuant to s. 259.032(11)(c), F.S. For each category they shall include the amount of funds requested, the amount of funds received and the amount of funds expended for land management.
- Include a report of the available public use opportunities for each tract of state land and the total management cost for public access and public use and the cost associated with each use option.
- List acres managed and cost of management for each park, preserve, forest, reserve, or management area.
- List acres managed, cost of management and lead manager for state lands tracts for which secondary management activities were provided.

Beginning July 1, 2010, all such costs shall be tied to the land management plan. Beginning July 1, 2010, the LMUAC shall conduct a review every five years and report back to legislature the value added by the report and shall provide a recommendation to revise the reporting requirements.

The bill amends s. 259.041, F.S., revising the provisions relating to joint acquisition and limiting the state's participation in such agreements to the appraised value of the lands being obtained. The bill requires legislative approval for agreements that exceed \$100 million. The bill changes the agencies that select appraisers. Acquisitions valued at \$500,000 or more require a second appraisal by an appraiser selected by DACS. If the two appraisals differ by 20% or more, a third appraisal must be obtained. The third appraiser is to be selected by the CFO and the CFO is to select the review appraiser. The bill requires disclosure on future purchase agreement (option) that the option is subject to appropriation by the legislature.

The bill revises s. 259.07, F.S., requiring the ARC to hold at least two public hearing on proposed purchases.

The bill revises s. 259.105, F.S., and amends the "Florida Forever Act". The bill revises the legislature declaration including statements regarding:

- Managing and improving the populations of imperiled species and their habitat;
- Prioritizing land acquisitions based on a comprehensive science based assessment;
- Providing additional emphasis of less-than fee acquisitions;
- Protecting springs and springsheds, and vital aquifer recharge areas;
- Allowing state lands to be utilized for alternative water supplies;
- Authorizing the use of Florida Forever funds for purchasing perpetual rural land protection easement; and
- Recognizing the imminent threat of further alteration and conversion of agricultural lands working waterfronts, public access to waterways, and coastal open space.

The bill revises the allocation and uses of Florida Forever funds as follows.

- The water management district allocation is reduced from 35% to 30% and the allowed uses are expanded to include restoration activities.
- The uses of DEP allocation are expanded to include alternative water supply and restoration of imperiled species habitat. The bill establishes a 3% floor and a 10% ceiling for capital projects identified at the time of acquisition that will provide for public access.
- The bill provides legislative intent that an emphasis be placed on public access to water for Florida Communities Trust projects.
- For the Division of Recreation and Parks allocation, the bill establishes a 1% floor and a 10% ceiling for capital projects identified at the time of acquisition that will provide for public access.

- For the Division of Forestry allocation, the bill establishing a 1% floor and a 10% ceiling for capital projects identified at the time of acquisition that will provide for public access.;
- For the Florida Greenways and Trails allocation, the bill establishes a 1% floor and a 10% ceiling for capital projects identified at the time of acquisition that will provide for public access.
- The bill provides a 5% allocation to the DACS to fund the acquisition of perpetual easements of agricultural land pursuant s. 570.71, F.S.

The bill revises the goals and performance measure of the FF program to include:

- Specific acquisition criteria and numeric performance measures used to prioritize land acquisitions.
- Imperiled species habitat.
- Alternative water supply and water resource development.
- Agricultural lands protected.

The bill requires all leases and deed acquired by a WMD through FF to provide a reverter clause conveying title to the BOT prior to any disposition.

The bill requires the DSL to prepare an annual workplan that prioritizes FF projects. The workplan shall consider the following categories of expenditures for land conservation projects already selected for the Florida Forever list

- A critical natural lands category including functional landscape-scale natural systems, intact large hydrological systems, lands with significant imperiled natural communities and corridors linking large landscapes as identified and developed by the best available scientific analysis.
- A partnerships or regional incentive category, including:
 - Projects where local and regional cost-share agreements provide a lower cost and greater conservation benefit to the people of the state. Additional consideration shall be provided under this category where parcels are identified as part of a local or regional visioning process and are supported by scientific analysis;
 - Bargain and shared projects where the state will receive a significant reduction in price for public ownership of land as a result of the removal of development rights or other interests in lands, or receives alternative or matching funds.
- A substantially complete category of projects where mainly inholdings, additions and linkages between preserved areas will be acquired and where eighty-five percent of the project is complete.
- A climate change category lists of lands where acquisition or other conservation measures will address the challenges of global climate change, such as through protection, restoration, mitigation and strengthening of Florida's land, water and coastal resources. This category includes lands which provide opportunities to sequester carbon, provide habitat, protect coastal lands or barrier islands, and otherwise mitigate and help adapt to the effects of sea level rise, and meet other objectives of the program.
- A less-than-fee category for working agricultural lands that significantly contribute to resource protection through conservation easements and other less-than-fee techniques, tax incentives, life estates, landowner agreements, and other partnerships including conservation easements acquired in partnership with federal conservation programs, that will achieve the objectives of Florida Forever while allowing the continuation of compatible agricultural uses on the land.

The bill amends ss.373.1391 and 373.199, S.S., requiring DEP to ensure the water management districts provide consistent levels of public access on district owned lands and requiring the water management districts to provide clear and concise costs estimates of water resource development projects and identification of uses of Florida Forever fund.

The bill transfers the allocation of Florida Forever funds from the Department of Community Affairs (DCA) to DEP to facilitate the transfer of the FCT program.

The bill transfers the FCT program, as authorized by ss. 380.501 through 380.515, F.S., from the DCA to the DEP. It also requests the Division of Statutory Revision of the Office Legislative Services to prepare a reviser's bill to conform ch. 380, F.S., to the organizational changes made by this bill.

The bill provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

- Section 1: amends s. 20.255, F.S.; providing for appointment of the Director of the Division of State lands; providing FCT to be placed in Division of State lands.
- Section 2: amends s. 201.15, F.S.; providing a retirement date for Florida Forever bonds.
- Section 3: amends s. 215.618, F.S.; providing a cap for Florida Forever bonds; providing Legislature will analyze debt to revenue ratio before authorizing bond issue.
- Section 4: amends s. 253.002, F.S.; providing for primary land managers and specialty land managers; specifying certain duties of land managers.
- Section 5: amends s. 253.024, F.S.; providing for appraisals.
- Section 6: amends s. 253.034, F.S.; providing definitions; providing goals and objectives for management plans.
- Section 7: amends s. 253.0325, F.S.; providing for an inventory of certain state lands; providing for development and maintenance a specified information system.
- Section 8: amends s. 253.034, F.S.; providing state lands management objectives; repealing s. 253.034(6)(f)2, F.S.
- Section 9: amends s. 253.036, F.S.; providing for forest management.
- Section 10: amends s. 253.111, F.S.; providing for consistency in notice provisions.
- Section 11: amends s. 253.82, F.S.; providing for appraisals regarding Murphy Act lands.
- Section 12: amends s. 259.032, F.S.; providing for funds allocation.
- Section 13: amends s. 259.0322, F.S.; providing for recovery of certain lost tax revenue.
- Section 14: amends s. 259.035, F.S.; providing for membership of Acquisition and Restoration Council.
- Section 15: amends s. 259.036, F.S.; providing for membership of management review teams.
- Section 16: amends s. 259.037, F.S.; providing for Land Management Uniform Accounting Council reporting requirements.
- Section 17: amends s. 259.04, F.S.; providing for consistency.
- Section 18: amends s. 259.041, F.S.; providing for option agreements relating to state lands.
- Section 19: amends s. 259.0322, F.S.; providing for public meetings.
- Section 20: amends s. 259.07, F.S.; providing legislative intent; providing for certain acquisition criteria and performance measures; providing for funds allocations; providing for use of rural-lands-protection easements.
- Section 21: amends s. 259.1051, F.S.; providing for Florida Forever bonds.
- Section 22: amends s. 373.1391, F.S.; providing for public access to water management district lands.
- Section 23: amends s. 373.199, F.S.; providing for water management district workplans.
- Section 24: providing for the transfer of the Florida Communities Trust from the Department of Community Affairs to the Department of Environmental Protection.
- Section 25: providing a request for a reviser's bill to conform ch. 380, F.S., to organizational changes.
- Section 26: providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The DEP reports that the bill provisions may provide \$3 to \$7 million in private sector contract opportunities.

D. FISCAL COMMENTS:

State

The bill appears to have a significant fiscal impact on state government pursuant to the following:

- Authorizes an additional \$2.3 billion dollars to be issued in Florida Forever bonds and extends the retirement date of these bonds to December 31, 2040. Each additional \$300 million in Florida Forever bonds sold is estimated to require an additional \$27.2 million in debt service.
- Provides a type two transfer of the Florida Communities Trust within the Department of Community Affairs to the Department of Environmental Protection.
- Expands the DEP computerized information system to capture "all lands" that have been acquired under the Florida Preservation 2000 Act or the Florida Forever Act. The DEP reports this provision will require: 1) a significant redesign of its current data base tracking system; 2) additional staffing; 3) equipment, software and infrastructure; and 4) travel and training costs. The DEP estimates the non-recurring costs to range from \$7 to \$10 million with recurring costs to range from \$1.5 to \$1.7 million. Additional staffing would be needed as reported by the DEP; however, no specific positions were noted in the DEP analysis. The bill provides the Conservation and Recreation Lands Trust Fund as a funding source for the modernization of records.
- Provides for certain new elements to be required for management plans. The DEP reports that 6 FTE positions and the conversion of 5 OPS positions to FTE status will be required to meet the new management plan requirements for an estimated expense of \$1.1 million.
- Increases the funding floor within the Conservation and Recreation Lands Trust Fund to not less than 1.5 percent of cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund and the Florida Forever Trust Fund for certain land management functions.
- Requires the development and revision of the land management allocation formula to be adopted by the legislature and funding to be distributed accordingly upon adoption.
- Revises the payment in lieu of taxes for a county or local government that has a population less than 150,000 residents to continually receive annual payments for each tax loss until the county

or local government has a population of 150,000 or more. In addition, county or local government shall receive a minimum of 10 consecutive annual payments for each tax loss.

The DEP reports that Florida has 67 counties of which 43 are qualified for payment in lieu of taxes based on a population of 150,000 or less. Current FY 07/08 appropriation is \$1,360,000 with anticipated payments this year to the counties to be \$1,300,000. Annual payments have been made to these counties and some have reached the 10 year limitation and no longer receive payments on those applications. If payment in lieu of taxes are made available to these qualifying counties until they reached the 150,000 population, the Department would need an increase in appropriation and would most likely require an additional increase each year as land is purchased by the State for conservation and recreation purposes.

- Revises certain funding distributions within the Florida Forever Act to include the development of alternative water supply; the restoration, enhancement, restocking and management for imperiled species; and the acquisition of perpetual easements. The bill requires all participating agencies to spend at least 3 percent and no more than 10 percent of their funds on capital improvements designed for public access. In addition, funds resulting from fees associated with adverse impacts to imperiled species shall be deposited into the Land Acquisition Trust Fund for certain land management purposes.
- Requires the DEP to contract with an organization which specializes in carbon sinks and emission budgets in order to conduct an inventory of all lands titled in the name of the Board of Trustees to determine the value of carbon capture and carbon sequestration. The cost of such study is unknown at the present time; however, similar inventories conducted by other states have cost approximately \$125,000.

The FWCC at the present time has not completed a final analysis on the bill; however, the FWCC estimates that it may need resources totaling approximately \$1.2 million to comply with the provisions of the bill.

Local Government

The bill provides the following fiscal impact on local government:

- Revises the payment in lieu of taxes for a county or local government that has a population less than 150,000 residents to continually receive annual payments for each tax loss until the county or local government has a population of 150,000 or more. In addition, county or local government shall receive a minimum of 10 consecutive annual payments for each tax loss.

The DEP reports that Florida has 67 counties of which 43 are qualified for payment in lieu of taxes based on a population of 150,000 or less. Current FY 07/08 appropriation is \$1,360,000 with anticipated payments this year to the counties to be \$1,300,000. Annual payments have been made to these counties and some have reached the 10 year limitation and no longer receive payments on those applications. If payment in lieu of taxes are made available to these qualifying counties until they reached the 150,000 population, the Department would need an increase in appropriation and would most likely require an additional increase each year as land is purchased by the State for conservation and recreation purposes.

- Provides all deeds or leases with respect to real property acquired with Florida Forever bond proceeds by water management districts to contain a reversion, conveyance, or termination clause that will vest title in the Board of Trustees of the Internal Improvement Trust Fund prior to any disposition or surplus of such lands.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

C. Rulemaking authority is granted to the Board of Trustees of the Internal Improvement trust Fund to implement the provisions of this bill.

D. DRAFTING ISSUES OR OTHER COMMENTS:

None.

E. STATEMENT OF THE SPONSOR

N/A

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A