



The Florida Senate

Interim Project Report 98-37

October 1998

Committee on Natural Resources

Senator Jack Latvala, Chairman

EXTENDING THE BOND-FUNDED CONSERVATION AND RECREATION LAND ACQUISITION PROGRAM

SUMMARY

Beginning in 1972, Florida instituted programs to acquire lands for conservation and recreation, to counter the impacts of rapid growth and urbanization. Funded by bond sales, phosphate severance taxes, and documentary stamp tax revenues, these programs have been highly successful. The current Preservation 2000 (P-2000) Program, now in its eighth year, provides approximately \$300 million annually from bond sales backed by documentary stamp tax revenues to acquire lands for conservation and recreation.

As of August 31, 1998, the P-2000 program has provided \$2,354,967,536 in proceeds and earnings. Of this, nearly \$1.7 billion has been expended to acquire more than one million acres. A further \$196.5 million is currently reserved for approved commitments to acquire 132,097 acres. This program will expire on July 1 of the year following the final authorizations of P-2000 bonds (expected to be July 1, 2000).

During the 1998 Legislative Session, there was substantial interest in creating a successor to the P-2000 program. Legislation was filed in each house to do so, but the proposed programs were so dissimilar that no legislation was enacted. This interim project was assigned to determine if consensus existed on any of the many issues discussed during the past session. To that end, a questionnaire was developed and provided to nearly 30 organizations and individuals that had participated in the debate regarding a new program. Based on the responses, staff recommends that a committee bill be drafted to serve as a vehicle for further discussions during the 1999 session. Such a bill would include provisions that:

- Create a 10 year, bond-funded program providing \$300 million annually, beginning July 1, 2000. The program would provide funding as follows:
 - 35 percent to the Department of Environmental Protection for the Conservation and Recreation Lands program;
 - 35 percent to the water management districts;
 - 20 percent to the Florida Communities Trust;
 - 2.9 percent to the Game and Fresh Water Fish Commission;
 - 2.9 percent to the Division of Recreation and Parks;
 - 2.9 percent to the Division of Forestry; and
 - 1.3 percent to the Greenways and Trails Program.
- Permit the Florida Communities Trust to fund capital improvements related to recreational development.
- Expand the payments in lieu of taxes program to school districts.
- Authorize funding for Surface Water Improvement and Management Plan implementation, water resource development, and capital improvements in conjunction with restoration of degraded land or water areas.
- Extend existing management funding to all lands acquired for conservation and recreation.
- Continue current provisions for disposing of surplus conservation and recreation lands.

- Continue current provisions for management planning.

BACKGROUND

Florida's explosive growth and consequent rapid urbanization have resulted, particularly in recent years, in the destruction or alteration of much of the state's natural resources. As environmental concern about increasing development has grown, there has been general agreement that public acquisition of environmentally sensitive lands and lands for conservation and recreation has proven to be the most effective means of protecting these lands for future generations.

Florida began acquiring such lands under the bond-financed Environmentally Endangered Lands (EEL) program in 1972. Using these funds, the state acquired approximately 363,382 acres of land, including purchases such as the Big Cypress National Preserve, Paynes Prairie State Preserve, Caya Costa State Park, and other examples of undeveloped sensitive lands. This program is no longer in existence.

The Conservation and Recreation Lands (CARL) program, established in 1979 as an expansion of the EEL program, was the state's primary acquisition program prior to the creation of the Preservation 2000 program in 1990. Funded primarily by phosphate severance tax and documentary tax revenues, the program receives approximately \$55 million annually from these sources. On an annual basis, a list of proposed acquisitions is prepared and ranked by the Land Acquisition and Management Advisory Council (LAMAC) for approval by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund (Trustees). The council is composed of the heads of the Department of Environmental Protection (DEP) and Community Affairs (DCA) as well as the heads of the Game and Fresh Water Fish Commission (GFWFC), the Division of Forestry (DOF) the Division of Historical Resources (DHR), and a designated employee of the DEP. Once approved, acquisitions are made in their order of ranking, to the greatest extent practicable. The information provided by the council includes a management prospectus, an interim management budget, and the designated management agency or agencies. Through 1997, \$483,365,173 had been expended by the CARL program.

The second major component of the state's land acquisition effort is the Save Our Rivers (SOR) program, established in 1981 to fund the acquisition of lands necessary for water management, water supply, and the conservation and protection of water resources. While the DEP has certain responsibilities for controlling the release of funds to the districts, the water management districts (WMDs) actually purchase and manage the lands. Funding for SOR purchases comes from a dedicated portion of the state documentary stamp tax which is deposited in the Water Management Lands Trust Fund. The DEP releases funds to the WMDs for land acquisitions and payments in lieu of taxes, as well as for management, maintenance, and capital improvement on these lands. WMDs are allowed to issue bonds against these revenues, subject to the approval of DEP. SOR acquisitions totaled nearly \$285 million in February of 1997. Unlike most other state sponsored land acquisition programs, the title to lands purchased through the SOR program is held by the WMDs rather than the Trustees. Although substantial sums have been expended by the WMDs using documentary stamp tax revenues, the districts' annual P-2000 allocations have greatly increased the pace of land acquisition activity. As of August 31, 1998, the WMDs had expended more than \$532 million in P-2000 funds to acquire more than 462,000 acres. Although the source of these funds is the P-2000 program, all such moneys must be spent using SOR procedures.

The WMDs' P-2000 and SOR funds are distributed as follows:

1. Thirty percent to the South Florida WMD
2. Twenty-five percent to the Southwest Florida WMD.
3. Twenty-five percent to the St. Johns River WMD.
4. Ten percent to the Suwannee River WMD.
5. Ten percent to the Northwest Florida WMD.

The 1990 enactment of the P-2000 program provided significantly-increased funding for land acquisition. This ambitious program provides for the annual sale of up to \$300 million in bonds, not to exceed a total of \$3 billion over a 10-year period, and the use of the proceeds to acquire lands for conservation and recreation and the provision of open space within urban areas. Although there is no requirement that bonds be sold annually, the Legislature has provided funds from the documentary stamp tax for the issuance of approximately \$300 million in bonds in each year of the 8-year period from 1991 through 1998. Less the costs of issuance and other costs, the proceeds of bond sales are deposited into the

Florida Preservation 2000 Trust Fund (P-2000 TF) and are distributed by the DEP annually as follows:

1. Fifty percent (\$150 million) to the DEP for the purchase of lands under the CARL program.
2. Thirty percent (\$90 million) to the state's five WMDs for the purchase of lands needed for water management, conservation of water resources, implementation of surface water improvement and management plans, and to implement the Everglades Construction Project.
3. Ten percent (\$30 million) to the DCA's Florida Communities Trust (FCT) for land acquisition grants and loans to local governments to provide open space in urban areas. Funds are also used to acquire development rights in the Green Swamp.
4. Two and nine-tenths percent (\$8.7 million) to the DEP's Division of Recreation and Parks for the purchase of inholdings and additions to state parks.
5. Two and nine-tenths percent (\$8.7 million) to the Department of Agriculture and Consumer Services (DACS's) Division of Forestry for the purchase of inholdings and additions to state forests.
6. Two and nine-tenths percent (\$8.7 million) to the GFWFC for the purchase of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife.
7. One and three-tenths percent (\$3.9 million) to the DEP's Greenways and Trails Program to acquire greenways and trails or greenways and trail systems pursuant to ch. 260, F.S., including, but not limited to, abandoned railway rights-of-way and the Florida National Scenic Trail.

As of August 31, 1998, the P-2000 program has provided \$2,354,967,536 in proceeds and earnings. Of this, nearly \$1.7 billion has been expended to acquire more than one million acres. A further \$196.5 million is currently reserved for approved commitments to acquire 132,097 acres.

Expenditures for the DEP's CARL program constitute 50 percent of the program. The procedures that have been developed for these acquisitions include separating projects into the following groups: Mega-Multiparcels Projects, Substantially Complete Projects, Bargain

Purchases/Shared Acquisitions, Less-Than-Fee Projects, and Priority Projects.

The DEP reports that after extensive analysis of funding needs for projects within each group, anticipated revenues are distributed to the groups according to relative need and staff's postulated ability to expend the funds. Generally, 50-55% of available funds are allocated to the Priority Projects, 25-30% to Bargain/Shared Projects, 5-10% to Substantially Complete Projects, 5-15% to Mega-Multiparcels Projects, and 5-10% to Less-Than-Fee Projects. As projects or parcels within projects are acquired at less than their expected costs, or when negotiations prove unsuccessful, funds roll down to the next project in line. This continuous reallocation of funds occurs after the desirability of acquiring parcels targeted in future years within the same project is compared with the desirability of acquiring essential parcels on lower ranked projects within the same category.

Once a project is funded and negotiations are initiated, funds continue to be allocated to parcels within the project until negotiations are concluded. If negotiations to acquire parcels within a project are unsuccessful, however, the project may remain substantially incomplete. These projects may be removed from a future priority list, but often the resources are so significant that the project is retained on the list hoping that the owner's inclination will change. Thus, many projects on the list will remain substantially incomplete because they have a number of parcels that are unable to be acquired through voluntary means. Similarly, the policy established in response to legislative directions, to acquire only essential parcels, effectively limits the department's ability to complete many projects.

Section 259.101, F.S., creates the P-2000 program. Legislative intent is provided, noting that the alteration and development of Florida's natural areas to accommodate its rapidly growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of recreation space, and the diminishment of wetlands and forests, and that imminent development of Florida's remaining natural areas and continuing increases in land values necessitate an aggressive program of public land acquisition during the next decade to preserve the quality of life that attracts so many people to Florida.

The P-2000 program expires on July 1 of the year following the final authorization of P-2000 bonds. Assuming continued action by the Legislature, this will occur July 1, 2000.

The P-2000 program is generally considered to be a success and has made Florida the nation's leader in the preservation of natural areas. Because of its success, there is widespread interest in the creation of a successor program. There has been, however, considerable disagreement as to the shape of a new program.

During the 1998 Legislative session, the House of Representatives and the Senate considered two very different proposals: HB 4551, the Florida 2020 Program, and SB 2024, the Florida Forever Program.

House Bill 4551 would have provided \$4 billion for the acquisition of lands, water areas, and related interests and resources, in urban and rural settings, for the purposes of conservation, recreation, environmental restoration, water resource development, or historical preservation, and for capital improvements to lands and water areas that accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development. An additional \$2 billion would have been made available for the acquisition of lands and related interests, the construction of classrooms and related facilities, and the development of telecommunication infrastructure, for institutions of higher learning. These sums would have been provided through the sale of bonds over a 20-year period, to be financed with documentary stamp tax revenues. The Florida 2020 Program would have emphasized restoration, created a Land Acquisition and Management Commission to supplant the current Land Acquisition and Management Advisory Council, provided new procedures for disposing of environmental lands, and created the Florida 2020 Study Commission to make recommendations on funding priorities, project selection, funding for existing environmental programs, and the inclusion of unfinished P-2000 projects.

The Florida Forever Program differed substantially. Filed as a placeholder, SB 2024 was actually considered as a lengthy amendment that would have provided \$3 billion over a 10-year period for continued P-2000-type acquisitions, ecosystem restoration and management, water resource and water supply development, fixed capital outlay projects implementing Surface Water Improvement and Management (SWIM) plans, urban green space, and fixed capital outlay projects for

recreational opportunities. As the Legislative Session continued, it became apparent that the two proposals were so fundamentally different that no agreement was possible. In the last days of the session, there appeared to be general agreement that the creation of a study commission to make recommendations to the 1999 Legislature would be valuable, although the session ended without the passage of legislation to accomplish this.

Because of the likelihood that legislation will again be filed to create a successor to the P-2000 Program, staff has isolated a number of issues that were considered during the 1998 session. To determine whether consensus existed on any of these issues, a survey was conducted among nearly 30 entities and individuals that had actively participated in the legislative considerations during the 1998 Session. The results of the survey comprise most of the Findings of this report.

METHODOLOGY

Staff developed a questionnaire seeking respondents' views on 18 issues which are likely to be considered during the 1999 Legislative Session. The questionnaire was provided to 27 entities, including state agencies, WMDs, environmental advocacy groups, industry representatives, the Florida Chamber of Commerce, and interested individuals. The responses provide most of the information presented in the findings of this report.

In addition, staff consulted with the Departments of Revenue and Environmental Protection regarding the payments in lieu of taxes program and researched ad valorem revenues through reports of the Department of Revenue.

FINDINGS

Listed below are the survey questions and an analysis of the responses received:

- 1. Do you believe some type of bond-funded environmental land acquisition program should be established after the year 2000? If so, what level of funding should be provided and for what period of time?**

A majority of respondents supported a 10-year program providing \$300 million annually. Several respondents supported either a 20-year program or a

10-20 year program funded at the \$3 billion level. Two respondents advocated a 10-year program at different funding levels, one suggesting \$300-\$600 million annually and the other that, if the program emphasizes restoration, water resource development, capital improvements, and urban green space, \$400 million would be needed annually for restoration and \$300 million for land acquisition.

Although there is no consensus regarding the length and funding of a new program, there is general agreement that there should be a new bond-funded program and that it should provide at least \$300 million for at least 10 years.

2. If you support such a program, what information justifies a continued program and what specific measures should the Legislature use to determine the success of the program and when such a program can be concluded?

The answers to this question varied widely. Cited information justifying a continued program included WMD 5-year plans, the GFWFC’s report “Closing the Gap in Florida’s Wildlife Habitat Conservation System,” the DEP’s 1997 Addendum Report to the Legislature entitled “Florida Preservation 2000 Program Remaining Needs and Priorities, expected population growth and consequent development, as well as many other sources of information serving to justify a continued program. Responses regarding how to determine when a program can be concluded were less helpful, however, with few specific answers.

3. Do you believe the project criteria under s. 259.101(4), F.S., should be continued in the program? Please provide any additional or modified criteria you believe to be appropriate.

In responding to this question, four of the WMDs and the DACS supported continuation of the criteria and reported a need to include additional criteria relating to water supply and water management; there was also support to include criteria relating to SWIM plans. Five respondents favored discontinuing the existing criteria. Suggestions for new criteria included an emphasis on multiple use management and resource-based decisions. Several respondents indicated a need to add criteria relating to urban green space and recreational development.

Only one respondent favored retaining the criteria unchanged. Other suggestions included the development of additional criteria to implement the GFWFC’s report entitled “Closing the Gaps in Florida’s Wildlife Habitat Conservation System,” as well as criteria for watershed protection and to enhance land management, such as alternatives to fee simple acquisition, joint acquisitions, planned creative management strategies, Everglades restoration, achievement of multiple objectives, and completion or linking of existing projects.

While there appears to be no general agreement as to what the criteria for a new program should be, there is substantial agreement that the existing criteria are not sufficient for a new program.

4. Should the program provide increased funding for the acquisition of recreational lands and green spaces in urban areas? If so, what level of funding is appropriate?

The majority of the respondents favored increased funding in this area, although most did not suggest the appropriate level of funding. Three respondents reported that the 10 percent of P-2000 funding currently available is sufficient. Two respondents indicated a willingness to support increased funding based on an evaluation of needs.

It appears that increased funding in this area would be generally popular. An acceptable funding level would probably not exceed \$60 million annually.

5. Should the program provide funds for the development of capital improvements related to active recreational opportunities, especially in urban areas?

Only three respondents failed to support funding such capital improvements. Those advocating such uses, however, are not in agreement as to how it should be accomplished. Four respondents would do so through the FCT, one through the Florida Recreational Development Assistance Program (FRDAP), and one through a bond program. Others would only support funding if strict limitations were enacted.

6. Should the current “inholdings and additions” programs of the Division of Recreation and Parks, the Division of Forestry, and the Game and Fresh Water Fish Commission, as well as

the Greenways and Trails program, be continued? If so, for what period of time? What levels of funding would be appropriate for these programs?

All respondents favored continuing these programs. The majority supported a continuation at current funding levels, while three respondents suggested reduced funding. The GFWFC advocates continuing the inholdings and additions programs after the main acquisition program has expired, perhaps at reduced funding levels.

- 7. In a county having a large amount of property in public ownership, should that county be able to veto further acquisitions after a threshold amount of public land ownership is reached? If so, what level of public ownership should trigger the veto opportunity?**

This issue received no support from the respondents, many of whom do support continuation of payments in lieu of taxes programs.

- 8. Should funds from the CARL Trust Fund be made available to local governments to meet management needs on lands acquired by local governments for conservation or recreation?**

The respondents were nearly evenly split between those supporting this issue and those opposed. Four respondents would fund such local government management only if the property was on a state acquisition list when it was acquired by the local government.

- 9. Should the program include the use of funds for the implementation of approved Surface Water Improvement and Management Plans (SWIM)? If so, what types of activities should and should not be funded?**

Nearly all respondents answered “yes” to this question. The types of allowable activities contemplated varied widely. A few respondents recommend the use of funds for capital improvements. Several respondents approved the use of funds for land acquisition while others would fund exotic plant removal and restoration activities. Overall, there is little consistency as to allowable uses of funds for SWIM Plan implementation.

- 10. Should the program include the use of funds for the acquisition of lands for water resource development or water supply development? If so, under what specific circumstances? What types of activities should and should not be permitted on the lands acquired?**

Nearly all respondents favored this use of funds for water resource development. Seven respondents indicated that bond funds should not be available for water supply projects. Several would only approve the use of funds for water resource development if it would be compatible with the resource values for which the land was acquired.

- 11. Should the program provide funds for capital improvements in conjunction with restoration of degraded land or water areas?**

All but one respondent favored this use of funds. The DEP suggests a \$100 million annual program for restoration. Others believe such funding should be limited in some manner such as exotic species control, hydrologic restoration, fencing, start-up improvements, or only when the use is consistent with the purposes for which the land was acquired. Overall, the responses were consistently “yes.”

- 12. Should the payments-in-lieu of taxes program be expanded to include payments for school boards or otherwise changed with respect to eligibility? If so, how?**

The respondents were generally in agreement that the payments-in-lieu of taxes program should be expanded to include school boards and, perhaps, other taxing authorities. Two respondents suggested that the program be studied to determine the true impact of land acquisition on local governments. Only one respondent answered in the negative.

- 13. Currently, pursuant to s. 259.032(11)(b), F.S., an amount equal to 1.5 percent of the cumulative total of funds ever deposited into the Preservation 2000 Trust Fund (P-2000 TF) is to be made available annually from the Conservation and Recreation Lands Trust Fund (CARLTF) for management, maintenance, and capital improvement for lands acquired pursuant to ss. 259.032 and 259.101, F.S. Is this amount sufficient for these purposes in a continued or modified program of land acquisition? Would this funding be sufficient if**

made available for all lands acquired for conservation and recreation, including state forests and other lands not acquired under ss. 259.032 and 259.101, F.S.? What other source of funding should be used, if needed?

The responses to this question varied widely, although a majority do not believe that the existing funding for management and capital improvements will be sufficient in the future. Several suggested increased funding in unspecified amounts. Two favored increasing the factor to 2 percent, and one to 5 percent. There were also recommendations that additional funding be available for start-up and capital improvements, including a proposal to fund capital improvements with bond proceeds. Several noted that the existing program does not fund management on all lands acquired for conservation and recreation, such as many state forests, and favor extending management funds to all such lands. There also were recommendations that revenue-generating activities be encouraged to help fund management costs. Two respondents felt the existing funds were sufficient.

14. Do you support continuation of the existing provisions governing the disposition of surplus conservation and recreation lands? If not, please suggest changes you would support.

Although several respondents believe the existing provisions need to be clarified and simplified to increase efficiency, a substantial majority is satisfied to continue using current procedures.

15. Should the land management planning requirements for lands titled in the Board of Trustees of the Internal Improvement Trust Fund be extended to water management district lands? If not, why not?

The responses indicate substantial disagreement about this issue. The WMDs generally favor continuing the existing requirements unchanged, together with several other respondents, although two are not opposed to meeting state agency requirements if the governing boards retained approval authority for management plans. Approximately half of the respondents believe the existing requirements have worked well.

16. Legislation considered during the 1998 Legislative Session included the creation of a

Florida Lands Commission to assume the responsibilities of the Land Acquisition and Management Advisory Council (LAMAC). Do you support this concept? If so, why?

The responses to this question fall into three groups. Nearly half do not support change in this area, while several do not support a commission but would favor changes to LAMAC. Others recommended that an advisory body be created to include private interests. There is no consensus on this issue.

17. Are the requirements for management plans too onerous and expensive? What changes or modifications should be made in the requirements for management plans?

A majority of the respondents believe the existing requirements are satisfactory, while several stated that while they are not too onerous, they would support changes. Changes mentioned included deleting or reducing the need for required public hearings, consolidating management requirements in the Florida Statutes, and tailoring planning requirements to the type and size of the parcel.

18. Are the legislative requirements for multiple use of acquired lands clear and necessary? What changes, if any, should be made?

Respondents were rather evenly divided on this issue. Interestingly, several changes recommended by those answering “no” are already part of the Florida Statutes. These include requiring lands to be in multiple-use management if not designated for single-use management, where feasible and consistent with conservation of natural resources (s. 253.034(1), F.S.); requiring expected uses to be determined early in the acquisition process (s. 259.032(9)(b), F.S.); and requiring management for recreation where possible (s. 253.034(1), F.S., and s. 259.032(9)(a), F.S.)

RECOMMENDATIONS

While there are varying degrees of agreement among survey respondents regarding the issues presented, there are several issues which a clear majority of respondents supported. In a number of instances, while a majority of respondents supported a particular course of action, there was no consensus as to how it should be implemented or funded. Nevertheless, staff recommends that legislation be prepared that encompasses those issues on which there appears to be some consensus, to serve as a vehicle for further discussion. Such a bill would include provisions that:

- Create a 10 year, bond-funded program providing \$300 million annually, beginning July 1, 2000. The program would provide funding as follows:
 - 35 percent to the DEP for the CARL program;
 - 35 percent to the WMDs;
 - 20 percent to the FCT;
 - 2.9 percent to the GFWFC;
 - 2.9 percent to the Division of Recreation and Parks;
 - 2.9 percent to the Division of Forestry; and
 - 1.3 percent to the Greenways and Trails Program.

(Although the survey did not directly address the inclusion of CARL and WMD land acquisition programs, the responses indicated an assumption that they would be part of the program. Support for expanding funding for local programs was clearly evident. Staff has specified funding levels for the various programs based generally on existing allocations. Funding levels were not addressed in the survey but are included as a basis for discussion)

- Permit the FCT to fund capital improvements related to recreational development.
- Expand the payments in lieu of taxes program to school districts.
- Authorize funding for SWIM plan implementation, water resource development, and capital improvements in conjunction with restoration of degraded land or water areas.
- While there was general agreement for increasing state agency land management funding and extending it to include all conservation and recreation lands, staff notes that the recent increase in such funding is only now being implemented. Staff suggests that increasing the funding may be premature at this time. However, ensuring that the full 1.5 percent factor for determining management funding from the CARLTF is available and extending funding to all conservation and recreation lands seems appropriate.
- Continue current provisions for disposing of surplus conservation and recreation lands.
- Continue current provisions for management planning.

COMMITTEE(S) INVOLVED IN REPORT *(Contact first committee for more information.)*

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MEMBER OVERSIGHT

Senators Jack Latvala and John Laurent