

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 908

SPONSOR: Natural Resources Committee, Senator Latvala and others

SUBJECT: Florida Forever Program

DATE: March 4, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill creates the Florida Forever Program, a 10-year, bond-funded program for the acquisition of environmentally significant lands and for water resource development projects. It creates the Florida Forever Commission (commission), which will approve the expenditure of 65 percent of the \$300 million to be available annually.

It provides criteria for acquiring lands and funding water resource development projects under the Florida Forever Program and procedures for determining the priority of such projects. The bill revises the distribution of documentary stamp tax proceeds, providing funding for the Surface Water Improvement and Management Trust Fund (SWIM TF), authorizes alternate uses of acquired lands and provides for using alternatives to fee simple acquisition. It requires that a project be given increased priority if matching funds are available or if the project is priced below appraised value. The bill authorizes the issuance of bonds under the program and provides that certain proceeds from the excise tax on documents be used to pay the debt service on bonds issued under the Florida Forever Program. It requires that the managing agency adopt a management plan within a specified period after acquiring a parcel under the Florida Forever Program. The bill provides a formula and funding sources for funding management, maintenance, capital improvements, and payments in lieu of taxes and revises procedures for the Land Acquisition and Management Advisory Council (LAMAC) in proposing projects to be funded from the Florida Forever Trust Fund. The bill also revises requirements for water management districts in adopting priority lists, issuing bonds, providing payments in lieu of taxes, and preparing land management plans.

This bill substantially amends ss. 201.15, 253.027, 253.034, 259.032, 259.035, 338.250, 373.59, 380.503, 380.504, 380.507, 420.5092, and 420.9073, F.S. It creates ss. 259.202 and 259.2021, F.S., and repeals s. 373.584, F.S.

## II. Present Situation:

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. There is also substantial concern that the state's water resources may not be sufficiently developed to provide for future needs in all areas of the state.

Florida began acquiring conservation and recreation 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 (WML TF). The DEP releases funds to the WMDs for land acquisitions and payments in lieu of taxes, as well as for management, maintenance, and capital improvements on these lands. The WMDs are allowed to issue bonds against these revenues, subject to the approval of the 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 December 31, 1998, the P-2000 program has provided \$2,368,926,040 in proceeds and earnings. Of this, over \$1.7 billion has been expended to acquire more than one million acres. A further \$232.3 million is currently reserved for approved commitments to acquire 168,439 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-Multiparcel Projects, Substantially Complete Projects, Bargain Purchases/Shared Acquisitions, Less-Than-Fee Projects, Negotiations Impasse, 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 percent of available funds are allocated to the Priority Projects, 25-30 percent to Bargain/Shared Projects, 5-10 percent to Substantially Complete Projects, 5-15 percent to Mega-Multiparcel Projects, and 5-10 percent to Less-Than-Fee Projects. Approximately \$5 million is set aside annually for the Negotiations Impasse grouping. 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.

### III. Effect of Proposed Changes:

Section 1. Section 259.202, F.S., is created, to be cited as the "Florida Forever Act."

Findings and a declaration are provided that:

- The continued growth in the state's population contributes to degradation of water resources, destruction of wildlife habitats, loss of recreation space, and diminishment of wetlands and forests, and requires that additional sources of water be available in the future.
- The Preservation 2000 Program provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development, thereby assuring present and future generations access to important open spaces and recreation and conservation lands.
- It is the Legislature's intent to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities so that future generations may enjoy the natural resources of Florida forever.
- Although the Florida Forever Program authorizes the continued purchase of lands and interests in lands of the type acquired through the Preservation 2000 Program, the Florida Forever Program will focus on priority needs of the state for acquiring parcels to facilitate ecosystem management, water resource development, water supply development, the implementation of surfacewater improvement and management plans, and the provision of green space and recreation opportunities.

This section provides that, order to ensure that sufficient funding is available for land management, payments in lieu of taxes, and related activities, revenues from documentary stamp tax proceeds deposited into the WML TF and the CARL TF may not be used for land acquisition. The Legislature intends that the Florida Forever Program supplant the acquisition programs formerly authorized under ss. 259.032, F.S., and 373.59, F.S. The Legislature shall review, by July 1, 2005, the need for funds to be available for land acquisition from the WML TF after 2010, and take appropriate action to provide funding to meet anticipated needs.

Proceeds of bonds issued under s. 375.051, F.S., less the costs of issuance, the costs of funding reserve accounts, and other costs incurred with respect to the bonds, shall be deposited into the Florida Forever Trust Fund created by s. 375.046, F.S. The DEP will distribute the bond proceeds as follows:

- Thirty-five percent to the commission for the purchase of public lands described in s. 259.032, F.S., using the procedures set out in that statute. Priority must be given to

acquisitions that, when combined with previous acquisitions, will form more complete patterns of protection for natural areas and functioning ecosystems. All such lands must be managed pursuant to s. 253.034(1), F.S., and may be used for water resource development if such projects are not inconsistent with s. 253.034(1), F.S. Water resource development projects may include aquifer storage and recovery facilities and surfacewater reservoirs. Permittable water resource development projects may be allowed on such lands only if: the minimum flows and levels have been established for those waters potentially affected by the project; the project complies with all conditions for the issuance of permits under part II of chapter 373, F.S., and the project is consistent with the regional water supply plan of the WMD.

- Thirty percent to the DEP for the purchase of water management lands pursuant to s. 373.59, F.S., to be distributed among the water management districts as provided in s. 373.59(7), F.S. Funds received by each district may also be used for: acquisition of lands necessary to implement surfacewater improvement and management plans approved in accordance with s. 373.456, F.S., and which exist on July 1, 2000; water resource development; water supply development; or acquisition of lands necessary to implement ecosystem restoration projects. The South Florida WMD must use at least 20 percent of its annual allocation for Everglades restoration activities.
- Twenty-five percent to the DCA for use by the FCT for the purposes of Part III of chapter 380, F.S., grants to local governments or nonprofit environmental organizations that are tax exempt under s. 501(c) (3) of the United States Internal Revenue Code for the acquisition of community-based, urban open spaces, parks, and greenways to implement local government comprehensive plans, and grants for fixed capital outlay to construct facilities associated with public outdoor recreation or open space projects. Of this 25 percent, 75 percent shall be matched by local governments on a dollar-for-dollar basis. At least 10 percent and not more than 20 percent of the allocation must be used for fixed capital outlay projects for improvements on lands acquired for conservation or recreation. The Legislature intends that the FCT emphasize funding projects in low-income or otherwise disadvantaged communities. Up to 15 percent of the allocation should be used in localities in which the project site is located in built-up commercial, industrial, or mixed-use areas and functions to intersperse congested urban core areas with open spaces. Local governments may use federal grants or loans, private donations, or environmental mitigation funds, including environmental mitigation funds required pursuant to s. 338.250, F.S., for any part or all of any local match required for acquisitions funded through the FCT. Any lands purchased by nonprofit organizations using funds allocated through the program must provide for such lands to remain permanently in public use through a reversion of title to local or state government, conservation easement, or other appropriate mechanism.
- Two and nine-tenths percent to the Fish and Wildlife Conservation Commission (FWCC) for the purchase of inholdings, connections, and contiguous additions to lands managed by the commission which are important to the conservation of fish and wildlife. Priority must be given to the purchase of inholdings.

- Two and nine-tenths percent to the DEP for the purchase of inholdings, connections, and contiguous additions to state parks. As used in this paragraph, the term “state park” means all real property in the state under the jurisdiction, or which may come under the jurisdiction, of the Division of Recreation and Parks of the DEP. Priority must be given to the purchaser of inholdings.
- Two and nine-tenths percent to the Division of Forestry of the DACS to fund the acquisition of state forest inholdings, connections, and contiguous additions pursuant to s. 589.07, F.S. Priority must be given to the purchase of inholdings.
- One and three-tenths percent to the DEP for the Florida Greenways and Trails Program to acquire greenways and trails or systems of greenways and trails pursuant to chapter 260, F.S., including, but not limited to, abandoned railroad rights-of-way and lands for the Florida National Scenic Trail, and to construct associated fixed capital outlay projects.

Up to ten percent of the funds allocated to all agencies but the FCT (which must use at least 10%) may be used for fixed capital outlay projects for improvements on lands acquired for conservation or recreation.

All lands acquired under the Florida Forever Program must be titled in the Trustees except for lands acquired by WMDs, which will be titled in the owning WMD, and lands acquired with FCT funds, which may vest either with the local government or the Trustees.

This section provides project criteria for acquisitions made by the DEP or WMDs, as follows:

1. A significant portion of the land in the project is in imminent danger of being developed, losing significant natural attributes, or being subdivided, which will result in multiple ownership of the land and may make acquisitions more costly or less likely to be accomplished;
2. Compelling evidence exists that the land is likely to be developed during the next 12 months, or appraisals made during the past 5 years indicate an escalation in land value at an average rate that exceeds the average rate of interest likely to be paid on the bonds;
3. A significant portion of the land in the project serves to protect or recharge ground water and protects other valuable natural resources or provides space for natural-resource-based recreation;
4. The project can be purchased at 80 percent of appraised value or less;
5. A significant portion of the land in the project serves as habitat for endangered, threatened, or rare species or serves to protect natural communities that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities, or will assist implementation of a state or federal species recovery plan.

6. A significant portion of the land serves to preserve important archeological or historical sites;
7. The acquisition is needed to implement a surfacewater improvement and management plan in effect on July 1, 2000;
8. The project will assist in water resource development to meet the needs of humans and natural systems anticipated in 2020.
9. The project will assist in ecosystem restoration.
10. The acquisition will implement an element from a plan developed by an ecosystem management team;
11. The project will significantly promote attainment of Class III water quality or higher;
12. The project will significantly reduce the pollution of surface water or groundwater;
13. The project is identified in a surface water improvement or management plan;
14. The project will improve or maintain water quality in a waterbody designated as an Outstanding Florida Water;
15. The acquisition has been identified by the FWCC as part of a strategic habitat conservation area; or
16. The project will establish or expand a greenway or recreational trail system.

The bill requires that increased priority be given to acquisitions that, in addition to meeting at least three of the above criteria, will also provide long-term protection to threatened or endangered species designated as G-1 or G-2 by the Florida Natural Areas Inventory, and especially for those areas which are special locations for breeding and reproduction.

The bill provides procedures for the Land Acquisition and Management Advisory Council (LAMAC) and WMD governing boards to follow in creating acquisition lists for approval by the Commission in years in which bonds are issued:

- The LAMAC must review that year's approved land acquisition priority list and shall, by the first board meeting in February, present to the Commission for approval a listing of projects on the priority list which meet three or more of the acquisition criteria specified. The Commission may remove projects from the list developed and may reprioritize the list, but may not add projects. In any county in which the total ad valorem tax exemptions due to government ownership exceed 37 percent of the county's total market value valuation, the LAMAC may not propose an additional acquisition except by an extraordinary vote of a majority plus one, and must consult with the county commission; if the percentage exceeds 50 percent, the county commission must approve the purchase by a majority vote (the same

requirements pertain to WMD purchases). The list may be amended to include eligible projects that can be acquired at 85 percent of appraised value or less if such properties become available at a later date.

- Each WMD governing board must review the lands on its current year's land acquisition 5-year plan and shall, by January 15, propose to the commission a listing of projects from the plan which meet three or more of the criteria specified. The list may be amended to include projects that can be acquired at 85 percent of appraised value or less if such properties become available at a later date. In addition, each WMD governing board must propose a separate list of water resource development projects, including proposals from local governments together with the WMD's recommendations. The Commission may remove projects from the list and reprioritize them, but may not add projects.

In acquiring any coastal lands, the following additional criteria must be considered:

- The value of acquiring coastal high-hazard parcels, consistent with hazard mitigation and postdisaster redevelopment policies, in order to minimize the risk to life and property and reduce the need for future disaster assistance.
- The value of acquiring beachfront parcels, irrespective of size, to provide public access and recreational opportunities in highly developed urban areas.
- The value of acquiring parcels which, if developed, would adversely affect coastal resources.

When a nonprofit environmental organization that is tax exempt under s. 501(c)(3) of the United States Internal Revenue Code sells land to the state, such land at the time of the sale shall be deemed to meet three or more of the acquisition criteria listed if such land meets three or more of the criteria at the time the organization purchases it.

The bill also provides for acquisition lists and 5-year plans compiled by the DEP and WMDs to be revised to include new projects at any time.

The bill provides a finding that the Preservation 2000 Program has provided financial resources that have enabled the acquisition of significant natural areas for public ownership during the program's existence, and encourages agencies that receive funds to coordinate their expenditures more effectively so that future acquisitions, when combined with previous acquisitions, will form more complete patterns of protection for natural areas and functioning ecosystems.

The Legislature further intends that, in implementing the Florida Forever Program, agencies emphasize the completion of projects in which one or more parcels have already been acquired and the acquisition of lands that contain ecological resources that are unrepresented or under represented on lands currently in public ownership.

The bill also specifies that an assessment of appropriate management strategies for property acquired under the Florida Forever Program should be completed early in the acquisition process

and should emphasize the development of a management prospectus that details management goals for the property, if appropriate; a timetable for implementing the various stages of management and for providing access to the public, if applicable; provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition; the anticipated costs of management and projected sources of revenue; and other information required under s. 259.032(9)(b) 1.

Provisions in the P-2000 Act that limit the use of P-2000 funds by the Division of Forestry to the acquisition lands for outdoor recreation and natural resource conservation and require specified deed restrictions and reverter clauses have been recreated in this section, as have provisions authorizing and limiting the alternate use of P-2000 lands. Provisions authorizing the Trustees to adopt a plan for a specific geographical area which authorizes the disposal and use of P-2000 lands have also been duplicated for the new program.

The bill includes provisions for the disposition of Florida Forever lands. Lands titled in the Trustees may be disposed of under the existing procedures of s. 253.034(6), F.S., and WMD lands under the existing procedures of s. 373.056, F.S., and s. 373.089, F.S., but only if the disposition satisfies the following requirements:

- Land acquired for conservation purposes may be disposed of only after the Board of Trustees or, in the case of WMD lands, the owning WMD governing board, makes a determination that preservation of the land is no longer necessary for conservation purposes and only upon a two-thirds vote of the appropriate governing board. Following a determination by the governing board that the land is no longer needed for conservation purposes, the governing board must also make a determination that the land is of no further benefit to the public, as required by s. 253.034(6), F.S., or determined to be surplus under s. 373.089, F.S. Any lands eligible for disposal under these procedures also may be exchanged for other lands described in the same paragraph of s. 259.202(3), F.S.
- Such disposition of land may not be made if the disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the Florida Preservation 2000 Act or the Florida Forever Act to lose their exclusion from gross income for purposes of federal income taxation. Any revenue derived from the disposal of such lands may not be used for any purpose except for deposit into the Florida Forever Trust Fund and used for land acquisition.

The bill includes several provisions relating to acquisitions in less than fee simple title for the P-2000 program. These provisions (s. 259.101(9)(a)-(f), F.S., include a finding encouraging such acquisitions to achieve specified public policy goals, intent that land-buying agencies develop programs to pursue such acquisitions and to educate landowners regarding such alternatives, a requirement that the DEP and WMDs make at least two such acquisitions annually and identify those projects requiring a full fee simple interest, a definition of the term “alternatives to fee simple acquisition,” and matters relating to appraisals. The public agency that has been assigned management responsibility shall inspect and monitor any less-than-fee-simple interest according to the terms of the purchase agreement relating to such interest.

Finally, this section provides that projects that are otherwise eligible for acquisition under this section and for which matching funds from local governments or other sources are available shall be given increased priority, as shall acquisition projects that are otherwise eligible for acquisition under this section and for which the seller will accept a price below the appraised value.

Section 2. Section 259.2021, F.S., is created to establish the commission, which will be comprised of nine members, who will be private citizens. The Governor will appoint the chairperson and four other members, each of whom must reside within the geographic area encompassed by a WMD. Each district must be represented by one commissioner. The President of the Senate and the Speaker of the House of Representatives will each appoint two members. Commissioners will serve four-year terms, beginning on July 1. The commission must conduct its first meeting by September 15, 2000.

The commission shall approve the expenditure of funds allocated pursuant to s. 259.202(3)(a) and (b), F.S., (65 percent of the bond proceeds) for land acquisition projects and water resource development projects. In selecting water resource development projects for funding, the commission shall evaluate proposals based on the following criteria:

- The cost-effectiveness and benefits of the projects; and
- The environmental impacts associated with the project.
- The commission is directed to establish goals to guide its expenditures for land acquisition projects, ecosystem restoration projects, and projects to implement surface water improvement and management projects by February 15, 2001. The goals must be designed to produce specific, measurable, results within a specified period of time. The commission must give priority to projects which appear likely to implement its goals.
- The DEP will provide staff to the commission, including the provision of any necessary legal, financial, or accounting services.
- Each member of the commission shall receive per diem and expenses for travel, as provided in s. 112.061, F.S., while carrying out the official business of the commission.
- No person may be appointed to the commission who in the twenty-four months preceding his or her term on the commission has been a lobbyist as defined in s. 112.3148, F.S., for an entity whose interests may be affected by projects approved by the commission.
- The commission must evaluate its success in attaining its goals and report its findings to the Governor, President of the Senate, and Speaker of the House of Representatives by July 1, 2004.

Section 3. Section 201.15, F.S., is amended to authorize debt service for Florida Forever bonds from documentary stamp tax revenues to be transferred to the Florida Forever Trust Fund. The amount transferred may not exceed \$30 million in FY 2000-2001, and may be increased by not

more than \$30 million annually until reaching \$300 million in FY 2009-2010 and thereafter. An individual series of bonds may not be issued unless the first year's debt service for the bonds is specifically appropriated in the General Appropriations Act. Moneys transferred to the trust fund, or earnings thereon, may not be used or made available to pay debt service on Save Our Coast revenue bonds.

This section also reduces the amount of the documentary stamp tax proceeds provided annually to the WML TF, from five and eighty-four hundredths to three and eighty-four hundredths, and provides for two percent of the documentary taxes collected, after the deduction for the General Revenue services charge, to be deposited to the credit of the Surface Water Improvement and Management Trust Fund (SWIM TF). The funds will be used by the WMDs for fixed capital outlay projects, including wastewater treatment and stormwater management facilities, to implement surfacewater improvement and management plans in effect on July 1, 2000. (This trust fund is created in SB 904.)

This section transfers seven-tenths of one percent of the documentary stamp tax proceeds allocated to the CARL TF to the State Game Trust fund for land management activities. These funds are in addition to funds received pursuant to s. 259.032(11), F.S.

Section 4. Section 253.027, F.S., is amended to authorize acquisition expenditures for certain archaeological properties if they are on an acquisition list for the Florida Forever Program or comply with the acquisition criteria but have yet to be included on the list.

Section 5. Section 253.34, F.S., 1998 Supplement, is amended to provide that recreational trails purchased with Florida Forever funds may be crossed for transportation uses under specified circumstances.

The section also provides that the following additional uses of lands acquired by the state pursuant to the Florida Forever Program and other state funded land purchase programs shall be authorized if they meet the criteria specified in (a) through (e) below; water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. For purposes of this provision, linear facilities shall not include petroleum product pipelines, paved roads, rail corridors or other facilities for motorized vehicles not serving a use designated in the management plan or ancillary to the uses described above. Provided, however, that the policy adopted by the Trustees on January 23, 1996 relating to linear facilities shall govern transportation uses. The uses described above are authorized:

- (a) Where not inconsistent with the management plan for such lands;
- (b) Where compatible with the natural ecosystem and resource values of such lands;
- (c) Where the proposed use is appropriately located on such lands;
- (d) Where the using entity reasonably compensates the title holder for such use based upon an appropriate measure of value; and

(e) Where the use provides a public benefit.

Money received from the use of state lands pursuant to this provision will be deposited into the CARL TF to the account of the managing agency to be used for management of lands from the program from which the original purchase monies came, as appropriated by the Legislature.

Section 6. Section 259.032, F.S., 1998 Supplement, is amended to provide that the commission will allocate funds from the Florida Forever Trust Fund for land acquisition and to direct that in the acquisition of lands to conserve and protect native species habitat or endangered or threatened species, the long-term protection of species designated G-1 or G-2 by the Florida Natural Areas Inventory, especially areas important for breeding and reproduction, should be emphasized.

The section corrects a cross-reference, conforms provisions, corrects incomplete references to the LAMAC, extends existing land management requirements for management planning to Florida Forever lands, and also reduces the Florida Forever funding of an agency by 25 percent if that agency is delinquent in the completion of more than 1/3 of its management plans.

Provisions providing for land management funding are modified and clarified. The bill changes the factor determining the amount of management funding from the CARL TF from “up to” 1.5 percent of the total P-2000 deposits to “equal to” that amount and extends that funding to all lands acquired for conservation and recreation, including state forests. Provisions requiring up to one fourth of the management funding to be “reserved” for upland, invasive species removal and control on public lands are changed to require that amount to be used by the managing agencies for such purposes. Also, one-fourth of the additional funds available for management pursuant to s. 259.202(2)(e), F.S., must be used by the agencies receiving those funds for the control and removal of exotic, invasive aquatic plant species in waters of the state, and one-fourth of such funds are transferred to the State Game Trust Fund for lake restoration.

Other changes extend the payments in lieu of taxes program to Florida Forever lands, extend such payments to certain school districts, and delete obsolete provisions. Beginning in the 2000-2001 fiscal year and thereafter, school boards in counties with a population of 75,000 or less which do not contain all or a portion of an area of critical state concern designated under chapter 380, F.S., and which levy the maximum millage under s. 236.25(1) and (2), F.S., will be eligible for payments. The payment amount for such a school board is to be calculated solely on the value of the millage levied under s. 236.25(1) and (2), F.S. The bill clarifies that an eligible entity shall receive ten consecutive payments and that no further eligibility determination is to be made during that period.

Finally, the section provides that properties on the Florida Forever list must be removed from the list within 180 days of an objection to the listing being received via certified mail from the owner.

Section 7. Section 259.035, F.S., is amended to require the LAMAC to annually establish or update, and propose to the commission, a Florida Forever acquisition list by the time of the commission’s first board meeting in February. The LAMAC may also propose eligible acquisition projects to the commission at any time if the project can be acquired at a price at least 15 percent

below its appraised value. Projects must be ranked in order of priority within the following groups: substantially complete projects, mega-multiparcel projects, less-than-fee projects, priority projects, negotiations impasse, projects providing long-term protection for threatened or endangered species, and bargain or shared projects.

The bill retitles the currently-required Conservation and Recreation Lands report as the Florida Forever Lands report, continuing the existing elements of the report, and deletes a requirement that existing acquisition lists contain at least twice the number of projects as there are estimated funds for purchase. Current requirements for the LAMAC to consider in evaluating a proposed project are continued in the Florida Forever program.

Section 8. Section 338.250, F.S., is amended to require that, where feasible, mitigation funds for the Central Florida Beltway shall be used in coordination with Florida Forever funds.

Section 9. Section 373.59, F.S., is amended to delete obsolete provisions, require each WMD to file an annual report of its land acquisition activity with the commission, require the commission to remove a property from an acquisition list at the request of an unwilling seller, clarify that the Florida Forever Trust Fund will be used for acquisition and the WML TF for management, and conform provisions. Provisions authorizing the DEP secretary to withhold acquisition funds in specified circumstances are deleted.

The section provides a process for the release of moneys from the Florida Forever Trust Fund to a WMD for a water resource development project following receipt of a resolution adopted by the governing board identifying the project and certifying its approval by the commission.

Provisions authorizing a WMD to pledge its funds in the WML TF for bond debt, and procedures for doing so are deleted. This section also provides that no funds may be expended from the WML TF until necessary debt service obligations are provided for any bonds issued pursuant to s. 373.584, F.S., before that section is repealed. This section also requires that WMD land management plans be developed within one year of acquisition and updated at least every five years. Also, provisions requiring funds from land sales to be used for acquisition or debt service are deleted.

Provisions for payments in lieu of taxes by WMDs are revised to be identical to those for the CARL program as described in section 6 of the bill, including extending such payments to school districts and cities. The bill provides legislative intent that once a governmental entity has been determined eligible, the entity shall receive 10 consecutive annual payments, and no further eligibility determination shall be made within that period. Provided, however, that no governmental entity shall receive a total of more than 10 payments.

Section 10. Section 380.503, F.S., is amended to provide two new definitions:

“Metropolitan” means a population area consisting of a central city or adjacent cities and smaller surrounding communities; a major urban area and its environs.

“Urban area” means an area of or for development characterized by social, economic, and institutional activities that are predominantly based on the manufacture, production, distribution, or provision of goods and services, in a setting that typically includes residential and nonresidential development uses other than those characteristic of rural areas.

Section 11. Section 380.504, F.S., is amended to add the director of the Division of Historical Resources of the Department of State and a former elected official of a metropolitan municipal government to the governing board of the FCT and correct obsolete references.

Section 12. Section 380.507, F.S., is amended to authorize the FCT to adopt rules for implementing the Florida Forever Program.

Section 13. Section 430.5092, F.S., is amended to correct cross-references made necessary due to amendments to s. 201.15, F.S.

Section 14. Section 420.9073, is amended to correct cross-references made necessary due to amendments to 201.15, F.S.

Section 15. This section creates an educational program to enhance the state’s schools, community colleges, and universities that will foster business, industry, research and development. This program will integrate into existing curricula the knowledge, skills, and experience that will result in informed decisions, responsible behavior, and constructive actions through project-based learning.

The education program will be based on present and future projects involving ecosystem restoration. The program will include teacher training and curriculum development in all disciplines, cooperative efforts between schools, colleges, universities, and businesses to provide practical, hands-on experience and encourage enrollment in mathematics, engineering, and science such as Broward County’s Saturday-Science Summer Academy, SECME - Southeastern Consortium for Minorities in Engineering program, Miami-Dade County’s Urban Systemic Initiative and others in rural areas to be administered through the Commissioner of Education, school districts, Board of Regents, and the State Board of Community Colleges.

An advisory council appointed by the Governor, President of the Senate and Speaker of the House of Representatives shall be created and shall consist of members from all relevant industries, government agencies, educational components, and from relevant counties. The advisory council shall make a report with recommendations to the Legislature by December 31, 2000.

No monies from the Florida Forever Trust Fund will be appropriated to implement the program.

Section 16. Section 373.584, F.S., authorizing the WMDs to issue bonds, is repealed.

Section 17. This section provides that the repeal of s. 373.584, F.S., does not impair the validity of any outstanding obligations or bonds issued under that section which are outstanding on July 1, 2000.

Section 18. This section provides that if the DEP or a WMD has made a payment in lieu of taxes to a governmental entity and subsequently suspended such payments, the department or WMD must reinstitute appropriate payments and continue the payments in consecutive years until the governmental entity has received a total of ten payments.

Section 19. Except for section 18, which shall take effect upon becoming law, this act shall take effect July 1, 2000.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

The bill requires funds to be deposited into the Surface Water Improvement and Management Trust Fund, which does not exist. SB 904 will create the trust fund, if enacted.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

No additional taxes or fees are being imposed on the private sector. Continuation of funding for land acquisition programs would provide increased opportunities for profitable land sales by property owners. However, if a county having more than 50 percent of its market value valuation exercises its right to veto Florida Forever purchases, potential sellers could have reduced opportunities for profitable sales.

### C. Government Sector Impact:

Because the bill has a 2000 effective date, staff has used FY 1999-2000 fiscal data in this analysis. Actual data in FY 2000-2001 may vary. In years that bonds are sold, the following approximate amounts would be distributed:

DEP (CARL) - \$105 million  
WMDs - \$90 million  
DCA (FCT) - \$75 million  
FWCC - \$8.7 million  
DACS (Forestry) - \$8.7 million  
DEP (Recreation and Parks) - \$8.7 million  
DEP (Greenways and Trails) - \$3.9 million

The bill authorizes debt service from the documentary stamp tax, not to exceed \$30 million in FY 2000-2001, and escalating by up to \$30 million annually until 2009-2010 and thereafter, when it may not exceed \$300 million annually. Actual amounts needed depend on the Legislature's decision to issue bonds in a particular year, the amount of each bond sale, interest rates, and repayment schedules. Funds used for debt service would otherwise be deposited into the General Revenue Fund.

Provisions reducing the documentary stamp tax proceeds currently deposited into the WML TF will result in a reduction from approximately \$58,500,000 annually to \$38,466,000 in the trust fund, based on FY 1999-2000 expectations. The amount of the reduction will be deposited into the new SWIM TF, which would result in a deposit of approximately \$20 million in FY 1999-2000. These funds will be used by the WMDs for fixed capital outlay projects implementing SWIM plans.

Provisions potentially providing increased land management funding and extending such funding to all lands acquired for conservation and recreation will allow the land managing agencies, particularly the DACS and FWCC, to employ increased resources for management. By removing the authorization for land acquisition from the CARL TF using documentary stamp tax proceeds, an additional \$20 million will be available annually for management. This amount is in addition to the \$43.6 million available in FY 2000 based on the 1.5 percent factor for management. Additionally, the amendment allows programs receiving bond proceeds to use up to 10 percent of their annual amounts for capital improvements on lands which will assist in meeting land management needs. Therefore, beginning in FY 2000 there could be \$30 million available from bond proceeds for capital improvements and altogether there could be approximately \$94 million available for land management activities. Of this amount, approximately \$11 million must be used for upland, exotic, invasive plant control, approximately \$5 million must be used to supplement other funding sources for aquatic plant control, and approximately \$5 million would be available to the Fish and Wildlife Commission for lake draw downs and other lake restoration activities. The remaining \$10 million in newly-available funds in the CARL TF could be appropriated to the various managing agencies, as intended.

School districts which meet eligibility requirements will be eligible for payments in lieu of taxes, as will cities from the WMD program. The impact of the changes cannot be determined at this time, as payments depend on future acquisitions and millages levied. Payments will be made from the CARL TF and WML TF, as appropriate.

The funding of fixed capital outlay projects, including wastewater treatment plants and stormwater management facilities, could provide significant benefits to local governments, in amounts of approximately \$20 million annually.

The repeal of s. 373.584, F.S., which authorizes the WMDs to issue revenue bonds backed by documentary stamp tax revenues forecloses a potential revenue source for the WMDs for land acquisition projects. However, the Florida Forever Program provides supplemental funding for the next ten years to WMDs for land acquisition.

Although the bill more than doubles the funding for the FCT, it provides no additional funding for staff and other resources necessary for it to implement the expanded program. It is doubtful that the FCT could administer the expanded program with existing resources. Similarly, the DEP is directed to staff the Florida Forever Commission, but no funds are provided to support that effort.

#### **VI. Technical Deficiencies:**

The provisions in Section 15 propose to create an advisory council to make a report to the Legislature by December 31, 2000, relating to a Florida Forever Education Program. The number of members of the advisory council is not specified. No authorization is given for members of the advisory council to be reimbursed per diem for their participation in meetings as provided in s. 112.061. No direction is given as to how a chairman is to be appointed. No direction or funding is given as to the work of the advisory council. Without a solution to these issues, it is not clear that the advisory council will ever operate.

Since the purposes of the Florida Forever Education Program is largely environmental education, it appears to duplicate the kinds of things provided for by the existing Advisory Council on Environmental Education.

#### **VII. Related Issues:**

None.

#### **VIII. Amendments:**

None.