

STORAGE NAME: h1389.ccc.doc
DATE: April 12, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS**

BILL #: HB 1389
RELATING TO: Rural land conservation easements
SPONSOR(S): Representative(s) Dockery
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 8 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 13 NAYS 0
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
-

I. SUMMARY:

HB 1389 creates the "Rural and Family Lands Protection Act." This legislation limits urban expansion by conserving farmland and green space through rural land conservation easements. The bill empowers the Department of Agriculture and Consumer Services (department) to administer a program offering either a perpetual or a 30-year rural land conservation easement. These easements will be targeted primarily towards timber and ranch lands.

The bill provides the state the right of "first refusal" to purchase the property in agreements to 30-year easements that have ended. In addition, the bill allows the department to enter into resource conservation agreements, under certain conditions, to compensate landowners for habitat and hydrological restoration.

The bill authorizes the department to issue bonds to fund the rural land conservation easements. The bonds would be payable from documentary stamp taxes. Interest on the bonds is limited to \$550 million over the 10-year period beginning in fiscal year 2002. The effective date of this legislation is July 1, 2001.

On April 4, 2001, the House Committee on Agriculture and Consumer Affairs adopted a strike-everything amendment, which is traveling with the bill. Please see section VI, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.

Fiscal comment on the strike-everything amendment: The amendment authorizes issuance of bonds not to exceed \$1 billion over 10 years commencing on July 1, 2002, in an amount not to exceed \$100 million in any fiscal year. The amendment states that the duration of each series of bonds issued may not exceed 20 annual maturities. The amendment also requires that payments for conservation easements, rural land protection easements, and agricultural protection agreements would be funded with bonded proceeds or distributions from the documentary stamp revenues. The payments for resource conservation agreements would be funded with distributions from the documentary stamp revenues.

On April 11, 2001, the House Committee on General Government Appropriations adopted six (6) amendments to the strike-everything amendment, which is traveling with the bill. Please see section VI, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Fueled by climate, recreational opportunities, and low taxes, Florida leads the nation in population growth. There is a growing concern that the rapid pace of farmland conversion to other uses, such as urban expansion will greatly reduce green space and dramatically change the landscape of the state.

The Department of Agriculture and Consumer Services reports that a recent University of Florida study indicates that at least 130,000 acres of farmland are being converted annually to other uses. Rural land in its natural or near-natural state provides many irreplaceable benefits: aquifer recharge, wild species habitat, recreation, agricultural production, aesthetic benefits, as well as others.

The Green Swamp Land Authority created pursuant to s. 380.0677, F.S., provides a program for the creation of land protection agreements. The agreements limit the use of the lands in exchange for a payment. Generally, agricultural uses are maintained, and the agreement is not necessarily in perpetuity. The Green Swamp program includes the right of a water management district to conduct monitoring activities to ensure compliance with the agreement.

C. EFFECT OF PROPOSED CHANGES:

HB 1389 creates the "Rural and Family Lands Protection Act". This legislation creates a program to be administered by the Department of Agriculture and Consumer Services (department), which will purchase two types of rural land conservation easements (easements):

- Permanent easements, and
- Thirty-year easements.

The bill provides that the easements be targeted towards timber and ranch lands. It charges the department with establishing an application, selection, and agreement process to emphasize wildlife and watershed benefits in selecting applicants; define benefits, propose management plans, and establish easement values; appraise individual easements and underlying fee values; and make annual or lump-sum payments for easements or agreements.

In agreements to a 30-year easement, the department, the Board of Trustees of the Internal Improvement Trust Fund, or the water management district shall have the right to purchase the property or the department may extend the easement based on current value at the time easement

was conveyed plus a reasonable escalator not to exceed 60 percent. The bill provides for easement payments to be distributed in a lump sum or on a prorated basis.

In addition, the bill allows the department to enter into resource conservation agreements, under certain conditions, to compensate landowners for habitat and hydrological restoration.

The department is directed to seek funds from federal sources to supplement the state funds to support the program, as well as to develop criteria for use of bonded, appropriated, or grant funds to purchase conservation easements.

The legislation also authorizes the department to use funds from the unallocated proceeds of the documentary stamp tax for payment or interest on easement bonds. The bill stipulates the amount of interest on easement bonds may not exceed \$10 million in fiscal year 2002, \$20 million in 2003, \$30 million in 2004, \$40 million in 2005, \$50 million in 2006, \$60 million in 2007, \$70 million in 2008, \$80 million in 2009, \$90 million in 2010, and \$100 million in 2011. And lastly, the bill authorizes the issuance of bonds for the purchase of easements and specifies that the debt service for the bonds issued shall be paid from documentary stamp tax revenues.

D. **SECTION-BY-SECTION ANALYSIS:**

Section 1: Naming said act as the “Rural and Family Lands Protection Act”; and, providing definitions for “Department”, “Rural land conservation easements”, and “Resource conservation agreements”.

Section 2: Creating s. 570.70, F.S.; requiring the Department of Agriculture and Consumer Services (department) to implement a program providing two types (perpetual and thirty-year) of rural land conservation easements; requiring easements be targeted towards timber and ranch lands; requiring the department to establish an application, selection and agreement process; enabling the state or water management district, at the end of a 30-year easement, to purchase the property or extend the easement; allowing easement payments to be distributed in a lump sum or on a prorated basis; allowing the department to enter into resource conservation agreements with landowners; directing the department to seek funds from federal sources to use in conjunction with state funds to carry out the program; directing the department to develop criteria for the use of bonded, appropriated, or grant funds to purchase conservation easements.

Section 3: Amending s. 201.15, F.S.; requiring distribution of unallocated proceeds of the documentary stamp tax to the Department of Agriculture and Consumer Services for payment or interest on bonds for conservation easements; restricting the annual amount disbursed for interest on the bonds.

Section 4: Creating s. 215.619, F.S.; authorizing the issuance of bonds for purchasing rural land conservation easements; requiring bond payments from taxes distributed in s. 201.15(1)(c), F.S.

Section 5: Providing an effective date of July 1, 2001.

III. **FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

A. **FISCAL IMPACT ON STATE GOVERNMENT:**

1. **Revenues:**

See Section D. (Fiscal Comments)

2. Expenditures:

See Section D. (Fiscal Comments)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Section D. (Fiscal Comments)

2. Expenditures:

See Section D. (Fiscal Comments)

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Section D. (Fiscal Comments)

D. FISCAL COMMENTS:

Over a 10-year period, up to \$550 million that would otherwise be available in the General Revenue Fund would be used for debt service on bonds. In addition, there would likely be some costs associated with the development of rules by participating agencies. Although the Department of Agriculture and Consumer Services anticipates a need for additional staff and funding to administer the program, this information has not yet been provided by the agency.

There is no determinable impact on the private sector at this time. If implemented, rural landowners who participate could receive payment for maintaining their lands in a natural or near-natural condition.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

COMMITTEE ON AGRICULTURE AND CONSUMER AFFAIRS

On April 4, 2001, the Committee on Agriculture and Consumer Affairs adopted a strike-everything amendment to HB 1389. This amendment authorizes the Department of Agriculture and Consumer Services (department) to allocate moneys to

- Acquire perpetual easements,
- Enter into agricultural protection agreements, and
- Enter into resource conservation agreements.

Rural lands protection (perpetual) easements prohibits the construction of buildings, roads, or other structures with the exception of those structures and unpaved roads necessary to the agricultural operations on the land or structures necessary for other activities allowed under the easement. Also prohibited is the subdivision of the property, dumping or placing of trash on the property, and activities that affect the natural hydrology of the land, or that detrimentally affect water conservation, erosion control, soil conservation, or fish or wildlife habitat.

Resource conservation agreements are contracts for services that provide annual payment to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above what is already required by law. These agreements are for a term of not less than 5 years and no more than 10 years. These agreements are only available to property owners already engaged in a conservation easement or rural lands protection easement.

Agricultural protection agreements are for a term of 30 years and provide payments to landowners having significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner. As in the rural lands protection easements, the same prohibitions apply. Upon entering into a agricultural protection agreement, the landowner grants the state the option of purchasing the property at the end of the agreement based on the value of the property at the time the agreement is entered into plus a reasonable escalator. The escalator is capped at 2% of the value of the property at the time the agreement is entered into multiplied by the number of full calendar years from the date of the commencement of the agreement. At the end of the agreement, the agreement may be extended for up to 5 years with the state still retaining the option to purchase the property at the end of the extension.

Payment for conservation easements and rural land protection easements shall be a lump-sum payment at the time the easement is entered into. Landowners entering into an agricultural protection agreement may receive up to 50 percent of the purchase price at the time the agreement is entered into and remaining payments on the balance shall be equal annual payments over the term of the agreement. Payments for the resource conservation agreements shall be equal payments over the term of the agreement.

The amendment provides for the department to work in consultation with the Department of Environmental Protection, the water management districts, and the Florida Fish and Wildlife

Conservation Commission to adopt rules that establish an application process, prioritize projects toward ranch and timber lands using sustainable practices, establish an appraisal process for easements, and establish a method to determine payments under an agricultural protection agreement or a resource conservation agreement. The department is directed to seek funds from federal sources to be used in conjunction with state funds in the administration of this act.

The amendment provides for documentary stamp taxes collected to be deposited into the Conservation and Recreation Lands Program Trust Fund of the Department of Agriculture and Consumer Services. These funds shall be used first to pay debt service due on any Rural Land Protection bond or to make any other payments required pursuant to the bond documents authorizing the issuance before such moneys are used for other purposes. The amendment authorizes the issuance of Rural Land Protection bonds not exceeding \$1 billion. Such bonds may be issued over the next 10 fiscal years commencing on July 1, 2002, in an amount not exceeding \$100 million in any fiscal year, subject to some provisions. The duration of each series of bonds issued may not exceed 20 annual maturities.

The amendment provides the state will not take any action that adversely affects the rights of bondholders or reduces the portion of documentary stamps taxes distributed into the Conservation and Recreation Lands Program Trust Fund as long as such bonds are outstanding. Such bonds do not constitute a general obligation of, or a pledge of the full faith and credit of, the state. The proceeds of the sale of bonds, less associated costs, will be deposited into the Conservation and Recreation Lands Program Trust Fund. The initial series of Rural Land Protection bonds shall be validated in addition to any other bonds required to be validated pursuant to s. 215.82, F.S. Any complaint for validation of bonds shall be filed only in the circuit court of the county where the seat of state government is situated.

COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

On April 11, 2001, the Committee on General Government Appropriations adopted six (6) amendments to the strike-everything amendment to HB 1389. The amendments are as follows:

Amendment 1: This amendment requires the department to consult with the Department of Community Affairs [along with the Department of Environmental Protection and the water management districts] when adopting the rules for the program. The amendment also requires the Board of Trustees of the Internal Improvement Trust Fund to review and approve the rules.

Amendment 2: This amendment clarifies that conservation easements vest with the Board of Trustees of the Internal improvement Trust Fund.

Amendment 3: This amendment extends the terms of agricultural protection agreements by providing automatic extension on an annual basis at the end of the 30-year term.

Amendment 4: This amendment replaces the state's option to purchase property at the end of the agricultural protection agreement with a right to buy a perpetual conservation easement at the end of the 30-year term or prior to the landowner transferring or selling the property, whichever is later. The amendment also sets terms for purchase prices.

Amendment 5: This is a technical amendment to change the word Preservation to Protection. The language would therefore read: Rural Land Protection Bond.

Amendment 6: This is a technical amendment to change the word bonded to bond. The language would therefore read: bond proceeds.

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VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

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Susan Reese

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