

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1296

SPONSOR: Transportation Committee, Senator Bronson and others

SUBJECT: Land Acquisition & Management

DATE: April 10, 2001                      REVISED: \_\_\_\_\_

|    | ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION          |
|----|-----------|----------------|-----------|-----------------|
| 1. | Gee       | Voigt          | NR        | Fav/1 amendment |
| 2. | McAuliffe | Meyer          | TR        | Favorable/CS    |
| 3. | _____     | _____          | JU        | _____           |
| 4. | _____     | _____          | _____     | _____           |
| 5. | _____     | _____          | _____     | _____           |
| 6. | _____     | _____          | _____     | _____           |

**I. Summary:**

This CS revises various provisions of law governing land acquisitions and management to:

- Provide that the condemning authority in an eminent domain proceeding must, at the time any offer of compensation for acquisition is made to the fee owner, notify the the fee owner of their statutory rights or provide the fee owner with copies of the pertinent statutes.
- Provide discretion to water management districts (WMDs), local governments, the Board of Trustees of the Internal Improvement Trust Fund (Trustees), and other state agencies to determine whether to reserve mineral interests when selling lands and to clarify the types of information to be given by landowners wanting a release of a reservation.
- Authorize WMDs to grant utility easements on district-owned lands for providing utility service, to grant the districts additional time to provide notification prior to executing lease agreements, to authorize districts to abandon easements, reservations, and right-of-way interests that are no longer needed, to authorize districts to cure title defects after a land sale is executed, and to authorize such districts to contract with non-governmental entities for management, improvement, or maintenance of land held by the district.

This CS amends ss. 73.015, 270.11, 373.056, 373.093, 373.096, 373.139, 373.1401, and 374.984, F.S.

## II. Present Situation:

The South Florida WMD reports there are several provisions of law that unnecessarily hinder its operations. They include:

- Section 73.015(1)(a), F.S., requires a condemning authority to advise the fee owner of his or her statutory rights under ss. 73.091, 73.092, and 73.015(1)(b) and (c) and 73.015(4), F.S., at the inception of a negotiation for acquisition. The district believes “inception” is vague and that it would be preferable to provide the fee owner the actual statutes, rather than advise the owner of statutory rights and responsibilities, and to do so prior to or concurrent with the written offer of compensation.
- Section 270.11(1) and (3), F.S., require that the Trustees, local governments, WMD’s, and other agencies of the state reserve certain mineral rights when selling land. The district often has no interest in such reserved rights and releases the rights upon request. The district would prefer to have the ability not to reserve the rights and convey clear title.
- Section 373.056(4), F.S., authorizes WMDs to convey unneeded lands to the U.S. Government or other agencies. The statute does not authorize leases to such entities, nor does it authorize the granting of utility easements. Section 373.089, F.S., does authorize the sale of land or interests or rights in lands but requires a WMD to sell for the highest price obtainable, requires publication of the impending sale, and other requirements. The district would like to grant utility easements to obtain power to district property and convey leases under the less-restrictive s. 373.056(4), F.S.
- Section 373.093(2), F.S., requires notice by publication prior to the leasing by a WMD of lands or interests in land. The notice must be published no more than 45 days prior to the lease. The district wishes to extend the time period for publication prior to the execution of a lease to no more than 90 days.
- Section 373.096, F.S., authorizes a WMD to release unneeded canal easements, reservations, or right-of-way interests. The district wishes to be authorized to release any unneeded easement and to be able to release any easements or interest unilaterally, without the need for another party to accept the released interests on easements.
- Section 373.139(2) and (3)(a), F.S., authorize a WMD to acquire real property and easements but the section does not authorize the acquisition of any other interests in property. This section also authorizes a WMD to disclose appraisal reports to private landowners during acquisition negotiations for less-than-fee purchases if the district believes that disclosure will result in a sale. Otherwise, title information, appraisal reports, offers, and counteroffers are confidential until an option contract is executed. There are many instances when a third party works with or on behalf of WMD during land acquisitions.

- Section 373.1401, F.S., authorizes a WMD to contract for land management services only with governmental entities. There are, however, private sector land management services available.
- Section 374.984(6)(a), F.S., authorizes the Florida Inland Navigation District (FIND) to contract with the U.S. Army Corps of Engineers or other representative of the United States for its needs in operating the Atlantic Intracoastal Waterway. The FIND is not specifically authorized to contract with other parties or agencies for such assistance.

### III. Effect of Proposed Changes:

**Section 1.** Section 73.015(1)(a), F.S., is amended to require, effective July 1, 2000, a condemning authority must, at the time any offer of compensation for acquisition is made to the fee owner, notify the fee owner of their statutory rights or provide the fee owner with copies of ss. 73.015, 73.091, and 73.092, F.S.

**Section 2.** Section 270.11(1) and (2), F.S., are amended to provide Trustees, local governments, WMDs, or other agencies of the state are not required to reserve an undivided three-fourths interest in the minerals and an undivided one-half interest in petroleum associated with properties that are sold.

**Section 3.** Section 373.056(4), F.S., is amended to clarify WMDs may lease WMD property under terms and conditions determined by the governing board and may grant utility easements on lands owned by such district to any private or public utility for the limited purpose of obtaining utility service to district property.

**Section 4.** Section 373.093(2), F.S., is amended to change the date of the initial publication of a WMD's intent to lease any land or interest in land from not less than 30 or more than 45 days, to not less than 30 or more than 90 days prior to execution of the lease.

**Section 5.** Section 373.096, F.S., is amended to provide a WMD may not release canal easements, reservations, or right-of-way interests.

**Section 6.** Section 373.139(2) and (3)(a), F.S., are amended to authorize a WMD to acquire title to interests or rights in property other than real property and easements. The section also clarifies eminent domain may only be used for acquiring real property for flood control and water storage or for curing title defects or encumbrances to real property owned by the district or to be acquired by the district from a willing seller.

This section also authorizes a WMD to disclose title information to private landowners during negotiations for acquisition using alternatives to fee simple techniques, if the WMD determines the disclosure will cause a sale. In addition a WMD is authorized to disclose title information, appraisal information, offers, and counteroffers to a third party who has entered into a contractual agreement with the WMD to work with or on the behalf of or to assist the district in connection with land acquisitions. Also, a WMD may use, as its own, appraisals obtained by a third party provided the appraiser is selected from the district's list of approved appraisers and the appraiser is reviewed and approved by the district.

**Section 7.** Section 373(1401), F.S., is amended to authorize WMDs to contract with any non-governmental entity for real property improvement, management, and maintenance services. The section provides the managing entity will manage WMD lands for the purposes for which the lands were acquired, in accordance with management plans developed for the lands.

**Section 8.** Section 374.984(6)(a), F.S., is amended to authorize the FIND to enter into contracts with any agency or party in conducting its affairs.

**Section 9.** The act will take effect upon becoming a law.

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

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

None.

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

Section 6 of the CS authorizes the disclosure of information currently exempt from public records requirements.

**C. Trust Funds Restrictions:**

None.

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

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Clearing clouds on titles due to the reservation of mineral and oil interests could benefit those acquiring former government lands in undetermined amounts and those acquiring lands, leases and easements could benefit from the less restrictive provisions in the CS. Such amounts, if any, cannot be determined at this time.

**C. Government Sector Impact:**

There is no significant fiscal impact on government, although the changes could result in greater efficiency in some operations.

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

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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