

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 667 w/CS Local Government Property
SPONSOR(S): Meadows; Kallinger
TIED BILLS: none **IDEN./SIM. BILLS:** CS/SB 262, 2nd Eng.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>18 Y, 0 N w/CS</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
2) <u>State Administration</u>	<u>6 Y, 0 N w/CS</u>	<u>Bond</u>	<u>Everhart</u>
3) <u>Commerce & Local Affairs Apps. (Sub)</u>	<u>(W/D)</u>	<u>Belcher</u>	<u>Belcher</u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill:

- Increases from \$750 to \$1,000 the value beyond which a local government must mark and inventory tangible personal property.
- Provides that any surplus lands acquired by the state prior to 1960 by gift or other conveyance for no consideration from a municipality shall be first offered for reconveyance at no cost to the municipality, unless otherwise provided in a deed restriction.
- Requires the state to complete the "Tenoroc Exchange" in Lakeland.

This bill has an estimated nonrecurring negative fiscal impact on state government revenues of \$550,000 in FY 2003-2004. This bill appears to have a minimal positive fiscal impact on local government expenditures.

There is a constitutional concern regarding this bill, see "Constitutional Issues" herein.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0667d.ap.doc
DATE: April 29, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain: Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Background

Chapter 253, F.S., governs state-owned lands. Article IV, s. 4(f), Fla.Const., provides that the Board of Trustees of the Internal Improvement Trust Fund (commonly referred to as TIIF) consists of the Governor and Cabinet. Section 253.001, F.S., provides that TIIF holds title to all state-owned lands. In general, only TIIF can sell state lands.

Section 253.034(6), F.S., prescribes the procedure for TIIF to determine that lands are surplus, and prescribes some of the procedure for disposal of such surplus lands. In short, the property must be offered first to local governments. If the county and local governments decline to purchase the surplus land, the land may be sold to any person.

There are conflicting provisions regarding the transfer of a surplus property that was originally donated to the state, is later determined to be surplus, and is being conveyed to a local government. Paragraph (6)(e) of s. 253.034, F.S., provides that the Acquisition and Restoration Council (“council) may recommend to TIIF that a property be declared surplus. Paragraph (6)(f) provides that the council may recommend to TIIF that a surplus property be transferred by “sale, lease, *or other conveyance* to a local government”. It appears from the highlighted language that TIIF could give property to a local government without requiring compensation.

However, paragraph (6)(g) provides in part that property deemed surplus “shall be sold for appraised value”, which would require payment; but that same paragraph provides that, if sold to a local government, the sales price cannot exceed the price paid by the state to acquire the property. Where this limit applies, however, the local government receiving the property may not sell or transfer the property to any private owner for 10 years. Thus, under paragraph (6)(g), if the state took title by gift, and then decided to sell the property to a local government, the sales price could not exceed zero.

However, s. 253.111, F.S., requires that, before TIIF may sell any property, TIIF must offer to sell the property to the county in which the property lies. If the county exercises its option to purchase the property, the county must pay the appraised value. It is unclear what would happen if the county, and a local government, both demanded that the state sell them the property. It is unclear whether a transfer to a county of property originally donated to the state is governed by the price limitation at s. 253.034(6)(g), F.S. (county pays nothing), or is governed by the requirement that a county exercising its option pay full appraised price at s. 253.111, F.S. It does appear, however, that if a city had donated property to the state, and the state later gave the property back to the city, and the county did not exercise its option regarding the property, than the limit at paragraph (6)(g) would apply and the city would be given the property at no cost, subject to the 10 year limitation.

Section 274.02, F.S., requires a local government to mark tangible personal property owned by the government and valued in excess of \$750. The local government must also maintain a continuous inventory record, and must annually conduct a physical inventory of such property. The threshold was increased from \$500 to \$750 in 1996. The sum of \$750 adjusted for inflation to today is \$871.89.¹ By comparison, the similar law regarding tangible personal property owned by the state requires marking and inventory of property valued in excess of \$1,000. See s. 273.02, F.S.

Chapter 274, F.S., requires a "governmental unit" to mark and inventory its tangible personal property, and provides for the disposition of surplus tangible personal property owned by a governmental unit. Section 274.12, F.S., limited application of portions of ch. 274, F.S., regarding special districts, by reference to a 1979 chapter law. That 1979 chapter law, however, was repealed in relevant part in 1989. It is unknown why s. 274.12, F.S., has not been removed by a subsequent reviser's bill.

Effect of Bill

This bill amends s. 253.034(6)(f), F.S., to provide that any surplus lands acquired by the state prior to 1960 by gift or other conveyance for no consideration from a municipality shall be first offered for reconveyance at no cost to the municipality, unless otherwise provided in a deed restriction. The effect appears to be that the right to purchase by the county found at s. 253.111, F.S., would not be applicable to state-owned property declared surplus where the property was originally donated to the state by a municipality unless such municipality refused the property.

This bill also amends s. 253.034, F.S., to require the state to complete the Tenoroc Exchange with the City of Lakeland, Florida. The bill specifically declares the values of the properties exchanged are to be deemed equivalent.

This bill amends s. 274.02, F.S., to increase from \$750 to \$1,000 the threshold value beyond which a local government must mark and inventory an item of tangible personal property.

This bill also repeals s. 274.12, F.S., which was intended to allow special districts to utilize the surplus property alternative procedure at s. 274.06, F.S., although it appears that the repeal is simply a repeal that would normally be in a reviser's bill.

C. SECTION DIRECTORY:

Section 1 amends s. 253.034, F.S., regarding surplus state-owned lands.

Section 2 amends s. 274.02, F.S., regarding marking and inventory of tangible personal property owned by local governments.

Section 3 repeals s. 274.12, F.S.

Section 4 provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The potential revenue loss to the Internal Improvement Trust Fund for the provision regarding property donated to the state is unknown, but likely none. The provision regarding the Tenoroc

¹ <http://www.aier.org/cgi-bin/colcalculator.cgi>

Exchange has an estimated nonrecurring negative fiscal impact on state government revenues of \$550,000 in FY 2003-2004. See fiscal comments.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures:

Section 2 of this bill is expected to create a minimal positive impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

Section 1 (Property Donated to the State): Current law is unclear as to whether TIIF can or must convey surplus property that was initially received as a gift for free, or at cost, to counties. If current law provides that such surplus lands must be sold, and if there is a county that would exercise such an option to purchase property that a municipality within the county would receive for free under the provisions of this bill, it is possible that this bill may represent a significant fiscal impact to the state. However, it seems unlikely that a county would pay full price for real property that a city within that county could receive for no cost.

The parcel of land that is contemplated by the sponsor is located in Winter Park, Florida. It is a 5 acre parcel transferred to the state in December of 1956. Currently, the property is improved with an office building of 63,894 square feet of heated and cooled space, and 321 parking spaces. The Orange County Tax Appraiser has assigned a value to the property of \$6,583,934; although it should be noted that tax appraised and actual values may vary considerably. The deed of the property from the City of Winter Park to the state did not contain any reverter clause, nor any restriction on the future use or sale of the property by the state. The Department of Management Services currently manages the building, receiving approximately \$500,000 annually in rents from state agencies. This provision of the bill may have a negative fiscal impact to the state should these state agencies move from this state-owned building into a privately-owned office building.

It is unknown how many other parcels of real property owned by the state may potentially fall within the exception created by this bill. A typical gift deed to the state would have included a "reverter clause" whereby if the state abandons the property, or declares it surplus, the property would automatically revert back to the grantor of the property. Such a reverter clause would expire no later than the end of the MRTA period (30 years) for a gift from a private party, but would not expire as a matter of law as to a government grantor (although it could expire on its own terms). This bill does not apply to any property where a reverter clause, or other deed restriction, would control the disposition of the property upon being deemed surplus by the state. Thus, it is possible that there are few properties to which this bill would apply.

It is also worth noting that the declaration of real property as surplus is a discretionary function of TIIF. The state can avoid giving a property to a municipality without cost pursuant to the provisions of this bill simply by refusing to declare the property as surplus.

Section 1 (Tenoroc Exchange): Located two miles northeast of Lakeland, Tenoroc Fish Management Area is a 6,000-acre tract of land that was mined for phosphate until the mid-1970's. In 1982, Borden Inc. donated this property to the State of Florida. Approximately 1,000 acres of lakes, locally referred to as "phosphate pits" remained from mining operations. Numerous phosphate pits exist in Polk County

and many support outstanding sportfisheries for largemouth bass and panfish. Unfortunately, most such areas are privately controlled and are off-limits to the general public. The donation of Tenoroc provided the State with a unique challenge to develop recreational activities on this disturbed land site. Of those activities considered, public fishing was the primary use requested by local residents. In 1983, Florida Fish and Wildlife Conservation Commission (FWCC) biologists began to evaluate the fisheries at Tenoroc, develop a fish management plan, and implement extensive research studies. Research was directed at testing a variety of restrictive harvest regulations on largemouth bass in an attempt to maintain high quality fishing success. These studies yielded important information to biologists that now directly benefits anglers. Based on these findings, Commission biologists continue to manage Tenoroc fish populations that attract and satisfy thousands of visitors annually.² The FWCC manages the property for the state.

In the middle of Tenoroc, the City of Lakeland operates a coal fired electrical generating plant. A byproduct of electrical generation by coal is substantial quantities of ash. Part of the city-owned property has been used for an ash pit, but the pit is nearly full. The City approached the state looking to obtain an adjoining parcel of approximately 150 acres to use as an ash pit, offering approximately 250 acres adjoining Tenoroc in exchange. The FWCC recommended the exchange, as the 150 acre parcel is deemed of poor quality while the 250 acres offered in return is of better quality for FWCC purposes and fills in some of the odd borders of the Tenoroc Fish Management Area. The Division of State Lands employed an appraiser, who has issued an opinion that the state property, despite being smaller and of poor quality according to the FWCC, is nevertheless worth \$550,000 more than the city property being offered in exchange. The City disputes the findings in the appraisal, asserting that the property offered is of the same value.

Section 2: Increasing the minimum value of property subject to the requirements of ch. 274, F.S., will reduce the cost of marking, recording and accounting of the property owned by local governments. In many Florida counties, the County Clerks of the Court are responsible for maintaining the books of account for their operations, as well as those of their respective board of county commissioners, and for providing oversight and direct participation in the annual physical inventory of county property. The Florida Association of Court Clerks (FACC) reports that a disproportionate number of local property items have values less than \$1,000. Consequently, disproportionate resources are expended in maintaining the inventory of such lower-value items. For example, FACC reports that last year Pasco County had a total of 6,590 inventoried property items with a total value of \$47 million. Of these items, 1,022 had a value of less than \$1,000 (18.24%), representing only 2.7% of the total value of all inventoried items. The number of items valued between \$750 and \$1,000 and their collective value is not specified.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable.

2. Other:

This bill may be impacted by the requirements of art. III, s. 6, Fla.Const.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

² <http://floridafisheries.com/offices/tenoroc.html>

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Local Government & Veterans' Affairs Committee adopted two amendments at its meeting on March 27, 2003. The first amendment (a strike-all amendment) changes the meaning of the term "property" as used in s. 274.02, F.S., from fixtures and other tangible personal property of a nonconsumable nature the value of which is \$750 or more, to a value of \$1000 or more, and amends s. 253.034, F.S., to provide that any surplus lands acquired by the state prior to 1960 by gift or other conveyance for no consideration from a municipality shall be first offered for reconveyance at no cost to the municipality, unless otherwise provided in a deed restriction. The amendment to the strike-all amendment authorizes special districts to use the surplus property alternative procedure.

The Committee on State Administration adopted one amendment on April 23, 2003. The amendment added the provision regarding the Tenoroc Exchange. The bill was then reported favorably with a committee substitute.