

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 87A                      Acquisition and Conservation of Lands  
**SPONSOR(S):** Spratt  
**TIED BILLS:**                              **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Calendar		Lotspeich	Lotspeich
2)			
3)			
4)			
5)			

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### SUMMARY ANALYSIS

HB 87A provides the following:

#### State Lands Issues

- Revises appraisal requirements for both the Division of State Lands and the WMDs to require 2 appraisals when property being purchased is appraised at more than \$1 million - for anything less than that, one appraisal is required.
- Surplus property must be sold to other unit of governments at appraised value instead of the purchase price paid by the state.
- Allows the sale of former barge canal lands as surplus property.
- Clarifies duties of the department when evaluating lands for the acquisition of greenways and trails.

#### Inventory Issues

- The Division of State Lands must begin preparing a state inventory of all federal lands, and all lands titled in the name of the state, a state agency, a water management district, or a local government.
- Counties are directed to assist the Division by developing a county inventory.
- Rights-of-way are exempted from the inventory.
- The inventory must identify the acquisition program that funded the purchase of the state or water management district lands.
- In counties where more than 50% of the land within the county boundary is federal land, or land titled in the name of the state, a state agency, a water management district, or a local government, state-owned lands that are no longer needed for conservation purposes may be made available for surplus at the request of a public or private entity.
- Priority consideration must be given to surplus requests that result in the return of the property to productive use and re-entry onto the county ad valorem tax roll.

#### Local Governments Surplus Land Provisions:

- Counties and local governments can submit surplus requests directly to the Board of Trustees, and the requests must be expedited through the surplus process.
- Property jointly acquired by the state and other entities shall not be surplus without the consent of all owners.
- The board can decide to surplus nonconservation lands without input from the Acquisition & Restoration Council, or the Division of State Lands.
- The ARC must review and make recommendations to the Board on requests to surplus conservation lands.
- When exchanging donated nonconservation lands, the board must first offer the lands to local governments at no cost and may request land of equal conservation value from the local government, but no other consideration.

#### Payments In Lieu Of Taxes

- Provides that CARL funds not used for PILT payments by the DEP can be used for land management instead of land acquisition and requires that the state agency or water management district acquiring the land must submit PILT payment requests to the Department of Revenue.

#### Land Exchanges

- Directs the Board of Trustees to complete two land exchanges by a time certain.

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

**STORAGE NAME:** h0087A.nr  
**DATE:** May 14, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

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

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

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Chapters 253 and 259, Florida Statutes

Chapters 253 and 259, Florida Statutes, are the primary statutes governing the acquisition, management, and disposal of state-owned lands, and creating the state's land acquisition programs.

##### Chapter 253, F.S.

Chapter 253, F.S., is entitled "State Lands" and establishes that pursuant to the provisions of s. 7, Art. II, and s. 11, Art. X, of the State Constitution, all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund (Board) are held in trust for the use and benefit of the people of the state. The Department of Environmental Protection (department) is required to perform staff duties and functions related to the acquisition, administration, and disposition of state lands. This responsibility is assigned by the department to the Division of State Lands (division).

Restrictions on the sale, transfer, or disposal of state lands are established in Chapter 253, F.S.. Land acquisition procedures for voluntary negotiated acquisitions are provided, including appraisal requirements, evidence of marketability of title, public records exemptions, conveyance requirements, and the authority of the Board to deed state-owned property to other state agencies such as the Department of Agriculture & Consumer Services, the Department of Corrections, or the Department of Juvenile Justice.

Chapter 253, F.S., also provides for the emergency acquisition of lands, and establishes provisions relating to the administration, management, and disposition of state-owned lands, as well as the use of state-owned lands. Requirements governing the disposal of conservation and nonconservation state-owned lands through the state's surplus lands process are provided in s. 253.034, F.S.

Chapter 253, F.S., contains requirements for land management plans for state agencies or managing entities of state-owned lands. For conservation lands, management plans must be submitted at least every 5 years, and must be approved by the Board after review by the Acquisition & Restoration Council and the division

## Chapter 259, F.S.

Chapter 259, F.S., is entitled "Land Acquisitions for Conservation and Recreation". This chapter contains Florida's nationally known land acquisition programs, the Conservation and Recreation Lands Program (CARL), the Preservation 2000 Program (P2000), and the Florida Forever Program.

Chapter 259, F.S., establishes the purposes for which state-owned lands will be managed including providing the greatest benefit to the public, providing outdoor recreational opportunities, and especially, management for the purposes for which the land was acquired. The board must adopt a management prospectus for each acquisition project, and can designate an agency or agencies as the lead manager. Advisory groups to assist in the development of management plans authorized in chapter 253, F.S., are created in chapter 259, F.S. The distribution of funds provided for land management purposes are restricted for agencies with overdue land management plans.

The Florida Forever Advisory Council is created in chapter 259, F.S., and consists of seven residents appointed by the Governor, with the responsibility of making recommendations on the distribution of funds under the Florida Forever Program. The report must be submitted to the Secretary of the department, who must in turn forward it to the Board for approval.

The Acquisition & Restoration Council is also created in chapter 259, F.S., and consists of nine voting members, four of whom are appointed by the Governor, and five of who are designees of the state agencies receiving funds under the state's land acquisition programs. The council provides the Board with assistance in reviewing land management plans, but the primary purpose of the Council is to competitively evaluate, select, and rank projects eligible for funding under CARL, P2000 or Florida Forever.

The department is authorized to create regional land management review teams to determine if conservation lands are being managed and used for the purposes for which they were acquired. The review is submitted to the managing agency, to the division, to the Land Acquisition and Management Advisory Council, or its successor, and must be used by the managing agency in finalizing the 5-year update to a land management plan authorized in chapter 253, F.S.. The Land Management Uniform Accounting Council is created within the department with the purpose of reporting on agency's land management expenditures, as provided in chapter 253, F.S.

Requirements for voluntary negotiated acquisitions for conservation, preservation, and recreation lands purchased by the state are created in chapter 259, F.S., and mirror the acquisition requirements of chapter 253, F.S.

### **Issue – Public lands surplusing**

Since 1972, under various statutory provisions, the state has acquired conservation and recreation lands (hereinafter referred to as "conservation lands") under a variety of programs, including the Environmentally Endangered Lands (EEL) program, the Conservation and Recreation Lands (CARL) program, the Save Our Coast program, the Save Our Rivers program, the Preservation 2000 (P2000) program and the Florida Forever program. These programs have sought to place natural areas into public ownership in order to maintain the state's unique natural resources and to provide lands for public recreation. The Department of Environmental Protection (DEP) administers most state-level program activities. However, other program activities are performed by other entities, including the Department of Community Affairs, the Department of Agriculture and Consumer Services, the five water management districts, and local governments.

As of March 2001, the total conservation lands in the state acquired and managed by federal, state, and local governments was 8,666,345 acres. Of this total approximately 4 million acres is federally

owned and managed, 4.3 million acres is state owned and managed, and 280,000 acres is owned and managed by local governments. Additional tracts have been bought over the last two years. Currently, the total acreage of conservation lands is approximately 25 percent of the total land in the state.

The state can acquire land that is not needed for conservation purposes in order to acquire those parcels that are needed for conservation. This can occur when landowners refuse to sell tracts of land that the state desires unless other adjoining tracts are included in the purchase.

As a result of these long-standing and extensive land acquisition efforts, many counties now have large percentages of the lands within their boundaries in public ownership and not available as part of the ad valorem tax base. Some of these lands are not needed for conservation purposes.

Under current law, the Board of Trustees of the Internal Improvement Trust Fund (Board) is required to determine those lands which are no longer needed for conservation and which can be surplus (see ss. 253.034(6), F.S.). The Board may dispose of such surplus lands by a two-thirds vote. As provided by a process set forth in statute, at least every five years there is to be an evaluation of the state's land holdings to identify those lands that are not being used for the purposes for which they were acquired, and recommendations are to be made to the Board for the surplus of such lands.

The proceeds from the sale of surplus lands are to be deposited to the fund from which the lands were acquired. If that fund no longer exists the proceeds are to go to an appropriate account to be used for land management by the lead agency assigned the lands prior to the lands being declared surplus.

#### **Issue – Payment in lieu of taxes**

Current law provides that payments shall be made to local governments from the CARL Trust Fund and the Water Management Lands (WML) Trust Fund to compensate those governments for the loss of ad valorem tax revenue suffered as a result of the acquisition of lands in the county under the Preservation 2000 program or the Florida Forever program (see ss. 259.032(12) and, ss. 373.59(10), F.S). Only those counties with populations of 150,000 or fewer are eligible for such payment in lieu of taxes.

The law provides that any funds reserved for payment in lieu of taxes from the CARL Trust Fund and the WML Trust Fund which were not paid out are to revert to those trust funds for land acquisition. It also provides that local governments that did not receive payment in lieu of taxes for lands purchased under the Preservation 2000 program in 1999 and 2000 are to receive retroactive payment for those tax losses.

Payments in lieu of taxes are to be made annually to qualifying local governments after certification by the Department of Revenue and after the DEP has provided supporting documents to the Comptroller and has requested that the payment be made.

Current law also provides that moneys credited to the CARL Trust Fund each year which are not used for management, maintenance, capital improvements, or payment in lieu of taxes are to be made available for land acquisition.

Payments in lieu of taxes made to local governments from the Water Management Lands Trust Fund are limited to ten annual payments.

#### **Issue – Board approval of purchases**

The Board currently has the authority to adopt rules to implement the state's land acquisition program, including rules which address:

- procedures to be followed in the acquisition process;

- the determination of the value of parcels;
- special requirements when multiple owners are involved; and
- requirements for obtaining option agreements.

### **Effect of Proposed Changes**

This bill proposes to simplify land acquisition and land management responsibilities for lands purchased and managed under the state's land acquisition programs. Revisions are made to appraisal requirements when the value of a proposed acquisition exceeds \$1 million. A 10-year land management planning process for conservation lands, and a 10-year land use planning process for non-conservation lands are established.

The bill authorizes the Division of State Lands at the Department of Environmental Protection to determine the sale price of surplus lands, taking the appraised value of the lands into consideration. Provisions requiring that surplus lands can be purchased by other units of government at no more than the original amount paid by the state or a water management district are eliminated.

The bill requires the DEP to begin an inventory, on a county by county basis with the assistance of the counties, of all lands owned by the federal government, the state, the water management districts, and local governments, with the exception of rights-of-way for existing, proposed, or anticipated transportation facilities. In any county in which over 50 percent of the lands in the county are owned by the government, DEP is required to identify those lands bought through any of the state's conservation lands programs.

The bill requires that the inventory distinguish between those lands which were acquired as part of a "core" parcel and those lands which are "not essential" to meet the conservation purposes of the program under which they were acquired. Those lands which are identified as "not essential" are to be made available to the public for purchase. Priority is to be given to those buyers who intend to return the property to productive use and reenter the lands on the county's ad valorem tax roll.

The bill creates a new process to expedite surplus land requests made by local governments, and a new process for the exchange of donated state lands to local governments, including a requirement that the exchange provides an equal value benefit to the state. Finally, the bill requires that the Board of Trustees of the Internal Improvement Trust Fund (Board) execute an agreement to exchange lands with a local government under certain conditions and by a date certain.

The following is a section by section analysis of the bill:

**Section 1:** Amends s. 253.025, F.S., to provide that two appraisals are required when the value of a parcel proposed for acquisition by the state exceeds \$1 million. Revises provisions requiring an appraisal by the Division when the parcel being purchased is less than \$100,000 to provide that the Division may use a comparable sales analysis or other reasonably prudent process to estimate the value of the parcel so long as the public interest is reasonably protected. Provides that the state is not required to appraise lands and appurtenances being donated to the state

**Section 2:** Amends s. 253.034, F.S., to provide that donated state lands are not conservation lands unless they are being managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation purposes under a land management plan approved by the Board. Provides that managers of conservation lands must submit a land management plan every 10 years to the division.

Provides that managers of non-conservation lands must submit a land use plan every 10 years to the division. Provides that all land use plans must include an analysis of the property to determine if any significant or cultural resources are located on the property. Provides that significant or cultural

resources includes archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities with unique natural resources. Provides that land use plans must also detail efforts to the control of invasive non-native plants, and the conservation of soil and water resources, including a plan describing how soil and water contamination will be controlled and prevented.

Authorizes the Division of State Lands to determine the sale price of lands determined to be surplus so long as appraised value is taken into consideration. Deletes provisions requiring that surplus properties be sold to other units of government at no more than the original price paid by the state or a water management district. Authorizes the Board to adopt rules that include procedures for administering surplus land requests, and criteria that allows the division to approve requests to surplus non-conservation lands.

Requires the Division of State Lands to begin preparing a state inventory of all federal lands, and all lands titled in the name of the state, a state agency, a water management district, or a local government on a county-by-county basis. Provides an exemption from the inventory for rights-of-way for existing, proposed, or anticipated transportation facilities. Requires that the state inventory must identify under which land acquisition program state-owned and water management district lands were acquired. Requires that counties assist in the development of the state inventory through development of a county inventory identifying all federal lands, and all lands titled in the name of the state, a state agency, a water management district, or a local government.

**Section 3:** Creates s. 253.0341, F.S., to provide that counties and local governments can submit surplus requests directly to the Board of Trustees. Authorizes the Board to decide to surplus state-owned lands without a review or recommendation from the Acquisition & Restoration Council or the division. Provides that local government surplus requests be expedited throughout the surplus process, and be considered at the first Board meeting scheduled within 60 days of the Board's receipt of the request to surplus.

**Section 4:** Amends s. 253.42, F.S., to authorize the Board to exchange all lands titled in the name of the state for lands owned by counties, local governments, individuals, and private or public corporations. Donated nonconservation lands must first be offered by the state to a county or local government at no cost so long as the county or local government proposes to use the property for a public purpose. The state can request land of equal conservation value if exchanging donated conservation lands to a county or local government, but can not request any other consideration.

Provides that when exchanging all lands with counties or local governments, other than those which were donated or for which no consideration was paid, the Board may require an exchange of equal value. Provides that equal value can be conservation land for conservation land, or can be land and monetary consideration equal to the appraised value of the state lands being offered for exchange. Provides that equal value under this section is a net positive conservation benefit.

**Section 5:** Amends s. 253.7823, F.S., to revise requirements relating to the disposition of former barge canal lands, and to remove obsolete references to payments to counties for barge canal lands.

**Section 6:** Amends s. 259.032, F.S., to delete the reversion of unused PILT funds to the Conservation & Recreation Lands Trust Fund (CARL). Provides that on behalf of a local government, the state agency that acquired the property is responsible for preparing and submitting application requests for payment to the Department of Revenue.

**Section 7:** Amends s. 259.0322, F.S., to authorize the Department of Environmental Protection to make PILT payments for 20 years, including the reinstatement of payment to eligible entities with payments suspended under the current 10-year cap.

**Section 8:** Amends s. 259.036, F.S., to provide that the division must schedule land management reviews at least every 5 years for management areas that exceed 1,000 acres in size. A copy of the review must be provided to the Acquisition & Restoration Council.

**Section 9:** Amends s. 259.041, F.S., to clarify language establishing the Board's authority to waive requirements or rules relating to the acquisition of state-owned lands for preservation, conservation, or recreation purposes.

**Section 10:** Amends s. 373.139, F.S., to delete obsolete language relating to the acquisition of real property by the water management districts.

**Section 11:** Amends s. 373.59, F.S., to provide that Save Our Everglades monies deposited into the Water Management Lands Trust Fund can be used by the water management districts to make PILT payments. Provides that PILT payments can be made for 20 years. Provides that the water management district that acquired the land is responsible for preparing and submitting PILT payment application requests to the Department of Revenue on behalf of a local government.

**Section 12:** Amends s. 373.5905, F.S., to authorize the water management districts to make additional payments to eligible entities with payments suspended under the current 10-year cap.

**Section 13:** Provides that in an exchange of lands contemplated between the Board and a local government, the lands proposed for exchange by the state and the local government are of equal value if the land being offered for exchange by the state is donated property no longer needed for conservation purposes, if the land is no larger than 200 acres, and if the local government and the division have been negotiating a land exchange for at least one year. Provides that the Board must exchange lands with a local government under these provisions no later than August 15, 2003. Provides that the lands conveyed to the local government must be used for a public purpose, or title will revert to the state..

**Section 14:** Repeals s. 253.84, F.S., relating to the acquisition of lands with cattle-dipping vats, and s. 259.0345, F.S., creating the Florida Forever Advisory Council.

**Section 15:** Provides that the bill will take effect July 1, 2003.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 253.025, F.S., to provide that two appraisals are required when the value of a parcel proposed for acquisition by the state exceeds \$1 million.

**Section 2.** Amends s. 253.034, F.S., to address several land management, acquisition and surplusing practices.

**Section 3.** Creates s. 253.0341, F.S., to provide that counties and local governments can submit surplusing requests directly to the Board of Trustees.

**Section 4.** Amends s. 253.42, F.S., to authorize the Board to exchange all lands titled in the name of the state for lands owned by counties, local governments, individuals, and private or public corporations.

**Section 5.** Amends s. 253.7823, F.S., to revise requirements relating to the disposition of former barge canal lands.

**Section 6.** Amends s. 259.032, F.S., to delete the reversion of unused PILT funds to the Conservation & Recreation Lands Trust Fund. Provides that on behalf of a local government, the state agency that

acquired the property is responsible for preparing and submitting application requests for payment to the Department of Revenue.

**Section 7.** Amends s. 259.0322, F.S., to delete a reference to water management districts.

**Section 8.** Amends s. 259.036, F.S., to provide that the division must schedule land management reviews at least every 5 years for management areas that exceed 1,000 acres in size

**Section 9.** Amends s. 259.041, F.S., to clarify language establishing the Board's authority to waive requirements or rules relating to the acquisition of state-owned lands for preservation, conservation, or recreation purposes.

**Section 10.** Amends s. 373.139, F.S., to delete obsolete language relating to the acquisition of real property by the water management districts.

**Section 11.** Amends s. 373.59, F.S., to provide that Save Our Everglades monies deposited into the Water Management Lands Trust Fund can be used by the water management districts to make PILT payments. Provides that PILT payments can be made for 20 years. Provides that the water management district that acquired the land is responsible for preparing and submitting PILT payment application requests to the Department of Revenue on behalf of a local government.

**Section 12.** Amends s. 373.5905, F.S., to delete a reference to the Department of Environmental Protection.

**Section 13.** Amends s. 260.16, F.S., to delete requirements for the DEP to consider in evaluating lands for acquisition of greenways and trails.

**Section 14.** Provides requirements for the exchange of lands between the Board and a local government.

**Section 15.** Requires the Board to exchange certain lands with a private entity known as the "Chapman Exchange."

**Section 16.** Repeals s. 253.84, F.S., relating to the acquisition of lands with cattle-dipping vats, and s. 259.0345, F.S., creating the Florida Forever Advisory Council.

**Section 17.** Provides for statutory construction.

**Section 18.** Provides that the bill will take effect July 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The DEP should see some savings as a result of the proposed changes for appraisal requirements. Proceeds from land sales should increase because state lands or water management district lands can be sold to local governments for appraised value instead of the price at which they were purchased by the state or the water management district.

#### 2. Expenditures:

The DEP will incur some costs due to the inventory requirements of the bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Local governments may generate some savings due to provisions of the bill requiring that donated lands must first be offered to local governments at no cost. Local governments may also generate savings due to the expedited land surplus process established in the bill.

2. Expenditures:

Local governments will incur some costs due to the inventory requirements of the bill. Local governments may also spend more to purchase surplus state lands as the state is no longer required to sell those lands to local governments at a price no higher than the state or water management district's original acquisition price.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

**D. FISCAL COMMENTS:**

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

2. Other:

**B. RULE-MAKING AUTHORITY:**

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**