

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 395 State Lands
SPONSOR(S): Policy & Budget Council and Weatherford
TIED BILLS: **IDEN./SIM. BILLS:** SB 668

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Conservation & State Lands</u>	<u>8 Y, 0 N</u>	<u>Palmer</u>	<u>Zeiler</u>
2) <u>Environment & Natural Resources Council</u>	<u>12 Y, 0 N, As CS</u>	<u>Palmer</u>	<u>Hamby</u>
3) <u>Policy & Budget Council</u>	<u>33 Y, 0 N, As CS</u>	<u>Davila</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

CS/CS/HB 395 allows any two adjacent upland property owners whose properties are 55 linear feet or less in width that border navigable waters to, upon agreement, utilize a single dock to be used by both upland owners provided that the dock runs adjacent and parallel to a seawall and does not exceed 100 feet in overall length. CS/CS/HB 395 is notwithstanding any other provision of this chapter, any rule adopted by the Board of Trustees of the Internal Improvement Trust Fund, or any local ordinance or rule.

CS/CS/HB 395 amends a statutory provision relating to surplus state-owned lands to allow the Department of Environmental Protection (DEP) to reconvey to a fair association the title for any parcel of surplus land which is less than three acres in size, and which was conveyed to the state by a fair association prior to 1955. The title will be conveyed by the state to the fair association for no consideration provided the DEP files a notice of intent to surplus by July 1, 2008. The CS/CS/HB 395 provides that the agency which last held a lease from the Board of Trustees for the management of the land may remove any and all improvements, fixtures, goods, wares, and merchandise from the land within 180 days of the effective date of the title transfer. The Bureau of Appraisal, Division of State Lands, has estimated a value range for the property to be between \$130,000 and \$175,000, and the improvements located on the property to range in value from \$0.00 to \$30,000. The CS/CS/HB 395 provides for this statutory provision to expire on July 1, 2008.

The CS/CS/HB 395 will take effect July 1, 2007.

Article III, Section 6 of the Florida Constitution provides a single subject requirement on laws passed by the Legislature. See Section III. A. 2. of this analysis for a discussion on how this provision may apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Current state law neither permits nor disallows the sharing on a single dock by adjacent property owner.

Currently the only parcel of land that has been identified as meeting the criteria of the proposed legislation under section 3 of this bill is located in Pasco County, Florida. This parcel was conveyed to the State Board of Education from the Pasco County Fair Association in 1954. The property was given to the state for use by the University of Florida Agricultural Experiment Station as a poultry diagnostic clinic. The Pasco County Fair Association requested that, in the event the property would no longer be used by the experiment station, the property title would be conveyed back to the Pasco County Fair Association. However, the 1954 title transfer did not contain such a reverter clause. The property has not been used as an animal testing facility since the mid 1990s.

Two capital improvements were made to the property soon after the parcel title was transferred to the state – a concrete block structure and a fence. In 1996 the Board of Trustees transferred the lease on the property to the Division of Forestry (DOF). The improvements made by the Division of Animal Industry were transferred to the DOF inventory.

Section 253.034, F.S., provides the criteria for the state to dispose of surplus lands. State lands identified as surplus are offered to local governments first and if the local governments have no interest in acquiring the proposed surplus property, the surplus land is then available for sale on the private market.

Presently, there are no surplus land criteria identified in statute which are associated with lands previously gifted or conveyed to the state by a fair association incorporated under chapter 616, F.S.

Effect of Proposed Changes

CS/CS/HB 395 amends sections 253.03 and 253.141, F.S. to allow any two adjacent upland property owners whose properties are 55 linear feet or less in width that border navigable waters may, upon agreement, utilize a single dock to be used by both upland owners provided that the dock runs adjacent and parallel to a seawall and does not exceed 100 feet in overall length. CS/CS/HB 395 is notwithstanding any other provision of this chapter, any rule adopted by the Board of Trustees of the Internal Improvement Trust Fund, or any local ordinance or rule.

CS/CS/HB 395 amends section 253.034, F.S., to permit DEP to transfer title to any parcel of surplus land less than three acres in size which was previously gifted or conveyed to the state by a fair association prior to 1955. This fair association must be incorporated under chapter 616, F.S., for the purpose of conducting and operating public fairs or expositions. The agency that last held a lease from the Board of Trustees for the management of the land may remove any and all improvements, fixtures, goods, wares, and merchandise from the land within 180 days of the effective date of the title transfer. DEP is required to file a notice of intent to surplus by July 1, 2008.

The CS/CS/HB 395 is similar to existing law (section 253.034(6)(f)2, F.S.) which authorizes DEP to transfer title to surplus land to a municipality if that parcel of land was gifted or conveyed to the state by that municipality prior to 1958.

The bill provides for this statutory provision to expire on July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends s. 253.03, F.S. relating to board of trustees' administration of state lands.

Section 2. Amends s. 253.141, F.S. relating to definition of riparian rights.

Section 3. Amends section 253.034(6)(f), F.S., relating to surplus state-owned lands.

Section 4. Provides the act will take effect July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Bureau of Appraisal, Division of State Lands, DEP, has estimated a value range for the property in reconveyance to be between \$130,000 and \$175,000 and the improvements located on the property to range in value from \$0.00 to \$30,000. Note, this is not an official appraised value; however, it is indicative of a potential range of value for the property and improvements based on comparable sales in the area. If the state were to surplus this land to the private market, the state would expect revenue based on the fair market value of the appraised value of the property. The CS/CS/HB 395, however, provides for a reconveyance to a fair association at no cost to the fair association.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Pasco County Fair Association will be the beneficiary of a parcel of land previously conveyed by the fair association to the Florida Board of Education in 1954.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to expend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

Section 6 of Art. III of the State Constitution imposes a single subject restriction on laws enacted by the Legislature: "Every law shall embrace but one subject and matter properly connected therewith...." The Florida Supreme Court has described the purpose of the single subject rule as twofold. First, it attempts to avoid surprise or fraud by ensuring that both the public and the legislators involved receive fair and reasonable notice of the contents of a proposed act. Secondly, the limitation prevents hodgepodge, logrolling legislation. With regard to the test to be applied by the court in determining whether a particular provision violates the single subject rule, the fact that the scope of a legislative enactment is broad and comprehensive is not fatal under the single subject rule so long as the matters included in the enactment have a natural or logical connection.¹

It could be determined that this bill violates the constitutional single subject rule. While the bill generally involves issues regarding state lands, its various provisions relate to separate topics: A provision dealing with the transfer of surplus lands and a provision dealing with the use of a dock.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOF Comments:

The surplus property referred to in CS/CS/HB 395 was deeded to the Board of Education by the Pasco County Fair Association in 1954. It was used as an animal diagnostic lab until the mid-1990's, and was then leased to DOF by the Trustees in 1996. The improvements made by the Division of Animal Industry were transferred to the DOF inventory in September 1996. If the CS/CS/HB 395 passes the land will revert back to the Pasco County Fair Association. The improvements were built after the title transferred to the State. There are two improvements on the DOF property inventory - a concrete block structure and a fence. The DOF objective is to dispose of the building without any significant expense.

DEP Comments:

The department is only aware of one surplus land parcel that would fit the criteria in the CS/CS/HB 395 at the present time.

Other Comments:

The CS/CS/HB 395 may preempt existing local ordinance or rules regarding the sharing of docks. The provision of CS/CS/HB 395 regarding surplus land is similar to HB 705 (2006 Legislative Session) which passed out of the House but then died in Senate messages.

¹ Chenoweth v. Kemp, 396 So.2d 1122 (Fla. 1981).

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 5, 2007, the Policy and Budget Council considered, amended and passed CS/CS/HB 395 as a council substitute. The amendment permits adjacent property owners to share a single dock under limited circumstances.

On March 14, 2007, the Environment and Natural Resources Council considered and passed HB 395 with one traveling amendment. The CS/HB 395 was reported favorably with council substitute. The amendment clarified the intent to transfer the parcel of land to the fair association at no cost to the fair association.