

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB SAC 15-02 State Lands  
**SPONSOR(S):** State Affairs Committee  
**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Gregory	Camechis

### SUMMARY ANALYSIS

The Proposed Committee Bill (PCB) addresses a number of issues relating to State Lands, such as:

- Adding preservation of low impact agriculture to the list of short-term and long-term state land management goals;
- Directing land managers, as part of their every 10-year management plan update, to identify conservation lands that could support low impact agricultural uses while maintaining the land's conservation purpose;
- Directing land managers, as part of their every 10-year management plan update, to identify conservation lands that could be disposed of in fee simple or with the state retaining a permanent conservation easement;
- Requiring exchanges involving conservation lands to result in an "equal or greater conservation benefit" rather than a "net positive conservation benefit;"
- Requiring the Division of State Lands (DSL), at least every 10 years, to review all Board of Trustees of the Internal Improvement Trust Fund (Board of Trustee)-titled conservation lands, along with lands identified in any updated land management plan, to determine whether any can support low impact agricultural uses while maintaining the land's conservation purpose, and requires DSL to direct managing agencies to offer agreements for conducting low impact agriculture on these lands;
- Requiring DSL, at least every 10 years, to review all Board of Trustee-titled conservation lands, along with lands identified in any updated land management plan, to determine if any are no longer needed for conservation purposes and can be disposed of in fee simple or with the state retaining a permanent conservation easement;
- Requiring DSL, at least every 10 years, to review all Board of Trustee-titled non-conservation lands and recommend to the Board of Trustees whether the lands should be retained or disposed of;
- Allowing a person to bypass the Acquisition and Restoration Council (ARC) when seeking to exchange certain lands with the state and submit a request directly to the Board of Trustees. A person who owns land contiguous to BOT-titled land may submit a request directly to the BOT to exchange all or a portion of the state-owned land, with the state retaining a permanent conservation easement, for a permanent conservation easement over all or a portion of the contiguous privately owned land;
- Requiring ARC, when developing proposed rules related to land acquisitions under the Florida Forever Program, to give weight to projects that allow the state to purchase permanent conservation easements that authorize low-impact agricultural uses while achieving the intended conservation purposes;
- Requiring ARC to give priority to proposed projects under the Florida Forever Program that can be acquired in less than fee and projects that contribute to improving springs or groundwater;
- Allowing a Florida Forever project applicant to appeal to the Board of Trustees a decision by ARC to exclude the applicant's property from the Florida Forever project list;
- Requiring DEP to add the following to the existing SOLARIS state lands database by July 1, 2017: federally owned conservation lands; lands on which the federal government holds a conservation easement; and all lands on which the state holds a conservation easement;
- Requiring each county and city to submit to DEP, by July 1, 2017, a list of all conservation lands owned by the local government and lands on which the local government holds a permanent conservation easement. Financially disadvantaged small communities have until July 1, 2018, to submit the same information;
- Directing DEP to complete a study by January 1, 2017, regarding the technical and economic feasibility of including the following lands in a public lands inventory: privately owned lands that may not be developed due to certain local, state, or federal regulatory requirements; privately owned lands where development rights have been transferred; privately owned lands under a permanent conservation easement; privately owned conservation lands; and lands that are part of a mitigation bank; and
- Requiring DEP to consolidate individually titled parcels of state-owned conservation lands that are contiguous to other parcels of state-owned conservation lands under a single unified title.

The PCB appears to have a negative fiscal impact on DEP. (See Fiscal Comments section below).

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

**STORAGE NAME:** pcb02.SAC

**DATE:** 3/24/2015

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Nature and Extent of State Lands**

The State of Florida owns lands throughout the state for many purposes including preservation, conservation, recreation, water management, historic preservation and administration of government. These lands include:

- All swamp and overflowed lands held by the state or which may inure to the state;
- All lands owned by the state by right of its sovereignty;<sup>1</sup>
- All internal improvement lands proper;
- All tidal lands;
- All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;
- All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way; and
- All lands which have accrued, or which may accrue, to the state.<sup>2</sup>

These lands are held in trust for the use and benefit of the people of Florida by the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees).<sup>3</sup> The Board of Trustees consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture.<sup>4</sup> This body may acquire, sell, transfer, and administer state lands in the manner consistent with chapters 253 and 259, F.S.<sup>5</sup>

The Department of Environmental Protection (DEP), through its Division of State Lands (DSL), performs all staff duties and functions related to the acquisition, administration, and disposition of state lands.<sup>6</sup> The Water Management Districts (WMD) may perform staff duties and functions related to their regulation of water resource management,<sup>7</sup> such as authorizing the use of sovereign submerged lands.<sup>8</sup> The Department of Agriculture and Consumer Services (DACCS) may perform staff duties and functions related to their regulation of aquaculture leases and the acquisition, administration, and disposition of conservation easements,<sup>9</sup> such as authorizing the use of sovereign submerged lands.<sup>10</sup> Lastly, the Fish and Wildlife Conservation Commission (FWC) may authorize use of sovereign lands related to aquatic weed control and aquatic plant management.<sup>11</sup>

According to the DEP, the Board of Trustees own approximately 12 million acres.<sup>12</sup> Approximately 3.2 million of these acres are conservation lands, 113,000 acres are non-conservation lands, and 9 million

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<sup>1</sup> "Sovereignty submerged lands" are those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated. Rule 18-21.003(61), F.A.C.

<sup>2</sup> Section 253.03(1), F.S.

<sup>3</sup> Section 253.001, F.S.

<sup>4</sup> Section 253.02(1), F.S.

<sup>5</sup> Id.

<sup>6</sup> Section 253.002(1), F.S.

<sup>7</sup> Id.

<sup>8</sup> Rule 18-21.0051(2), F.A.C.

<sup>9</sup> Section 253.002(1), F.S.

<sup>10</sup> Rule 18-21.0051(3), F.A.C.

<sup>11</sup> Section 253.002(1), F.S.

<sup>12</sup> Department of Environmental Protection Presentation on Division of State Lands, State Affairs Committee, March 6 2015, available at

[http://myfloridahouse.gov/Sections/Documents/publications.aspx?Committeeld=2851&PublicationType=Committees&DocumentType=Meeting Packets&SessionId=76](http://myfloridahouse.gov/Sections/Documents/publications.aspx?Committeeld=2851&PublicationType=Committees&DocumentType=Meeting%20Packets&SessionId=76).

acres are sovereign submerged lands.<sup>13</sup> The Board of Trustees authorizes several agencies to manage state lands including DACS, FWC, the Department of State (DOS), the DEP Office of Coastal and Aquatic Management, the DEP Office of Greenways & Trails (OGT), and the Florida Park Service.<sup>14</sup> Other entities may also manage the land, subject to approval of the Board of Trustees. These agencies and other entities hold a property interest in the land in the form of a management agreement, lease, or other property instrument.<sup>15</sup> These instruments may not be executed for a period greater than is necessary to provide reasonable use of the land for the existing or planned life cycle or amortization of the improvements.<sup>16</sup>

## **Use of State Conservation and Non-Conservation Lands**

### **Present Situation**

“Conservation lands” are lands currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands acquired solely to facilitate the acquisition of other conservation lands.<sup>17</sup> Lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation (“Non-conservation lands”) are not designated conservation lands.<sup>18</sup> Non-conservation lands include the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that possess no significant natural or historical resources.<sup>19</sup>

All state agencies who use state lands must submit a management plan to DSL.<sup>20</sup> This management plan must include:

- The common name of the property;
- A map showing the location and boundaries of the property plus any structures or improvements to the property;
- The legal description and acreage of the property;
- The degree of title interest held by the Board, including reservations and encumbrances such as leases;
- The land acquisition program, if any, under which the property was acquired;
- The designated single use or multiple use management for the property;
- Proximity of property to other significant State, local, or federal land or water resources;
- A statement as to whether the property is within an aquatic preserve or a designated area of critical State concern, or an area under study for such designation;
- The location and description of known and reasonably identifiable renewable and non-renewable resources of the property;
- A description of actions the agency plans to take to locate and identify unknown resources;
- The identification of resources on the property that are listed in the Natural Area Inventory;
- A description of past uses of the property;
- A detailed description of existing and planned use(s) of the property;
- For managed areas larger than 1,000 acres, an analysis of the multiple-use potential of the property;
- A detailed assessment of the impact of planned uses on the renewable and non-renewable resources of the property, including soil and water resources, and a detailed description of the specific actions that will be taken to protect, enhance and conserve these resources and to

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<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Section 253.034(4), F.S.

<sup>16</sup> Id.

<sup>17</sup> Section 253.034(2)(c), F.S.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Rule 18-2.018(3)(a)5.a., F.A.C.

mitigate damage caused by such uses, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination;

- A description of management needs and problems for the property;
- Identification of adjacent land uses that conflict with the planned use of the property;
- A description of legislative or executive directives that constrain the use of such property;
- A finding regarding whether each planned use complies with the State Lands Management Plan;
- An assessment as to whether the property, or any portion, should be declared surplus;
- Identification of other parcels of land within or immediately adjacent to the property that should be purchased because they are essential to management of the property;
- A description of the management responsibilities of each agency and how such responsibilities will be coordinated; and
- A statement concerning the extent of public involvement and local government participation in the development of the plan.<sup>21</sup>

All other lessees who use state lands must submit an operational report to DSL within a year of the execution of the lease. This operational report must include:

- The common name of the property;
- A map showing the approximate location and boundaries of the property, the location of any structures or improvements to the property, and a statement as to whether the property is adjacent to an aquatic preserve or a designated area of critical state concern or an area under study for such designation;
- The legal description and acreage of the property;
- The land acquisition program, if any, under which the property was acquired;
- The designated single or multiple use management for the property;
- The approximate location and description of known renewable and non-renewable resources of the property;
- A description of past and existing uses of the property;
- A description of alternative or multiple uses of the property considered by the lessee and a statement detailing why such uses were not adopted;
- An assessment of the impact of planned uses on the renewable and non-renewable resources of the property and a description of the specific actions that will be taken to protect, enhance and conserve those resources and to compensate/mitigate the damage that is caused by such use;
- A description of management needs and problems on the property;
- A description of the management responsibilities of each entity and how such responsibilities will be coordinated;
- A statement concerning the extent of public involvement and local government participation, if any, in the development of the plan; and
- A statement of gross income generated, net income and expenses.<sup>22</sup>

Land management plans for lands must also include short-term and long-term goals including measurable objectives to achieve those goals.<sup>23</sup> Short-term and long-term management goals must include measurable objectives for the following, as appropriate:

- Habitat restoration and improvement;
- Public access and recreational opportunities;
- Hydrological preservation and restoration;
- Sustainable forest management;
- Exotic and invasive species maintenance and control;
- Capital facilities and infrastructure;
- Cultural and historical resources; and
- Imperiled species habitat maintenance, enhancement, restoration, or population restoration.

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<sup>21</sup> Rule 18-2.021(4), F.A.C.

<sup>22</sup> Rule 18-2.018(3)(a)5.b., F.A.C.

<sup>23</sup> Section 253.034(5)(a), F.A.C.

While developing a land management plan, at least one public meeting must be held in one of the affected counties.<sup>24</sup>

Managers of conservation and non-conservation land must submit an updated land management plan every ten years for approval by the Board of Trustees.<sup>25</sup> While all conservation management plans must include an assessment for sustainable forestry potential on each management unit,<sup>26</sup> maintenance of any existing agricultural use is not required. The Florida Forever Program and P2000 Program do not contemplate preservation of agricultural practices as a reason for conservation acquisition.<sup>27</sup> The Legislature created the Rural and Family Lands Protection Program separately for the purpose of preserving agricultural practices.<sup>28</sup> Likewise, low-impact agriculture is allowed on conservation lands where compatible with the reasons for acquisition and the mission-specific purposes for preservation.<sup>29</sup> According to DEP, it has entered into grazing and timber leases with various agencies managing conservation lands.<sup>30</sup>

All conservation land managers must also include an analysis of any lands that may no longer be needed for conservation and suitable for potential surplus in each management plan or update.<sup>31</sup> DSL does not require this surplus analysis for managers of non-conservation lands.<sup>32</sup>

Upon completion of the management plan, the Acquisition and Restoration Council (ARC) reviews the land management plan and provides a recommendation to the Board of Trustees.<sup>33</sup> ARC is a ten member board established to assist the Board of Trustees in reviewing the recommendations and plans for state-owned lands.<sup>34</sup> The Board of Trustees may approve, modify, or reject the land management plan.<sup>35</sup> The land management plan becomes effective upon approval of the Board of Trustees.<sup>36</sup>

### Effect of the Proposed Changes

The PCB:

- Amends s. 253.034(1), F.S., to make a legislative finding that as of January 1, 2014, approximately 3.2 million acres of conservation lands are titled in the name of the Board of Trustees. Approximately 1.2 million acres of these conservation lands, which equal approximately 3.4 percent of the total land area of Florida, are uplands located above the boundary of jurisdictional wetlands;
- Amends s. 253.034(5)(b), F.S., to add preservation of low impact agriculture to the list of measurable objectives for short-term and long-term state land management goals for conservation lands;
- Amends s. 253.035(5)(e), F.S., to

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<sup>24</sup> Section 253.034(5)(f), F.A.C.

<sup>25</sup> Section 253.034(5), F.S.

<sup>26</sup> Section 253.036, F.S.; Rule 18-2.021(3)(n)2., F.A.C.

<sup>27</sup> See Sections 259.101 and 259.105, F.S.

<sup>28</sup> Chapter 5I-7, F.A.C.; Department of Agriculture and Consumer Services, Rural and Family Lands Protection Program, <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/Land-Planning-and-Administration-Section/Rural-and-Family-Lands-Protection-Program3> (last visited March 19, 2015).

<sup>29</sup> Department of Environmental Protection, Agency Analysis of 2015 State Affairs Committee PCB, p. 2 (March 6, 2015).

<sup>30</sup> Id.

<sup>31</sup> Rule 18-2.021(4), F.A.C.

<sup>32</sup> See Rule 18-2.018(3)(a)5.b., F.A.C.

<sup>33</sup> Section 253.034(5)(d), F.S.; Land management plans submitted by the Department of Corrections, the Department of Juvenile Justice, and the Department of Children and Families are not subject to review by ARC. Section 253.034(9), F.S.

<sup>34</sup> Section 259.035, F.S.; Four members are appointed by the Governor. One member is appointed by the Secretary of DEP. One member is appointed by the Director of the Florida Forest Service. Two members are appointed by the Executive Director of FWC. One member is appointed by the Secretary of DOS. Lastly, one member is appointed by the Commissioner of Agriculture.

<sup>35</sup> Section 253.034(5)(h), F.S.

<sup>36</sup> Section 253.034(5)(d), F.S.

- Direct land managers, as part of their every 10-year management plan update, to identify conservation lands that could support low impact agricultural uses while maintaining the land's conservation purpose;
- Direct land managers, as part of their every 10-year management plan update, to identify conservation lands that could be disposed of in fee simple or with the state retaining a permanent conservation easement;
- Amends s. 253.034(6)(c), F.S., to require DSL, at least every 10 years, to review all Board of Trustee-titled conservation lands, along with lands identified in any updated land management plan, to determine whether any can support low impact agricultural uses while maintaining the land's conservation purpose. ARC must review this list of lands and provide a recommendation to DSL within 9 months whether such lands can support low impact agriculture. DSL must review ARC's recommendation and then direct the land managers to offer agreements for low impact agriculture on lands that DSL determines, taking into account the recommendations of ARC, could support low impact agricultural uses while maintaining the land's conservation purpose. This provision does not prohibit a managing agency from entering into agreements as otherwise provided by law. These agreements may not exceed a ten year term; and
- Amends s. 253.034(6)(c), F.S., to require DSL, at least every 10 years, to review all Board of Trustee-titled non-conservation lands and recommend to the Board of Trustees whether the lands should be retained or disposed of.

These changes may require the Board of Trustees to amend chapter 18-2, F.A.C.

## **Disposition of State Conservation and Non-Conservation Lands**

### **Present Situation**

The Board of Trustees may determine which state lands may be surplus.<sup>37</sup> To dispose of conservation lands, the Board of Trustees must determine whether the land is no longer needed for conservation purposes and may dispose of such lands by an affirmative vote of at least three members.<sup>38</sup> To dispose of non-conservation lands, the Board of Trustees must determine whether the land is no longer needed and may dispose of such lands by an affirmative vote of at least three members.<sup>39</sup>

Every ten years, the land manager evaluates and indicates whether state lands are still being used for the purpose for which they were originally leased. For conservation lands, ARC reviews the finding and then provides a recommendation to the Board of Trustees whether the lands can be surplus.<sup>40</sup> For non-conservation lands, DSL reviews the finding and then provides a recommendation to the Board of Trustees whether the lands can be surplus.<sup>41</sup>

To exchange land involving the disposition of conservation lands, the Board of Trustees must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit.<sup>42</sup> When exchanging conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the Board of Trustees may request land of equal conservation value from the county or local government but no other consideration.<sup>43</sup>

The Board of Trustees must first offer non-conservation lands at no cost to county and local governments when the lands were acquired by the state through gift, donation, or any other

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<sup>37</sup> Section 253.034(6), F.S.

<sup>38</sup> Id.

<sup>39</sup> Id.

<sup>40</sup> Section 253.034(6)(c), F.S.

<sup>41</sup> Id.

<sup>42</sup> Section 253.034(6), F.S.

<sup>43</sup> Section 253.42(1), F.S.

conveyance for which no consideration was paid and the use proposed by the county or local government is for a public purpose.<sup>44</sup>

When exchanging state-owned lands not acquired by the state through gift, donation, or any other conveyance for which no consideration was paid with counties or local governments, the exchanges may be of equal value.<sup>45</sup> "Equal value" is defined as the conservation benefit of the lands being offered for exchange by a county or local government being equal or greater in conservation benefit than the state-owned lands.<sup>46</sup> Such exchanges may include cash transactions if based on an appropriate measure of value of the state-owned land, but must also include the determination of a net-positive conservation benefit by ARC, irrespective of appraised value.<sup>47</sup>

Before a building or parcel of land is offered for lease or sale, DSL must first offer the land for lease to state agencies, state universities, and Florida College System institutions.<sup>48</sup>

Proceeds from any sale of surplus lands must be deposited into the fund from which such lands were acquired.<sup>49</sup> However, if the fund from which the lands were originally acquired no longer exists, such proceeds must be deposited into an appropriate account to be used for land management by the lead managing agency assigned the lands.<sup>50</sup> Funds received from the sale of surplus non-conservation lands, or lands that were acquired by gift, by donation, or for no consideration, must be deposited into the Internal Improvement Trust Fund.<sup>51</sup>

The Board of Trustees may not surplus or exchange lands if the effect of the sale or exchange would cause all or any portion of the interest on any revenue bonds issued to lose their tax exempt status.<sup>52</sup>

### **Effect of Proposed Changes**

The PCB amends s. 253.034(6), F.S., to require exchanges involving conservation lands to result in an "equal or greater conservation benefit" rather than a "net positive conservation benefit."

The PCB amends s. 253.034(6)(c), F.S., to require DSL, at least every 10 years, to review all Board of Trustee-titled conservation lands, along with lands identified in any updated land management plan, to determine if any are no longer needed for conservation purposes and can be disposed of in fee simple or with the state retaining a permanent conservation easement. ARC must review this list of lands and provide a recommendation to DSL within 9 months as to whether such lands are no longer needed for conservation purposes. The Board of Trustees must review the list created by DSL and ARC's recommendation and then dispose of those lands, in fee simple or with the state retaining a permanent conservation easement, that the Board of Trustees determines, by an affirmative vote of three members of the board, are no longer needed for conservation purposes.

The PCB creates s. 253.42(4), F.S., to allow a land owner to bypass ARC when seeking to exchange with the state private lands contiguous to state-owned lands and submit a request directly to the Board of Trustees. A person who owns land contiguous to Board of Trustees-titled land may submit a request directly to the Board of Trustees to exchange title to all or a portion of the contiguous state-owned land, with the state retaining a permanent conservation easement over the former state lands, for a permanent conservation easement over all or a portion of the contiguous privately owned land. The conservation easements must allow the person to use the land for low-impact agricultural purposes. This provision does not allow the Board of Trustees to exchange sovereign submerged lands. For the Board of Trustees to approve the exchange:

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<sup>44</sup> Id.

<sup>45</sup> Section 253.42(2), F.S.

<sup>46</sup> Id.

<sup>47</sup> Id.

<sup>48</sup> Section 253.034(13), F.S.

<sup>49</sup> Section 253.034(6)(k), F.S.

<sup>50</sup> Id.

<sup>51</sup> Id.

<sup>52</sup> Section 253.034(6)(l), F.S.

- The number of acres of state-owned land being exchanged must be equal to or less than the number of acres of privately held land that the person is willing to put under a permanent conservation easement;
- The privately held land must be bordered by state-owned land on at least 30 percent of its perimeter and the exchange must not create an inholding;
- Approval of the exchange must not cause the Board of Trustees, DEP, DACS, FWC, or a WMD to violate the terms of a preexisting lease;
- For conservation land, the Board of Trustees must determine the land is no longer needed for a conservation purpose;
- Approval of the exchange must not conflict with an existing flowage easement; and
- At least three members of the Board of Trustees must approve the request,

The Board of Trustees must give special consideration to a request that maintains public access for any recreational purpose allowed on the state-owned land at the time the request is submitted. Further, once exchanged, lands subject to permanent conservation easements are subject to inspection by DEP to ensure compliance with the terms of the permanent conservation easement.

## **Florida Forever Selection Process**

### **Present Situation**

In 1999, the Legislature created the Florida Forever Program.<sup>53</sup> This program sought to purchase environmentally sensitive lands to protect natural resources, avoid degradation of water resources, improve recreational opportunities, and preserve wildlife habitat.<sup>54</sup> The state issued Florida Forever Bonds to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources, in urban and rural settings, for the purposes of restoration, conservation, recreation, water resource development, or historical preservation, and for capital improvements to lands and water areas that accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.<sup>55</sup>

ARC, with the assistance of the Florida Natural Area Inventories and several state agencies, evaluates applications for acquisition projects under the Florida Forever Program and provides recommendations to the Board of Trustees.<sup>56</sup> In order to be considered for acquisition under the Florida Forever Program, the project must contribute to the achievement of the following goals:

- Enhance the coordination and completion of land acquisition projects;
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels;
- Protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state;
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state;
- Increase natural resource-based public recreational and educational opportunities;
- Preserve significant archaeological or historic sites;
- Increase the amount of forestland available for sustainable management of natural resources;
- or
- Increase the amount of open space available in urban areas.<sup>57</sup>

Further, ARC must give weight to the following factors when considering applications:

- The project meets multiple goals described above;

<sup>53</sup> Chapter 199-247, Laws of Fla.

<sup>54</sup> Section 259.105(2)(a), F.S.

<sup>55</sup> Section 215.618(1)(a), F.S.

<sup>56</sup> Section 259.105(3)&(8), F.S.

<sup>57</sup> Section 259.105(5), F.S.

- The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources;
- The project enhances or facilitates management of properties already under public ownership;
- The project has significant archaeological or historic value;
- The project has funding sources that are identified and assured through at least the first 2 years of the project;
- The project contributes to the solution of water resource problems on a regional basis;
- The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished;
- The project implements an element from a plan developed by an ecosystem management team;
- The project is one of the components of the Everglades restoration effort;
- The project may be purchased at 80 percent of appraised value;
- The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements; and
- The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.<sup>58</sup>

Further, ARC must give increased priority to those projects which have matching funds available and to project elements previously identified on an acquisition list that can be acquired at 80 percent or less of appraised value. ARC must also give increased priority to those projects where the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:

- Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;
- Protecting areas underlying low-level military air corridors or operating areas; and
- Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.

## Effect of the Proposed Changes

The PCB:

- Repeals s. 259.105(3)(m), F.S., that required, in the 2013-2014 fiscal year, Florida Forever Funds be used for land acquisition projects that provided conservation lands to protect the state's military installations against encroachment and provided acquisition of less than fee interest for conservation lands needed for military buffering or springs or water resource protection;
- Repeals s. 259.105(4), F.S., that allowed, for the 2014-2015 fiscal year only, that certain funds from the General Appropriations Act be used by the WMDs for land acquisition identified by the WMDs as being needed for water resource protection or ecosystem restoration;
- Amends s. 259.105(10), F.S., to require ARC, when developing proposed rules related to land acquisitions under the Florida Forever Program, to give weight to projects that allow the state to purchase permanent conservation easements that authorize low-impact agricultural uses while achieving the intended conservation purposes;
- Amends s. 259.105(11), F.S., to require ARC to give priority to proposed projects under Florida Forever that can be acquired in less than fee and projects that contribute to improving springs or groundwater; and
- Amends s. 259.105(14), F.S., to allow a Florida Forever project applicant to appeal to the Board of Trustees a decision by ARC to exclude the applicant's property from the Florida Forever

<sup>58</sup> Section 259.105(10), F.S.

project list. The Board of Trustees, by an affirmative vote of three members, may direct ARC to place a particular project on the Florida Forever project list.

These changes may require the Board of Trustees to amend chapter 18-24, F.A.C.

## **State Lands Record Keeping**

### **Present Situation**

The Board of Trustees must maintain a public land office that keeps and preserves all records, surveys, plats, maps, field notes, and patents, and all other evidence touching the title and description of the public domain, and all lands granted by Congress to this state.<sup>59</sup> This is done through the Bureau of Survey and Mapping.<sup>60</sup> The Bureau maintains a repository of all the records, surveys, plats, maps, field notes, and patents and all other evidence touching the title and description of the public domain.<sup>61</sup>

Annually, the Board of Trustees must prepare an inventory of all publicly owned lands within the state using tax roll data provided by the Department of Revenue (DOR).<sup>62</sup> The inventory must include all lands owned by any unit of state government or local government; by the Federal Government, to the greatest extent possible; and by any other public entity.<sup>63</sup> The inventory must include a legal description or proper reference, the number of acres or square feet within the boundaries, and the assessed value of all publicly owned uplands.<sup>64</sup> By November 30 each year, the Board of Trustees must provide the inventory to each state agency and local government and any other public entity that holds title to real property.<sup>65</sup>

Further, through a partnership with the Department of Management Services (DMS), DEP created, administers, and maintains a comprehensive system for all state lands and real property leased, owned, rented, and otherwise occupied or maintained by any state agency, by the judicial branch, and by any water management district.<sup>66</sup> This system is called the State Owned Lands and Records Information System (SOLARIS). SOLARIS is meant to allow the Board of Trustees to perform its statutory responsibilities and DSL to conduct strategic analyses and prepare annual valuation and disposition analyses and recommendations for all state real property assets.<sup>67</sup> DEP is the statewide custodian of real property information and is responsible for its accuracy.<sup>68</sup> SOLARIS must:

- Eliminate the need for redundant state real property information collection processes and state agency information systems;
- Reduce the need to lease or acquire additional real property as a result of an annual surplus valuation, utilization, and disposition analysis;
- Enable regional planning as a tool for cost-effective buy, sell, and lease decisions;
- Increase state revenues and maximize operational efficiencies by annually identifying those state-owned real properties that are the best candidates for surplus or disposition;
- Ensure all state real property is identified by collaborating and integrating with the DOR data as submitted by the county property appraisers; and
- Implement required functionality and processes for state agencies to electronically submit all applicable real property information using a web browser application.

### **Effect of the Proposed Changes**

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<sup>59</sup> Section 253.031(1), F.S.

<sup>60</sup> Department of Environmental Protection, *Survey & Mapping*, <http://www.dep.state.fl.us/lands/survey.htm> (last visited March 20, 2015).

<sup>61</sup> Section 253.031(2), F.S.

<sup>62</sup> Section 253.03(8)(a), F.S.

<sup>63</sup> Id.

<sup>64</sup> Section 253.03(8)(b), F.S.

<sup>65</sup> Section 253.03(8)(c), F.S.

<sup>66</sup> Section 216.0153(1), F.S.; Department of Environmental Protection, *Florida State Owned Lands and Records Information System (FL-SOLARIS)*, [http://www.dep.state.fl.us/lands/fl\\_solaris.htm](http://www.dep.state.fl.us/lands/fl_solaris.htm) (last visited March 20, 2015).

<sup>67</sup> Id.

<sup>68</sup> Id.

The PCB creates s. 253.97, F.S., to:

- Require DEP to add to SOLARIS by July 1, 2017, the following:
  - Federally owned conservation lands;
  - Lands on which the federal government holds a conservation easement; and
  - All lands on which the state holds a conservation easement;
- Require each county and city to submit to DEP, by July 1, 2017, a list of all conservation lands owned by the local government and lands on which the entity holds a permanent conservation easement. Financially disadvantaged small communities have until July 1, 2018, to submit the same information; and
- Directs DEP to complete a study by January 1, 2017, regarding the technical and economic feasibility of including the following lands in a public lands inventory:
  - All lands where local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limits the amount of development to one unit per 40 acres or greater;
  - Publically and privately owned lands where development rights have been transferred;
  - Privately owned lands under a permanent conservation easement;
  - Conservation lands owned by non-profit or non-governmental organization; and
  - Lands that are part of a mitigation bank.

Lastly, the PCB directs DEP to consolidate individually titled parcels of state-owned conservation lands that are contiguous to other parcels of state-owned conservation lands under a single unified title by July 1, 2018. In order to consolidate title, the DEP may have to:

- Create new meets and bounds descriptions that encompass the contiguous properties;<sup>69</sup>
- Seek title opinions for each parcel; and
- Record the new deeds.

#### B. SECTION DIRECTORY:

Section 1. Amending s. 253.034, F.S., relating to use of state-owned lands.

Section 2. Amending s. 253.42, F.S., relating to exchanging Board of Trustee lands.

Section 3. Creating s. 253.87, F.S., relating to an inventory of federal and local conservation lands by DEP.

Section 4. Amending s. 259.105, F.S., relating to the Florida Forever Act.

Section 5. Amending s. 253.035, F.S. relating to the Acquisition and Restoration Council.

Section 6. Amends s. 373.199, F.S., relating to Florida Forever Water Management District Work Plan.

Section 7. Directing DEP to consolidate title to state owned conservation lands.

Section 8. Providing an effective date of July 1, 2015.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

#### **Section 1. Land Management Plans**

<sup>69</sup> Department of Environmental Protection, Agency Analysis of 2015 State Affairs Committee PCB, p. 9 (March 9, 2015).

The PCB appears to have a negative fiscal impact on DEP by requiring additional detailed environmental assessment of state lands on a ten-year basis. DEP expects an increase in workload and an increase in costs related to the proposed new review requirements and proposed plan review every ten years.<sup>70</sup> DEP predicts it will require:

- One additional full time employee (FTE) to facilitate the detailed environmental assessment of state-owned lands for possible low impact agricultural uses during the ten-year required submittal of land management plans;
- One other personnel services (OPS) position to handle the increased workload associated with the review of land management plans by ARC; and
- One additional FTE to process the initial low impact agricultural agreements and review and update leases to include the new agreements.<sup>71</sup>

DEP estimates the total cost of the three positions to be \$184,440.<sup>72</sup>

Further, the PCB appears to have an indeterminate negative fiscal impact on DEP because it requires the department to assess certain lands for surplus. DEP estimates this cost to be \$150,000.<sup>73</sup>

### **Section 3. SOLARIS**

The PCB appears to have a negative fiscal impact on DEP by requiring the department to include all federally owned conservation lands, lands on which the federal government holds a conservation easement, and all lands on which the state holds a conservation easement into SOLARIS. DEP predicts it will require:

- For the federal conservation lands, federal conservation easements, and state conservation easements:
  - One FTE to produce the initial data, establish federal contacts to acquire data, and to maintain the system and data;
  - A recurring task order with the Florida Natural Areas Inventory to use its conservation managed land data;<sup>74</sup>
  - A new SOLARIS Conservation Lands Module for the federal and state data to be designed and implemented before the data can be loaded;
- For the county and municipality conservation lands and easements:
  - Completion of a new SOLARIS Conservation Lands Module currently underway;
  - One FTE to act as liaison to counties and municipalities to assure compliance, quality control, and maintain the county and municipal conservation data in SOLARIS.<sup>75</sup>

DEP estimates this cost to be \$1,135,784.<sup>76</sup>

The PCB appears to have a negative fiscal impact on DEP by requiring the department to conduct a study and submit a report on the technical and economic feasibility of including lands with various criteria in the SOLARIS database. DEP estimates this cost to be \$500,000.<sup>77</sup>

### **Section 4. Florida Forever Rulemaking**

The PCB appears to have an insignificant negative fiscal impact on DEP because the department will likely need to revise their rules as a result of the statutory changes in the bill.

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<sup>70</sup> Id. at 7

<sup>71</sup> Id.

<sup>72</sup> Id.

<sup>73</sup> Id.

<sup>74</sup> Id.

<sup>75</sup> Id. at 8

<sup>76</sup> Id.

<sup>77</sup> Id.

## Section 5. Consolidating Title to State-Owned Conservation Lands

The PCB appears to have a negative fiscal impact on DEP by requiring the department to consolidate individually titled parcels of state-owned conservation lands that are contiguous to other parcels of state-owned conservation lands under a single unified title. DEP predicts that it will require seven OPS staff over a three year period for contract management, document management, review, mapping, and plotting. These positions will be:

- Two OPS surveyors;
- Two OPS attorneys
- Two OPS GIS/Tech; and
- One Planning Manager.<sup>78</sup>

DEP estimates these positions will cost \$594,999 over three years.<sup>79</sup>

Further, DEP predicts that it must hire contracted services to perform this task. This will include:

- Contract surveyors reviewing 35,000 documents, at ten documents reviews a day, at a cost of \$1,000 per day, totaling \$3,500,000; and
- Processing cost for unity of title for 480 conservation units, including legal review, at approximately \$2,650 per conservation unit, totaling \$1,272,000.<sup>80</sup>

DEP estimates this total cost to consolidate title to be \$5,366,997 over three years.<sup>81</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

The PCB may have an indeterminate negative fiscal impact on each county and municipalities by requiring them to submit to DEP a list of all conservation lands owned by the entity and lands on which the entity holds a permanent conservation easement. Counties and municipalities will need to devote employee time and effort to collect and transmit the data to DEP.

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

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

This bill requires each county and municipality to submit to DEP a list of all conservation lands owned by the entity and lands on which the entity holds a permanent conservation easement. Thus, the PCB requires counties and municipalities to take actions requiring the expenditure of fund.

Article VII, section 18(b) of the Florida Constitution requires a two-thirds vote of the membership of

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<sup>78</sup> Id.

<sup>79</sup> Id. at 9.

<sup>80</sup> Id.

<sup>81</sup> Id.

each house of the Legislature in order to enact a general law that requires counties or municipalities to spend funds or take action requiring the expenditures of funds. Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. An insignificant fiscal impact means an amount not greater than the average statewide population for the applicable fiscal year times ten cents.<sup>82</sup> A fiscal estimate is not available for this bill. If it is determined that this bill has more than an insignificant fiscal impact, the bill will require a two-thirds vote of the membership of each house of the Legislature for passage.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill will likely require the Board of Trustees to amend chapters 18-2 and 18-24, F.A.C., to conform to changes made in the statute.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A.

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<sup>82</sup> The total state population is estimated to be 19,507,369. University of Florida, Bureau of Economic and Business Research, Florida Estimates of Population, available at <http://www.bebr.ufl.edu/data/state/Florida> (last visited March 20, 2015).