

1989

## Session Law 89-174

Florida Senate & House of Representatives

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**S 330 GENERAL BILL/2ND ENG by Brown (Similar CS/H 445, Compare CS/1ST ENG/H 760, CS/2ND ENG/S 302)**

**State Lands;** excludes sale of certain lands by TIITF from review by Land Management Advisory Committee; provides that real property listed on assessment rolls in name of state shall not be changed except under certain conditions; provides that property appraisers shall notify state agencies of certain deeds; provides for use of federal appraisals for certain acquisitions, etc. Amends Ch. 253, 260.015, 193.085, 375.031. Effective Date: 06/27/89 except s. 2 shall take effect 10/01/89.

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02/28/89 SENATE Prefiled  
03/24/89 SENATE Referred to Natural Resources and Conservation  
04/04/89 SENATE Introduced, referred to Natural Resources and Conservation -SJ 35  
04/07/89 SENATE On Committee agenda—Natural Resources and Conservation, 04/11/89, 2:00 pm, Room-2C-(301)  
04/11/89 SENATE Comm. Report: Favorable with 5 amendment(s) by Natural Resources and Conservation, placed on Calendar -SJ 124  
05/25/89 SENATE Placed on Special Order Calendar -SJ 449; Amendments adopted -SJ 461; Passed as amended; YEAS 38 NAYS 0 -SJ 465; Immediately certified -SJ 465  
05/25/89 HOUSE In Messages  
05/26/89 HOUSE Received, placed on Calendar -HJ 660; Taken up in lieu of CS/HB 445 -HJ 694; Read second time; Amendments adopted; Read third time; Passed as amended; YEAS 111 NAYS 0 -HJ 694  
05/26/89 SENATE In Messages  
05/30/89 SENATE Concurred; Passed as amended; YEAS 36 NAYS 0 -SJ 568  
05/30/89 Ordered engrossed, then enrolled -SJ 568  
06/12/89 Signed by Officers and presented to Governor  
06/27/89 Approved by Governor; Chapter No. 89-174; See also: CS/SB 302 (Ch. 89-276)

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

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BILL NO. SB 330

DATE: April 7, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

| <u>ANALYST</u>                   | <u>STAFF DIRECTOR</u> | <u>REFERENCE</u> | <u>ACTION</u>        |
|----------------------------------|-----------------------|------------------|----------------------|
| 1. <u>Gee</u> <i>[Signature]</i> | <u>Voigt</u>          | 1. <u>NRC</u>    | <u>Fav./5 amend.</u> |
| 2. _____                         | _____                 | 2. _____         | _____                |
| 3. _____                         | _____                 | 3. _____         | _____                |
| 4. _____                         | _____                 | 4. _____         | _____                |

SUBJECT:

State lands

BILL NO. AND SPONSOR:

SB 330 by  
Senator Brown

I. SUMMARY:

A. Present Situation:

Section 253.034, F.S., provides for appropriate uses of lands owned by the Board of Trustees of the Internal Improvement Trust Fund (Trustees). Section 253.034(5), F.S., requires that the Trustees determine which state lands titled to the Trustees are of no benefit to the public and dispose of such lands. Lands not being used by state agencies for the purposes for which they were originally leased, land not actively managed by a state agency, and lands for which a land management plan has not been completed are reviewed by the Land Management Advisory Committee (LMAC), which recommends to the Trustees whether the lands should be retained, made available to local governments, or are of no benefit to the public and should be sold. Section 253.034(6), F.S., provides an exemption from the requirements and provisions of s. 253.034, F.S., for sovereignty land not leased for private uses and purposes. Sovereignty lands include submerged lands underlying navigable waters which have not been alienated. Approximately two to three times yearly, the Trustees sell small parcels of filled, formerly submerged land to upland owners, and the Division of State Lands would like it clarified that such sales need not be reviewed by LMAC. Also exempt are leases to private parties approved by the Trustees. The Department of Natural Resources (DNR) believes the current provisions expressing this exemption are unclear.

Section 253.04(1), F.S., authorizes the Trustees to take action to protect and conserve its lands and to prevent trespass or damage to said lands by whatever means necessary, including suits for damages. Instead of monetary damages, the Trustees may impose a fine of up to \$10,000 for each day during which the offense of willfully damaging Trustee-owned property occurs. Although there are instances in which unauthorized structures, primarily docks, have been placed on Trustee-owned land, there are currently no provisions of law specifically authorizing such a fine for failure to remove or alter an unauthorized structure, or providing for the Trustees to recover the costs of removing or altering such a structure.

Section 253.111, F.S., requires the Trustees to first offer any surplus land to the county in which it is situated, before otherwise selling or conveying the property. In order to acquire such land, a county must agree to devote the property to some public purpose and so certify to the Trustees within 90 days of being notified of the property's availability. The Trustees may then convey the property to the county on whatever terms, conditions, and price as it determines, but at a price not exceeding market value. The conveyance must be subject to a reverter to the Trustees if all public use is extinguished.

Section 253.115, F.S., 1988 Supplement, requires that after receiving an application for sale, lease, or exchange of any

land the Trustees must provide public notice and opportunity for a hearing regarding the application prior to taking such action. Exempted from the notice requirements are sovereignty land leases for existing structures (marinas) built prior to March 10, 1970.

DNR is actively seeking to acquire abandoned railroad rights-of-way for recreational use. Such corridors must be acquired in accordance with the requirements of ch. 253, F.S., including appraisal provisions directing a contract appraiser to primarily consider the market price of a parcel. The department believes the current appraisal requirements are too inflexible for contract appraisers to value this type of corridor acquisition.

**B. Effect of Proposed Changes:**

Section 1.

The bill amends s. 253.034(5), F.S., to exempt the sale of filled, formerly submerged land that does not exceed 5 acres in area from review by the Land Management Advisory Committee, and clarifies that leases to private parties are exempt from such review.

Section 2.

Section 253.04, F.S., is amended to allow the Trustees to impose a fine of up to \$10,000 for each offense of failing to comply with an order of the board to remove or alter any structure which is not in compliance with applicable rules or with conditions of authorization to locate such a structure on state-owned land. Each day during which any portion of such violation occurs constitutes a separate offense.

The bill also permits the Trustees to recover the cost of removal or alteration of a structure on state-owned land from a person or his agent failing to comply with an order of the board to remove or alter such a structure.

The bill clarifies that fines imposed or damages awarded pursuant to s. 253.04, F.S., are enforceable liens upon violators' real and personal property and that moneys collected from fines and damage awards pursuant to s. 253.04, F.S., are to be deposited into the Internal Improvement Trust Fund.

Section 3.

Section 253.111, F.S., is amended to repeal the requirement that a county must certify that it intends to devote to a public purpose any surplus lands acquired from the Trustees. Also repealed is the requirement that all surplus lands conveyed to a county for public purposes shall revert if a county ever fails to continue the public purpose use.

In place of the existing 90-day period for certification to the Trustees that a county wishes to acquire state-owned land for a public purpose, the bill provides a county 45 days to provide the Trustees a resolution seeking acquisition of the lands. Upon timely notification, the Trustees must convey the land to the county at appraised value, subject to such other terms and conditions as the Trustees determine.

Section 4.

Section 253.115, F.S., 1988 Supplement, is amended to exempt from public notice requirements sovereignty land leases for existing structures built prior to March 27, 1982, as well as sovereignty land leases for existing structures built on or after March 27, 1982, if all required federal, state, or local permits have been obtained.

## Section 5.

Section 260.015, F.S., is amended to permit DNR to use, in the acquisition of abandoned railroad rights-of-way, the appraisal procedure used by the Department of Transportation to acquire transportation rights-of-way.

## Section 6.

The bill takes effect upon becoming a law, except that section 2 shall take effect October 1, 1989.

II. ECONOMIC IMPACT AND FISCAL NOTE:

## A. Public:

Exemption from public notice requirements of sovereignty land leases for existing structures could benefit applicants by shortening the permitting time needed and ending the need for newspaper advertisements.

Persons failing to remove unauthorized structures from state-owned lands could pay fines of up to \$10,000 per day, and have to reimburse the Trustees for the cost of necessary removal or alteration.

Clarification of DNR's ability to use DOT appraisal procedures could result in some landowners receiving less for their property than could be gained under other appraisal techniques.

## B. Government:

The Trustees could benefit in an indeterminate amount from the fines imposed for unauthorized structures. If the repeal of public use requirements resulted in increased land sales at appraised value to counties, there could be an unspecified benefit to the Trustees.

DNR is currently using the DOT appraisal procedure to acquire abandoned railroad rights-of-way, thus no definite savings will occur by clarifying DNR's ability to use the methodology.

Use of this procedure does lower corridor acquisition costs, however, over some other acceptable methods.

III. COMMENTS:

None

IV. AMENDMENTS:

## #1 by Natural Resources &amp; Conservation:

Section 253.111, F.S., is amended to clarify that if local governments wish to acquire surplus lands from the state, they must pay appraised value for it.

## #2 by Natural Resources &amp; Conservation:

Pursuant to s. 253.115, F.S., 1988 Supplement, a conveyance of an upland parcel of land not exceeding 2 acres in size is currently exempt from public notice requirements. The amendment changes the threshold for the exemption from not more than 2 acres in size to not more than 5 acres in size.

## #3 by Natural Resources &amp; Conservation:

Section 193.085, F.S., and s. 253.03, F.S., are amended to provide that whenever real property is listed on the real property assessment rolls of the respective counties in the name of the State of Florida or any of its agencies, the listing shall not be changed in the absence of a recorded deed executed by the State of Florida or the state agency in whose name the property is listed. If, in preparing the assessment rolls the several property

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appraisers within the state become aware of the existence of a recorded deed not executed by the state and purporting to convey real property listed on the assessment rolls as state-owned, the property appraiser shall immediately forward a copy of the recorded deed to the state agency in whose name the property is listed.

#4 by Natural Resources & Conservation:  
Title amendment.

#5 by Natural Resources & Conservation:  
Title amendment.

STORAGE NAME: h0445-f.nr  
DATE: June 15, 1989

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 445 (contained in Senate companion, SB 330, which passed)

RELATING TO: State Lands

SPONSOR(S): Natural Resources and Representative Messersmith

EFFECTIVE DATE: October 1, 1989, except for section 2

DATE BECAME LAW: 6-27-89

CHAPTER #: Chapter 89-276, Laws of Florida [?]

COMPANION BILL(S): SB 330

OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
(2)

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I. SUMMARY:

A. PRESENT SITUATION:

Currently, chapter 253, Florida Statutes, includes the following:

1. A requirement that the Land Management Advisory Committee review the sale of all filled, formerly submerged lands. Many of these parcels are small and have little value other than to the buyer. Having to review the sale of small parcels uses up time the committee could spend on issues of higher priority.
2. A penalty for damaging state lands or damaging or removing products on state lands in violation of state or federal law. There is no statutory penalty for the failure to remove or alter unauthorized structures on state lands.
3. A requirement that when state land is sold or conveyed to a county, the county must use the land for a public purpose; related schedule and plan requirements. Currently, by rule, a county must pay fair market value for land it buys from the Board of Trustees of the Internal Improvement Trust Fund (the Governor and Cabinet). Most of this land is surplus state land, which the board of trustees has determined to be of no benefit to the public.
4. A public notice requirement for the sale, exchange, or lease of state lands, with listed exceptions. The exceptions include any conveyance of land which is less than two acres in area and which lies landward of the mean high water line.

The exceptions do not include retroactive leases for existing structures built on or after March 10, 1970.

The Department of Natural Resources considers these requirements and omissions to hamper unnecessarily the efficiency and effectiveness of the discharge of its related duties.

Section 260.015, Florida Statutes, requires that abandoned railroad rights-of-way acquired for the Rails-to-Trails program be acquired in accordance with the acquisition procedures of chapter 253, which includes specific appraisal procedures. These procedures often result in inaccurately low appraisals, making it very difficult for the Department of Natural Resources to acquire rights-of-way for public trails.

There is currently no provision in law preventing the filing of "wild deeds" to state owned lands. Wild deeds result when counties change or transfer state property without having received a deed from the Board of Trustees of the Internal Improvement Trust Fund. This practice causes confusion over property ownership and can cause hardship for private landowners who are not aware they have purchased state-owned land.

**B. EFFECT OF PROPOSED CHANGES:**

This bill makes a number of governmental efficiency and housekeeping changes to chapter 253, Florida Statutes, dealing with state lands management. It also authorizes a fine upon and recovery of costs of removal or alteration from any person who fails to comply with an order of the board of trustees to remove or alter unauthorized structures on state-owned lands. In addition, the bill allows the Department of Natural Resources to use alternative appraisal procedures in acquiring abandoned railroad rights-of-way for the Rails-to-Trails program.

The bill prevents the filing of wild deeds to state owned lands by prohibiting counties from changing or transferring board of trustees' ownership in real property without having received a deed from the board of trustees. It also requires property appraisers to send the state a copy of any recorded deed not executed by the state, which purports to convey real property owned by the state.

According the Department of Natural Resources, these changes will improve the department's ability to carry out the affected duties more efficiently and effectively.

**C. SECTION-BY-SECTION ANALYSIS (of relevant sections of SB 330):**

Section 1. Amends section 253.034(5), Florida Statutes, to exempt from Land Management Advisory Committee review the sale of filled, formerly submerged lands of less than five acres; makes a technical change in the wording of section 253.034(6), Florida Statutes.



Section 2. Amends section 253.04, Florida Statutes, to authorize a fine upon and recovery of costs of removal or alteration from any person who fails to comply with an order of the board of trustees to remove or alter unauthorized structures on state-owned land.

Section 3. Amends section 253.111, Florida Statutes, to remove the requirement that when state land is sold to a county, the county must use the land for a public purpose; removes all scheduling and plan provisions related to the public purpose requirement; establishes that a county must pay fair market value for land it buys from the board of trustees.

Section 4. Amends section 253.115, Florida Statutes, to exempt from public notice requirements any conveyance of land of less than 5 acres in size, which lies landward of the mean high water line; exempts from public notice requirements retroactive sovereignty land leases for structures built prior to March 27, 1982, and for such structures built on or after March 27, 1982, if all required federal, state, or local permits have been obtained.

Section 5. Amends section 260.015(1), Florida Statutes, to allow the Department of Natural Resources in appraising Rails-to-Trails acquisitions to use the appraisal procedure the Department of Transportation uses in acquiring transportation rights-of-way.

Section 6. Amends section 193.085, Florida Statutes to prohibit counties from changing or transferring board of trustees' ownership in real property without having received a board of trustees deed; requires property appraisers to send the state a copy of any recorded deed not executed by the state, which purports to convey real property owned by the state.

Section 7. Amends section 253.03, Florida Statutes to prohibit counties from changing or transferring board of trustees' ownership in real property without having received a board of trustees deed; requires property appraisers to send the state a copy of any recorded deed not executed by the state, which purports to convey real property owned by the state.

Section 10. Provides that the act shall take effect upon becoming a law, except that section 2 shall take effect October 1, 1989.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

### A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

#### 1. Non-recurring or First Year Start-Up Effects:

None.

#### 2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

Indeterminate.

2. Recurring or Annualized Continuation Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

Economic impacts on local governments would involve minor costs of copying and mailing deeds to the state.

III. LONG RANGE CONSEQUENCES:

The long-range consequences of the bill should be to assist the Department of Natural Resources in carrying out the related duties in the bill more efficiently and effectively and in eliminating the filing of wild deeds.

This bill is consistent with the following goal and policies of the State Comprehensive Plan:

(10) NATURAL SYSTEMS AND RECREATIONAL LANDS.--

(b) Policies.--

2. Acquire, retain, manage, and inventory public lands to provide recreation, conservation, and related public benefits.

(21) GOVERNMENTAL EFFICIENCY.--

(a) Goal.--Florida governments shall economically and efficiency provide the amount and quality of services required by the public.

(b) Policies.--

9. Encourage greater efficiency and economy at all levels of government through adoption and implementation of effective records-management, information-management, and evaluation procedures.

12. Discourage undue expansion of state government and make every effort to streamline state government in a cost-effective manner.

IV. COMMENTS:

Section 2 of this bill is consistent with the following objective of the Natural Resources Committee Mission Statement:

Enhance the ability of state agencies charged with the enforcement of environmental laws.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

T. Pride  
Terry Pride

Staff Director:

Dana D. Minerva  
Dana D. Minerva

SECOND COMMITTEE OF REFERENCE:

Prepared by:

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Staff Director:

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APPROPRIATIONS:

Prepared by:

\_\_\_\_\_

Staff Director:

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