CHAPTER 97-164

Committee Substitute for Committee Substitute for House Bill Nos. 1119 and 1577

An act relating to natural resource management; providing that lands acquired by the state and its political subdivisions may contain cattle dipping vats; amending s. 253.03, F.S.; extending the submerged lands lease for certain properties; amending s. 253.034, F.S.; specifying objectives of the management of the state's lands and natural resources; providing requirements for multiple-use land management strategies; providing for transportation uses of certain recreational trails; providing references to the Land Acquisition and Management Council; revising land-management plan adoption processes; correcting a cross-reference; amending s. 253.68, F.S.; modifying authority of local government to object to state aquaculture leases; amending s. 253.7825, F.S.; correcting a cross-reference; amending s. 259.032, F.S.; providing that a soil and water conservation district shall be considered first as the managing agency with respect to fee-simple acquisitions or acquisitions of less-than-fee interest in certain lands through the Conservation and Recreation Lands (CARL) Trust Fund; directing managing agencies to enter into certain contracts or agreements; requiring notice and public hearing on individual management plans; providing for withholding of Preservation 2000 acquisition funds from certain agencies; providing management objectives for lands acquired under ch. 259, F.S.; increasing the percentage of funds deposited in the Florida Preservation 2000 Trust Fund available for land management and capital improvements; allowing agencies to keep revenues generated from activities on lands they manage; revising provisions relating to payments in lieu of taxes; amending s. 259.035; creating the Land Acquisition and Management Advisory Council; providing responsibility for review of plans for state-owned lands; creating s. 259.036, F.S.; providing for management review teams for certain lands; amending s. 259.101, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to permit any incidental public or private use of lands acquired with Preservation 2000 funds if the use is compatible or will not interfere with the purposes for which the lands were acquired; providing for preexisting leases, easements, and licenses not to be considered as incompatible uses; adding historical or archeological sites to Preservation 2000 project criteria; commencing process to close out the Florida Preservation 2000 Program; clarifying language pertaining to Preservation 2000 funds; amending s. 260.015, F.S.; changing certain land acquisition procedures for the Florida Greenways and Trails Program; creating s. 369.255, F.S.; authorizing certain counties and municipalities to create green utilities and adopt fees for certain purposes; amending s. 373.139, F.S.; providing that lands acquired for specified purposes by water management districts shall receive multiple-use management, except under certain conditions; directing the district governing boards to consult with or enter into a memorandum of agreement

with specified state agencies with respect to such management; amending s. 373.59, F.S.; deleting a limitation on the use of funds for land management and capital improvements; deleting a limitation on the use of funds for land management and capital improvements; providing that a soil and water conservation district shall be considered first as the managing agency with respect to fee-simple acquisitions or acquisitions of less-than-fee interest in certain land through the Water Management Lands Trust Fund; providing for use of land management volunteers; requiring appraisals in specified circumstances; authorizing land management agreements; creating s. 373.591, F.S.; creating management review teams for water management district lands; amending s. 704.06, F.S.; clarifying linear facilities ability to cross conservation easements; repealing s. 253.022, F.S., relating to the Land Management Advisory Council; amending s. 373.250, F.S.; revising a date with respect to certain reports by water management districts; amending s. 370.06, F.S.; authorizing the department to issue special activity licenses for aquacultural activities involving sturgeon; amending s. 370.092, F.S.; providing for the transport of mullet harvested in Alabama waters; providing for penalties for fishing during periods of license suspension or revocation; creating s. 370.093, F.S.; prohibiting the harvest of marine life with nets inconsistent with s. 16, Art. X of the State Constitution; providing for penalties; providing a definition of the terms "net" and "netting"; authorizing the Marine Fisheries Commission to adopt certain rules; amending s. 370.14, F.S.; providing the Marine Patrol discretion to be present at the closed-season weighing of crawfish; creating s. 370.1405, F.S.; providing for the sale of crawfish during a closed season under specified reporting requirements; providing penalties; establishing an experimental program to assess the utility and effects of using "tarp" nets to harvest baitfish; creating s. 403.075, F.S.; providing legislative findings; creating s. 403.0752, F.S.; authorizing ecosystem management agreements between the Department of Environmental Protection and regulated entities; providing conditions and requirements; providing for amendment or termination of such agreements; providing incentives; authorizing ecosystem management advisory teams; providing for binding and nonbinding ecosystem management agreements; requiring application procedures; requiring certain notice; providing that the agreements are subject to ss. 120.569 and 120.57, F.S.; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Acquisition of lands by the state.—Lands acquired or sought to be acquired by the state and its political subdivisions may contain cattle-dipping vats as defined in section 376.301, Florida Statutes. The Legislature determines that it is in the public interest for the state and its political subdivisions to acquire cattle-dipping vats from willing sellers, where such vats are located on or within the boundaries of parcels or tracts acquired or being acquired by the state and its political subdivisions or on lands managed by a public interest organization for environmental mitigation purposes. Notwithstanding any other provision of law, the state and special

taxing districts as defined in section 189.403(6), Florida Statutes, shall not exclude such cattle-dipping vats from any such individual acquisition or sequence of acquisitions using state funds in whole or in part or otherwise acquired pursuant to any permitting program under state law; and outparcels excluded from previous acquisitions which contain such cattle-dipping vats shall be acquired under existing state acquisition programs. The state and its political subdivisions shall not become liable under state law solely as an incident of such acquisition for any costs, damages, or penalties associated with the discharge, evaluation, contamination, assessment, or remediation for any substances or derivatives thereof that were used in the vat for the eradication of the cattle fever tick.

Section 2. Paragraph (c) is added to subsection (7) of section 253.03, Florida Statutes, 1996 Supplement, to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(7)

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to chapter 18-21.00405, Florida Administrative Code, shall be allowed to apply for an extension of such lease, regardless of the fact that the present landholder is not an adjacent riparian landowner.

Section 3. Section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.—

(1) All lands acquired pursuant to chapter 259 shall be managed to serve the public interest by protecting and conserving land, air, water, and the state's natural resources, which contribute to the public health, welfare, and economy of the state. These lands shall be managed to provide for areas of natural-resource-based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The state's lands and natural resources shall be managed using a stewardship ethic that assures these resources will be available for the benefit and enjoyment of all people of the state, both present and future. It is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the Board of Trustees of the Internal Improvement Trust Fund, public land not designated for single-use purposes pursuant to paragraph (2)(b) be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the agency with management responsibility to enhance its ability to manage these lands.

(2)~~(1)~~ As used in this section, the following phrases have the following meanings:

(a) "Multiple use" means the harmonious and coordinated management of timber, recreation, conservation of fish and wildlife, forage, archaeological and historic sites, habitat and other biological resources, or water resources so that they are utilized in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the relative values of the various resources. Where necessary and appropriate for all state-owned lands that are larger than 1,000 acres in project size and are managed for multiple uses, buffers may be formed around any areas which require special protection or have special management needs. Such buffers shall not exceed more than one-half of the total acreage. Multiple uses within a buffer area may be restricted to provide the necessary buffering effect desired. Multiple use in this context includes both uses of land or resources by more than one state agency, or by one or more state agencies and private sector land managers. In any case, lands identified as multiple-use lands in the land-management plan shall be managed to enhance and conserve the lands and resources for the enjoyment of the people of the state.

(b) "Single use" means management for one particular purpose to the exclusion of all other purposes, except that the using agency shall have the option of including in its management program compatible secondary purposes which will not detract from or interfere with the primary management purpose. Such single uses may include, but are not necessarily restricted to, the use of agricultural lands for production of food and livestock, the use of improved sites and grounds for institutional purposes, and the use of lands for parks, preserves, wildlife management, archaeological or historic sites, or wilderness areas where the maintenance of essentially natural conditions is important. All submerged lands shall be considered single-use lands and shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing agency.

(3) In recognition that recreational trails purchased with rails-to-trails funds pursuant to s. 259.101(3)(g) have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that when the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to cross recreational trails purchased pursuant to s. 259.101(3)(g). When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

~~(2) All lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be managed in a manner that will provide the greatest combination of benefits to the people of the state. All such lands not designated in the land-management plan required by subsection (4) for a specific single use shall receive multiple-use management.~~

~~(4)~~(3) No management agreement, lease, or other instrument authorizing the use of lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements, except that an easement in perpetuity may be granted by the Board of Trustees of the Internal Improvement Trust Fund if the improvement is a transportation facility. An agency managing or leasing state-owned lands from the Board of Trustees of the Internal Improvement Trust Fund may not sublease such lands without prior review by the division and by the Land Acquisition and Management Advisory Council created in s. 259.035 ~~253.022~~ and approval by the board. The Land Acquisition and Management Advisory Council is not required to review subleases of parcels which are less than 160 acres in size.

~~(5)~~(4) Each state agency managing lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall submit to the Division of State Lands a land-management plan at least every 5 years in a form and manner prescribed by rule by the board. All management plans, whether for single-use or multiple-use properties, shall specifically describe how the managing agency plans to identify, locate, protect and preserve, or otherwise use fragile nonrenewable resources, such as archaeological and historic sites, as well as other fragile resources, including endangered plant and animal species, and provide for the conservation of soil and water resources and for the control and prevention of soil erosion. Land-management plans submitted by an agency shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land-management plan. All land management plans for parcels larger than 1,000 acres shall contain an analysis of the multiple-use potential of the parcel, which analysis shall include the potential of the parcel to generate revenues to enhance the management of the parcel. Additionally, the land management plan shall contain an analysis of the potential use of private land managers to facilitate the restoration or management of these lands. In those cases where a newly acquired property has a valid conservation plan, the plan shall be used to guide management of the property until a formal land management plan is completed.

(a) The Division of State Lands shall make available to the public ~~submit~~ a copy of each land-management plan for parcels which exceed 160 acres in size ~~to each member of the Land Management Advisory Council~~. The council shall~~, within 60 days after receiving a plan from the division,~~ review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The council shall also consider the propriety of the recommendations of the managing agency with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing agency, and the possibility of disposal of the property by the board. After its review, the council shall submit the plan, along with its recommendations and comments, to the board. The council shall specifically recommend to the board whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(b) The Board of Trustees of the Internal Improvement Trust Fund shall consider the land-management plan submitted by each state agency and the recommendations of the ~~Land Management Advisory~~ council and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any such lands which is not in accordance with an approved land-management plan is subject to termination by the board.

(6)~~(5)~~ The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, are of no benefit to the public and shall dispose of such lands pursuant to law.

(a) At least every 5 years, in a form and manner prescribed by rule by the board, each state agency shall indicate to the board those lands which the agency manages which are not being used for the purpose for which they were originally leased. Such lands shall be reviewed by the ~~Land Management Advisory~~ council for its recommendation as to whether such lands should be disposed of by the board.

(b) Lands owned by the board which are not actively managed by any state agency or for which a land-management plan has not been completed pursuant to subsection (4) shall be reviewed by the ~~Land Management Advisory~~ council for its recommendation as to whether such lands should be disposed of by the board.

(c) In reviewing lands owned by the board pursuant to paragraphs (a) and (b), the ~~Land Management Advisory~~ council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The council shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115.

(d) After reviewing the recommendations of the ~~Land Management Advisory~~ council, the board shall determine whether lands identified in paragraphs (a) and (b) are to be held for other public purposes or whether such lands are of no benefit to the public. The board may require an agency to release its interest in such lands. Lands determined to be of no benefit to the public shall be disposed of pursuant to law. Each fiscal year, up to $500,000 of the proceeds from the disposal of such lands shall be placed in the Internal Improvement Trust Fund to be used to pay the costs of any administration, appraisal, management, conservation, protection, sales, or real estate sales services; any such proceeds in excess of $500,000 shall be placed in the Conservation and Recreation Lands Trust Fund.

(e) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the ~~Land Management Advisory~~ council.

(7)~~(6)~~ This section shall not be construed so as to affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease by the Board of Trustees of the Internal Improvement Trust Fund of state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and purposes.

(8) Land-management plans required to be submitted by the Department of Corrections or the Department of Education shall not be subject to the council review provisions described in subsection (5). Management plans filed by these agencies shall be made available to the public for a period of 90 days at the administrative offices of the parcel or project affected by the management plan and at the Tallahassee offices of each agency. Any plans not objected to during the public comment period shall be deemed approved. Any plans for which an objection is filed shall be submitted to the Board of Trustees of the Internal Improvement Trust Fund for consideration. The Board of Trustees of the Internal Improvement Trust Fund shall approve the plan with or without modification, or reject the plan. The use or possession of any such lands which is not in accordance with an approved land-management plan is subject to termination by the board.

Section 4. Subsection (1) of section 253.68, Florida Statutes, 1996 Supplement, is amended to read:

253.68 Authority to lease submerged land and water column.—

(1) To the extent that it is not contrary to the public interest, and subject to limitations contained in ss. 253.67-253.75, the board of trustees may lease submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by such activities. Such leases may authorize use of the submerged land and water column for either commercial or experimental purposes. However ~~no lease shall be granted by the board when there is filed with it~~ a resolution of objection adopted by a majority of the county commission of a county within whose boundaries the proposed leased area would lie, if the boundaries ~~same~~ were extended to the extent of the interest of the state, may ~~the proposed lease area would lie. Said resolution shall~~ be filed with the board of trustees within 30 days of the date of the first publication of notice as required by s. 253.70. Prior to the granting of any such leases, the board shall establish and publish a list of guidelines to be followed when considering applications for lease. Such guidelines shall be designed to protect the public's interest in submerged lands and the publicly owned water column.

Section 5. Subsection (1) of section 253.7825, Florida Statutes, is amended to read:

253.7825 Recreational uses.—

(1) The Cross Florida Greenways State Recreation and Conservation Area must be managed as a multiple-use area pursuant to s.

253.034(2)~~(1)~~(a), and as further provided herein. The University of Florida Management Plan provides a conceptual recreational plan that may ultimately be developed at various locations throughout the greenways corridor. The plan proposes to locate a number of the larger, more comprehensive and complex recreational facilities in sensitive, natural resource areas. Future site-specific studies and investigations must be conducted by the department to determine compatibility with, and potential for adverse impact to, existing natural resources, need for the facility, the availability of other alternative locations with reduced adverse impacts to existing natural resources, and the proper specific sites and locations for the more comprehensive and complex facilities. Furthermore, it is appropriate, with the approval of the department, to allow more fishing docks, boat launches, and other user-oriented facilities to be developed and maintained by local governments.

Section 6. Subsections (7), (9), (10), (11), and (12) of section 259.032, Florida Statutes, 1996 Supplement, are amended to read:

259.032 Conservation and Recreation Lands Trust Fund; purpose.—

(7) The board of trustees may enter into any contract necessary to accomplish the purposes of this section. The lead land managing agencies also are directed by the Legislature to enter into contracts or interagency agreements with other governmental entities, including local soil and water conservation districts, or private land managers who have the expertise to perform specific management activities which a lead agency lacks, or which would cost more to provide in-house. Such activities shall include, but not be limited to, controlled burning, road and ditch maintenance, mowing, and wildlife assessments.

(9)(a) All lands managed under this section shall be:

1. Managed in a manner that will provide the greatest combination of benefits to the public and to the resources.

2. Managed for public outdoor recreation which is compatible with the conservation and protection of public lands.

3. Managed for the purposes for which the lands were acquired, consistent with paragraph (11)(a).

Management may include the following public uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, birding, sailing, jogging, and other related outdoor activities.

(b)1. Concurrent with its adoption of the annual Conservation and Recreational Lands list of acquisition projects pursuant to s. 259.035, the board of trustees shall adopt a management prospectus for each project. The management prospectus shall delineate: the management goals for the property; the conditions that will affect the intensity of management; an estimate of the revenue-generating potential of the property, if appropriate; a timetable

for implementing the various stages of management and for providing access to the public, if applicable; provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition; the anticipated costs of management and projected sources of revenue, including legislative appropriations, to fund management needs; recommendations as to how many employees will be needed to manage the property; and recommendations as to whether local governments, volunteer groups, the former landowner, or other interested parties can be involved in the management.

2. Concurrent with the approval of the acquisition contract pursuant to s. 259.041(3)(c) for any interest in lands, the board of trustees shall designate an agency or agencies to manage such lands and shall evaluate and amend, as appropriate, the management policy statement for the project as provided by s. 259.035, consistent with the purposes for which the lands are acquired. For any fee-simple acquisition of a parcel which is or will be leased back for agricultural purposes, or any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the Board of Trustees of the Internal Improvement Trust Fund shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interests.

3. State agencies designated to manage lands acquired under this chapter may contract with local governments and soil and water conservation districts to assist in management activities, including the responsibility of being the lead land manager. Such land-management contracts may include a provision for the transfer of management funding to the local government or soil and water conservation district from the Conservation and Recreation Lands Trust Fund in an amount adequate for the local government or soil and water conservation district to perform its contractual land-management responsibilities and proportionate to its responsibilities, and which otherwise would have been expended by the state agency to manage the property.

4.~~3.~~ Immediately following the acquisition of any interest in lands under this chapter ~~section~~, the Department of Environmental Protection, acting on behalf of the board of trustees, may issue to the lead managing entity an interim assignment letter to be effective until the execution of a formal lease.

(10) State, regional, or local governmental agencies or private ~~nonstate~~ entities designated to manage lands under this section shall develop and adopt, with the approval of the board of trustees, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. Private-sector involvement in management plan development may be used to expedite the planning process. Beginning fiscal year 1998-1999, individual management plans required by s. 253.034(4) shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, co-managing entities, local private property owners, the appropriate soil and water conservation district, a local conservation organization, and a local elected official. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. Notice of such public hearing shall be posted on the parcel

or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (9)(b) shall be available to the public for a period of 30 days prior to the public hearing. Once a plan is adopted, the managing agency or entity shall update the plan at least every 5 years in a form and manner prescribed by rule of the board of trustees. Such plans may include transfers of leasehold interests to appropriate conservation organizations designated by the Land Management Advisory Council for uses consistent with the purposes of the organizations and the protection, preservation, and proper management of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults. For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the annual Conservation and Recreation Lands report prepared pursuant to s. 259.035(2)(a) have been acquired. Beginning in fiscal year 1998-1999, the Department of Environmental Protection shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district would otherwise be entitled from the Preservation 2000 Trust Fund to any budget entity or any water management district that has more than one-third of its management plans overdue.

(a) Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034, and the statutory authority for such use or uses.

2. Key management activities necessary to preserve and protect natural resources and restore habitat, and for controlling the spread of nonnative plants and animals, and for prescribed fire and other appropriate resource management activities.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities, based on the purposes for which the lands were acquired.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value for

which the lands were acquired. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses that would be consistent with the purposes for which the lands were acquired.

(b) The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the Land Management Advisory Council. The council shall, within 60 days after receiving a plan from the division, review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The council shall also consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property. After its review, the council shall submit the plan, along with its recommendations and comments, to the board of trustees. The council shall specifically recommend to the board of trustees whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(c) The board of trustees shall consider the individual management plan submitted by each state agency and the recommendations of the Land Management Advisory Council and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board of trustees which is not in accordance with an approved individual management plan is subject to termination by the board of trustees.

By July 1 of each year, each governmental agency, including the water management districts, and each private ~~nonstate~~ entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

(11)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained for the purposes for which they were acquired and for the public to have access to these lands where it is consistent with acquisition purposes and would not harm the resources the state is seeking to protect on the public's behalf.

(b) An amount up ~~equal~~ to 1.5 ~~1~~ percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund shall be made available for the purposes of management, maintenance, and capital improvements, and for associated contractual services, for lands acquired pursuant to this section and s. 259.101 to which title is vested in the board of trustees. Each agency with management responsibilities shall annually request from the Legislature funds sufficient to fulfill such responsibilities. Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets.

(c) In requesting funds provided for in paragraph (b) for long-term management of all acquisitions pursuant to this chapter and for associated contractual services, the managing agencies shall recognize the following categories of land management needs:

1. Lands which are low-need tracts, requiring basic resource management and protection, such as state reserves, state preserves, state forests, and wildlife management areas. These lands generally are open to the public but have no more than minimum facilities development.

2. Lands which are moderate-need tracts, requiring more than basic resource management and protection, such as state parks and state recreation areas. These lands generally have extra restoration or protection needs, higher concentrations of public use, or more highly developed facilities.

3. Lands which are high-need tracts, with identified needs requiring unique site-specific resource management and protection. These lands generally are sites with historic significance, unique natural features, or very high intensity public use, or sites that require extra funds to stabilize or protect resources.

In evaluating the management funding needs of lands based on the above categories, the lead land managing agencies shall include in their considerations the impacts of, and needs created or addressed by, multiple-use management strategies.

(d) All revenues generated through multiple-use management shall be returned to the agency responsible for such management and shall be used to pay for management activities on all conservation, preservation, and recreation lands under the agency's jurisdiction. In addition, such revenues shall be segregated in an agency trust fund and shall remain available to the agency in subsequent fiscal years to support land management appropriations.

(e)~~(d)1.~~ Up to one-fifth of the funds provided for in paragraph (b) shall be reserved by the board of trustees for interim management of acquisitions and for associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive exotic species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (9)(b). The board of trustees shall make these interim funds available immediately upon purchase.

~~2. For the 1995-1996 fiscal year only, funds in the Conservation and Recreation Lands Trust Fund that are not specifically appropriated for the interim management of public lands pursuant to subparagraph 1. may be appropriated for the control and eradication of nuisance aquatic plants in public water bodies. This subparagraph is repealed on July 1, 1996.~~

(f)~~(e)~~ The department shall set long-range and annual goals for the control and removal of nonnative, upland, invasive plant species on public lands. Such goals shall differentiate between aquatic plant species and upland plant species. In setting such goals, the department may rank, in order of adverse impact, species which impede or destroy the functioning of natural systems. Notwithstanding paragraph (a), up to one-fourth of the funds provided for in paragraph (b) shall be reserved for control and removal of nonnative, upland, invasive species on public lands.

(12)(a) Beginning in fiscal year 1994-1995, not more than 3.75 percent of the Conservation and Recreation Lands Trust Fund shall be made available annually to the department for payment in lieu of taxes to qualifying counties, cities, and local governments as defined in paragraph (b) for all actual tax losses incurred as a result of board of trustees acquisitions for state agencies under the Florida Preservation 2000 Program during any year. Reserved funds not used for payments in lieu of taxes in any year shall revert to the fund to be used for land acquisition in accordance with the provisions of this section.

(b) Payment in lieu of taxes shall be available:

1. To counties which levy an ad valorem tax of at least 8.25 ~~9~~ mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the county exceeds 0.01 percent of the county's total taxable value, and have a population of 75,000 or less; and

2. To counties with a population of less than 100,000 which contain all or a portion of an area of critical state concern designated pursuant to chapter 380 and to local governments within such counties.

For the purposes of this paragraph, "local government" includes municipalities, the county school board, mosquito control districts, and any other local government entity which levies ad valorem taxes, with the exception of a water management district.

(c) Payment in lieu of taxes shall be available to any city which has a population of 10,000 or less and which levies an ad valorem tax of at least 8.25 ~~9~~ mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the city exceeds 0.01 percent of the city's total taxable value.

(d) If insufficient funds are available in any year to make full payments to all qualifying counties, cities, and local governments, such counties, cities, and local governments shall receive a pro rata share of the moneys available.

(e) The payment amount shall be based on the average amount of actual taxes paid on the property for the 3 years preceding acquisition. Applications for payment in lieu of taxes shall be made no later than January 31 of the year following acquisition. No payment in lieu of taxes shall be made for properties which were exempt from ad valorem taxation for the year immediately preceding acquisition. If property which was subject to ad valorem taxation was acquired by a tax-exempt entity for ultimate conveyance to the

state under this chapter, payment in lieu of taxes shall be made for such property based upon the average amount of taxes paid on the property for the 3 years prior to its being removed from the tax rolls. The department shall certify to the Department of Revenue those properties that may be eligible under this provision. Payment in lieu of taxes shall be limited to a total of 10 consecutive years of annual payments, beginning the year a local government becomes eligible.

(f) Payment in lieu of taxes pursuant to this paragraph shall be made annually to qualifying counties, cities, and local governments after certification by the Department of Revenue that the amounts applied for are reasonably appropriate, based on the amount of actual taxes paid on the eligible property, and after the Department of Environmental Protection has provided supporting documents to the Comptroller and has requested that payment be made in accordance with the requirements of this section.

(g) If the board of trustees conveys to a local government title to any land owned by the board, any payments in lieu of taxes on the land made to the local government shall be discontinued as of the date of the conveyance.

Section 7. Subsection (1) and (2) of section 259.035, Florida Statutes, 1996 Supplement, is amended to read:

259.035 Advisory council; powers and duties.—

(1) There is created a Land Acquisition and Management Advisory Council to be composed of the secretary and a designee of the department, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, the executive director of the Game and Fresh Water Fish Commission, the director of the Division of Historical Resources of the Department of State, and the secretary of the Department of Community Affairs, or their respective designees. The chairmanship of the council shall rotate annually in the foregoing order. The council shall hold periodic meetings at the request of the chair. The department shall provide primary staff support to the council and shall ensure that council meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 257. The department may adopt any rule or form necessary to implement this section.

(2)(a) The council shall, by the time of the first board meeting in February of each year, establish or update a list of acquisition projects selected for purchase pursuant to this chapter. In scoring potential projects for inclusion on the acquisition list, the council shall give greater consideration to projects that can serve as corridors between lands already in public ownership or under management for conservation and recreational purposes. Acquisition projects shall be ranked, in order of priority, individually as a single group or individually within up to 10 separate groups. The council shall submit to the board of trustees, together with its list of acquisition projects, a Conservation and Recreation Lands report. For each project on an acquisition list, the council shall include in its report the stated purpose for acquiring the project, an identification of the essential parcel or parcels within the project without which the project cannot be properly managed, an identification of those projects or parcels within projects which should be acquired in fee

simple or in other than fee simple, an explanation of the reasons why the council selected a particular acquisition technique, a management policy statement for the project, a management prospectus pursuant to s. 259.032(9)(b), an estimate of land value based on county tax assessed values, a map delineating project boundaries, a brief description of the important natural and cultural resources to be protected, preacquisition planning and budgeting, coordination with other public and nonprofit public-lands acquisition programs, a preliminary statement of the extent and nature of public use, an interim management budget, and designation of a management agency or agencies. The Department of Environmental Protection shall prepare the information required by this section for each acquisition project selected for purchase pursuant to this chapter. In addition, the department shall prepare, by July 1 of each year, an acquisition work plan for each project on the acquisition list for which funds will be available for acquisition during the fiscal year. The work plan need not disclose any information that is required by this chapter or chapter 253 to remain confidential.

(b) An affirmative vote of four members of the council shall be required in order to place a proposed project on a list. Each list shall contain at least twice the number of projects in terms of estimated cost as there are anticipated funds for purchase. The anticipated cost of each project shall include proposed costs for development of the lands necessary to meet the public purpose for which such lands are to be purchased.

(c) All proposals for acquisition projects pursuant to this chapter shall be developed and adopted by the council. The council shall consider and evaluate in writing the merits and demerits of each project that is proposed for acquisition and shall ensure that each proposed acquisition project will meet a stated public purpose for the preservation of environmentally endangered lands, for the development of outdoor recreation lands, or as provided in s. 259.032(3) and shall determine whether each acquisition project conforms with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive outdoor recreation and conservation plan developed pursuant to s. 375.021, and the state lands management plan adopted pursuant to s. 253.03(7). Copies of a written report describing each project proposed for acquisition shall be submitted to the board of trustees. The council shall consider and include in each project description its assessment of a project's ecological value, vulnerability, endangerment, ownership pattern, utilization, location, and cost and other pertinent factors in determining whether to recommend a project for state purchase.

(d) Additionally, the council shall provide assistance to the Board of Trustees of the Internal Improvement Trust Fund in reviewing the recommendations and plans for state-owned lands required by s. 253.034. The council shall, in reviewing the recommendations and plans for state-owned lands required by s. 253.034, consider the optimization of multiple-use strategies to accomplish the provisions of s. 253.034.

Section 8. Section 259.036, Florida Statutes, is created to read:

259.036 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the Board of Trustees of the Internal Improvement Trust Fund are being managed for the purposes for which they were acquired and in accordance with a land-management plan adopted pursuant to s. 259.032, the board of trustees, acting through the Department of Environmental Protection, shall cause periodic management reviews to be conducted, as follows:

(a) The department shall establish a regional land management review team composed of the following members:

1. One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition.

2. One individual from the Division of Recreation and Parks of the department.

3. One individual from the Division of Forestry of the Department of Agriculture and Consumer Services.

4. One individual from the Game and Fresh Water Fish Commission.

5. One individual from the department's district office in which the parcel is located.

6. A private land manager mutually agreeable to the state agency representatives.

7. A member of the local soil and water conservation district board of supervisors.

8. A member of a conservation organization.

The staff of the Division of State Lands shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions. The Legislature shall appropriate funds necessary to implement land management review team functions.

(2) The land management review team shall review select parcels of managed land prior to the date the managing agency is required to submit its 5-year land-management plan update. A copy of the review shall be provided to the managing agency, the Division of State Lands, and the Land Acquisition and Management Advisory Council. The managing agency shall consider the findings and recommendations of the land management review team in finalizing the required 5-year update of its management plan.

(3) In conducting a review, the land management review team shall evaluate the extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features. The review shall also evaluate the extent to which the land is being managed for the purposes for which it was acquired and the degree

to which actual management practices, including public access, are in compliance with the adopted management plan.

(4) In the event a land-management plan has not been adopted within the timeframes specified in s. 259.032(10), the department may direct a management review of the property, to be conducted by the land management review team. The review shall consider the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices are in compliance with the management policy statement and management prospectus for that property.

(5) If the land management review team determines that reviewed lands are not being managed for the purposes for which they were acquired or in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department shall provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.

(6) No later than the second board meeting in October of each year, the department shall report the annual review findings of its land management review team.

Section 9. Subsections (4) and (7) of section 259.101, Florida Statutes, 1996 Supplement, are amended to read:

259.101 Florida Preservation 2000 Act.—

(4) PROJECT CRITERIA.—

(a) Proceeds of bonds issued pursuant to this act and distributed pursuant to paragraphs (3)(a) and (b) shall be spent only on projects which meet at least one of the following criteria, as determined pursuant to paragraphs (b) and (c):

1. A significant portion of the land in the project is in imminent danger of development, in imminent danger of loss of its significant natural attributes, or in imminent danger of subdivision which will result in multiple ownership and may make acquisition of the project more costly or less likely to be accomplished;

2. Compelling evidence exists that the land is likely to be developed during the next 12 months, or appraisals made during the past 5 years indicate an escalation in land value at an average rate that exceeds the average rate of interest likely to be paid on the bonds;

3. A significant portion of the land in the project serves to protect or recharge groundwater and to protect other valuable natural resources or provide space for natural resource based recreation;

4. The project can be purchased at 80 percent of appraised value or less; ~~or~~

5. A significant portion of the land in the project serves as habitat for endangered, threatened, or rare species or serves to protect natural communities which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities; or.

6. A significant portion of the land serves to preserve important archeological or historical sites.

(b) Each year that bonds are to be issued pursuant to this act, the Land Acquisition and Management Advisory Council shall review that year's approved Conservation and Recreation Lands priority list and shall, by the first board meeting in February, present to the Board of Trustees of the Internal Improvement Trust Fund for approval a listing of projects on the list which meet one or more of the criteria listed in paragraph (a). The board may remove projects from the list developed pursuant to this paragraph, but may not add projects.

(c) Each year that bonds are to be issued pursuant to this act, each water management district governing board shall review the lands on its current year's Save Our Rivers 5-year plan and shall, by January 15, adopt a listing of projects from the plan which meet one or more of the criteria listed in paragraph (a).

(d) In the acquisition of coastal lands pursuant to paragraph (3)(a), the following additional criteria shall also be considered:

1. The value of acquiring coastal high-hazard parcels, consistent with hazard mitigation and postdisaster redevelopment policies, in order to minimize the risk to life and property and to reduce the need for future disaster assistance.

2. The value of acquiring beachfront parcels, irrespective of size, to provide public access and recreational opportunities in highly developed urban areas.

3. The value of acquiring identified parcels the development of which would adversely affect coastal resources.

When a nonprofit environmental organization which is tax exempt pursuant to s. 501(c)(3) of the United States Internal Revenue Code sells land to the state, such land at the time of such sale shall be deemed to meet one or more of the criteria listed in paragraph (a) if such land meets one or more of the criteria at the time the organization purchases it. Listings of projects compiled pursuant to paragraphs (b) and (c) may be revised to include projects on the Conservation and Recreation Lands priority list or in a water management district's 5-year plan which come under the criteria in paragraph (a) after the dates specified in paragraph (b) or paragraph (c). The requirement of paragraph (3)(a) regarding coastal lands is met as long as an average of one-fifth of the cumulative proceeds allocated through fiscal year 1999-2000 pursuant to that paragraph is used to purchase coastal lands.

(e) The Legislature finds that the Florida Preservation 2000 Program has provided financial resources that have enabled the acquisition of significant amounts of land for public ownership in the first 7 years of the program's existence. In the remaining years of the Florida Preservation 2000 Program, agencies that receive funds are encouraged to better coordinate their expenditures so that future acquisitions, when combined with previous acquisitions, will form more complete patterns of protection for natural areas and functioning ecosystems, to better accomplish the intent of paragraph (2)(c).

(f) The Legislature intends that, in the remaining years of the Florida Preservation 2000 Program, emphasis be given to the completion of projects in which one or more parcels have already been acquired and to the acquisition of lands containing ecological resources which are either not represented or underrepresented on lands currently in public ownership. The Legislature also intends that future acquisitions under the Florida Preservation 2000 Program be limited to projects on the current project lists, or any additions to the list as determined and prioritized by the study, or those projects that can reasonably be expected to be acquired by the end of the Florida Preservation 2000 Program.

(g) In determining the remaining needs and priorities for the Florida Preservation 2000 Program and to ensure that future acquisitions preserve those resources in the greatest need of protection, the Land Acquisition and Management Advisory Council and each water management district governing board shall commission a study to determine:

1. What ecological resources are inadequately represented in the state's and each district's public land inventory and which approved projects can best fill the needs identified.

2. Significant natural areas and watersheds which can be conserved by the use of conservation easements or other less-than-fee techniques.

3. For projects in which an acquisition has been completed, the minimal lands needed to be acquired for resource protection and effective management.

4. Projects with significant historical or archeological importance.

5. The best method of completing the Florida Preservation 2000 Program to ensure that the program achieves its mission, pursuant to subsection (2).

These studies shall be completed by October 1, 1997. No acquisition shall be initiated for any project on a current acquisition list which has not had an initial acquisition until the study is complete, unless a significant portion of the land in the project is in imminent danger of development and a significant portion of the land in the project serves as habitat for endangered, threatened or rare plant species and serves to protect natural plant communities which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare.

(7) ALTERNATE USES ~~GOVERNMENTAL USE~~ OF ACQUIRED LANDS.—

(a) The Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to subsection (3), for any governmental use permitted by s. 17, Art. IX of the State Constitution of 1885, as adopted by s. 9(a), Art. XII of the State Constitution, and any other incidental public or private use that ~~which~~ is determined by the board or the owning water management district to be compatible with the purposes for which such lands were acquired.

(b) Any existing lease, easement, or license acquired for incidental public or private use on, under, or across any lands acquired pursuant to subsection (3) shall be presumed not to be incompatible with the purposes for which such lands were acquired.

(c)~~(b)~~ Notwithstanding the provisions of paragraph (a), no such lease, easement, or license shall be entered into by the Department of Environmental Protection or other appropriate state agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, as described in s. 375.045(4).

Section 10. Paragraph (f) of subsection (9) of section 259.101, Florida Statutes, 1996 Supplement, is amended to read:

(f)1. Pursuant to subsection (3) and beginning in fiscal year 1998-1999 ~~1997-1998~~, that portion of the unencumbered balances of each program described in paragraphs (3)(c), (d), (e), (f), and (g) which has been on deposit in such program's Preservation 2000 account for more than two fiscal years shall be redistributed equally to the Conservation and Recreation Lands Trust Fund and the Water Management Lands Trust Fund. For the purposes of this subsection, the term "unencumbered balances" means the portion of Preservation 2000 bond proceeds which is not obligated through the signing of a purchase contract between a public agency and a private landowner, except that the program described in paragraph (3)(c) may not lose any portion of its unencumbered funds which remain unobligated because of extraordinary circumstances that hampered the affected local governments' abilities to close on land acquisition projects approved through the Florida Communities Trust program. Extraordinary circumstances shall be determined by the Florida Communities Trust governing body and may include such things as death or bankruptcy of the owner of property; a change in the land use designation of the property; natural disasters that affected a local government's ability to consummate the sales contract on such property; or any other condition that the Florida Communities Trust governing board determined to be extraordinary. The portion of the funds deposited in the Water Management Lands Trust Fund shall be distributed to the water management districts as provided in s. 373.59(7).

2. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

Section 11. Subsection (1) of section 260.015, Florida Statutes, 1996 Supplement, is amended to read:

260.015 Acquisition of land.—

(1) The department is authorized to acquire by gift or purchase the fee simple absolute title or any lesser interest in land, including easements, for the purposes of ss. 260.011-260.018 pursuant to the provisions of chapter 375, except that:

(a) The department's power of eminent domain shall be limited to curing defects in title accepted by the board pursuant to subsection (2).

(b) Lists of proposed acquisitions for the Florida Greenways and Trails Program shall be prepared according to procedures adopted by the department.

(c) Projects acquired under this chapter shall not be subject to the evaluation and selection procedures of s. 259.035, regardless of the estimated value of such projects. All projects shall be acquired in accordance with the acquisition procedures of chapter 259 ~~253~~, except that the department may use the appraisal procedure used by the Department of Transportation to acquire transportation rights-of-way. When a parcel is estimated to be valued at $100,000 or less and the department finds that the costs of obtaining an outside appraisal are not justified, an appraisal prepared by the department may be used.

Section 12. Section 369.255, Florida Statutes, is created to read:

369.255 Green utility ordinances for funding greenspace management and exotic plant control.—

(1) LEGISLATIVE FINDING.—The Legislature finds that the proper management of greenspace areas, including, without limitation, the urban forest, greenways, private and public forest preserves, wetlands, and aquatic zones, is essential to the state's environment and economy and to the health and safety of its residents and visitors. The Legislature also finds that the limitation and control of nonindigenous plants and tree replacement and maintenance are vital to achieving the natural systems and recreational lands goals and policies of the state pursuant to s. 187.201(10), the State Comprehensive Plan. It is the intent of this section to enable local governments to establish a mechanism to provide dedicated funding for the aforementioned activities, when deemed necessary by that county.

(2) In addition to any other funding mechanisms legally available to counties to control invasive, nonindigenous aquatic or upland plants, and manage urban forest resources, a county may create one or more green utilities or adopt fees sufficient to plan, restore, and manage urban forest resources, greenways, forest preserves, wetlands, and other aquatic zones,

and create a stewardship grant program for private natural areas. Counties may create, alone or in cooperation with other counties pursuant to the Florida Interlocal Cooperation Act, s. 163.01, one or more greenspace management districts to fund the planning, management, operation, and administration of a greenspace management program. The fees shall be collected on a voluntary basis as set forth by the county and calculated to generate sufficient funds to plan, manage, operate, and administer a greenspace management program. Private natural areas assessed according to s. 193.501 would qualify for stewardship grants.

(3) This section shall only apply to counties with a population of 500,000 or more.

(4) Nothing in this section shall authorize counties to require any nongovernmental entity to collect the fee described in subsection (2) on their behalf.

Section 13. Subsection (5) of section 373.139, Florida Statutes, 1996 Supplement, is amended to read:

373.139 Acquisition of real property.—

(5) Lands acquired for the purposes enumerated in subsection (2) may also be used for recreational purposes, and whenever practicable such lands shall be open to the general public for recreational uses. Except when prohibited by a covenant or condition described in s. 373.056(2), lands owned, managed, and controlled by the district may be used for multiple purposes, including, but not limited to, agriculture, silviculture, and water supply, as well as boating and other recreational uses.

Section 14. Subsection (1), paragraph (c) of subsection (4), subsection (9), subsection (11) and paragraphs (a) and (b) of subsection (14) of section 373.59, Florida Statutes, 1996 Supplement, are amended and new subsections (16) and (17) are added to that section to read:

373.59 Water Management Lands Trust Fund.—

(1) There is established within the Department of Environmental Protection the Water Management Lands Trust Fund to be used as a nonlapsing fund for the purposes of this section. The moneys in this fund are hereby continually appropriated for the purposes of land acquisition, management, maintenance, capital improvements, payments in lieu of taxes, and administration of the fund in accordance with the provisions of this section. ~~In addition, for fiscal year 1995-1996, moneys in the fund that are not revenues from the sale of any bonds and that are not required for debt service for any bond issue may be used to fund activities authorized under the Surface Water Improvement and Management Act, pursuant to ss. 373.451-373.4595, and for the control of aquatic weeds pursuant to part II of chapter 369. Up to 25 percent of the moneys in the fund may be allocated annually to the districts for management, maintenance, and capital improvements pursuant to subsection (7).~~

(4)

(c) The Secretary of Environmental Protection shall release acquisition moneys from the Water Management Lands Trust Fund to a district following receipt of a resolution adopted by the governing board identifying the lands being acquired and certifying that such acquisition is consistent with the plan of acquisition and other provisions of this act. The governing board shall also provide to the Secretary of Environmental Protection a copy of all certified appraisals used to determine the value of the land to be purchased. Each parcel to be acquired must have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $500,000. However, when both appraisals exceed $500,000 and differ significantly, a third appraisal may be obtained. If the purchase price is greater than the appraisal price, the governing board shall submit written justification for the increased price. The Secretary of Environmental Protection may withhold moneys for any purchase that is not consistent with the 5-year plan or the intent of this act or that is in excess of appraised value. The governing board may appeal any denial to the Land and Water Adjudicatory Commission pursuant to s. 373.114.

(9) Each district may use ~~up to 15 percent of~~ its allocation under subsection (8) ~~(7)~~ for management, maintenance, and capital improvements. Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, control of invasive exotic species, controlled burning, habitat inventory and restoration, law enforcement, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets.

(11) Lands acquired for the purposes enumerated in this section shall also be used for general public recreational purposes. General public recreational purposes shall include, but not be limited to, fishing, hunting, horseback riding, swimming, camping, hiking, canoeing, boating, diving, birding, sailing, jogging, and other related outdoor activities to the maximum extent possible considering the environmental sensitivity and suitability of those lands. These public lands shall be evaluated for their resource value for the purpose of establishing which parcels, in whole or in part, annually or seasonally, would be conducive to general public recreational purposes. Such findings shall be included in management plans which are developed for such public lands. These lands shall be made available to the public for these purposes, unless the district governing board can demonstrate that such activities would be incompatible with the purposes for which these lands were acquired. For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or for any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the district governing board shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interest.

(14)(a) Beginning in fiscal year 1992-1993, not more than one-fourth of the land management funds provided for in subsections (1) and (9) ~~(8)~~ in any year shall be reserved annually by a governing board, during the development of its annual operating budget, for payment in lieu of taxes to qualifying counties for actual ad valorem tax losses incurred as a result of lands purchased with funds allocated pursuant to s. 259.101(3)(b). In addition, the

Northwest Florida Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, the St. Johns River Water Management District, and the Suwannee River Water Management District shall pay to qualifying counties payments in lieu of taxes for district lands acquired with funds allocated pursuant to subsection (8) ~~(7)~~. Reserved funds that are not used for payment in lieu of taxes in any year shall revert to the fund to be used for management purposes or land acquisition in accordance with this section.

(b) Payment in lieu of taxes shall be available to counties for each year in which the levy of ad valorem tax is at least 8.25 ~~9~~ mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the county exceeds 0.01 percent of the county's total taxable value, and the population is 75,000 or less and to counties with a population of less than 100,000 which contain all or a portion of an area of critical state concern designated pursuant to chapter 380.

(16) Each district is encouraged to use volunteers to provide land management and other services. Volunteers shall be covered by liability protection and worker's compensation in the same manner as district employees, unless waived in writing by such volunteers or unless such volunteers otherwise provide equivalent insurance.

(17) Each water management district is authorized and encouraged to enter into cooperative land management agreements with state agencies or local governments to provide for the coordinated and cost-effective management of lands to which the water management districts, the Board of Trustees of the Internal Improvement Trust Fund, or local governments hold title. Any such cooperative land management agreement must be consistent with any applicable laws governing land use, management duties, and responsibilities and procedures of each cooperating entity. Each cooperating entity is authorized to expend such funds as are made available to it for land management on any such lands included in a cooperative land management agreement.

Section 15. Section 373.591, Florida Statutes, is created to read:

373.591 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the named of the water management districts are being managed for the purposes for which they were acquired and in accordance with land management objectives, the water management districts shall establish land management review teams to conduct periodic management reviews. The land management review teams shall be composed of the following members:

1. One individual from the county or local community in which the parcel is located.

2. One employee of the water management district.

3. A private land manager mutually agreeable to the governmental agency representatives.

4. A member of the local soil and water conservation district board of supervisors.

5. One individual from the Game and Fresh Water Fish Commission.

6. One individual from the Department of Environmental Protection.

7. One individual representing a conservation organization.

8. One individual from the Department of Agriculture and Consumer Services' Division of Forestry.

(2) The management review team shall use the criteria provided in s. 259.036 in conducting its reviews.

(3) In determining which lands shall be reviewed in any given year, the water management district may prioritize the properties to be reviewed.

(4) If the land management review team finds that the lands reviewed are not being managed in accordance with their land management plan, the land managing agency shall provide a written explanation to the management review team.

(5) Each water management district shall, by October 1 of each year, provide its governing board with a report indicating which properties have been reviewed and the review team's findings.

Section 16. Section 253.022, Florida Statutes, is hereby repealed.

Section 17. A new subsection (11) is added to section 704.06, Florida Statutes, to read:

704.06 Conservation easements; creation; acquisition; enforcement.—

(11) Nothing in this section or other provisions of law shall be construed to prohibit or limit the owner of land, or the owner of a conservation easement over land, to voluntarily negotiate the sale or utilization of such lands or easement for the construction and operation of linear facilities, including electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances, nor shall this section prohibit the use of eminent domain for said purposes as established by law. In any legal proceeding to condemn land for the purpose of construction and operation of a linear facility as described above, the court shall consider the public benefit provided by the conservation easement and linear facilities in determining which lands may be taken and the compensation paid.

Section 18. Subsection (6) of section 373.250, Florida Statutes, 1996 Supplement, is amended to read:

373.250 Reuse of reclaimed water.—

(6) Each water management district shall submit to the Legislature, by June 1 ~~January 30~~ of each year, an annual report which describes the

district's progress in promoting the reuse of reclaimed water. The report shall include, but not be limited to:

(a) The number of permits issued during the year which required reuse of reclaimed water and, by categories, the percentages of reuse required.

(b) The number of permits issued during the year which did not require the reuse of reclaimed water and, of those permits, the number which reasonably could have required reuse.

(c) In the second and subsequent annual reports, a statistical comparison of reuse required through consumptive use permitting between the current and preceding years.

(d) A comparison of the volume of reclaimed water available in the district to the volume of reclaimed water required to be reused through consumptive use permits.

(e) A comparison of the volume of reuse of reclaimed water required in water resource caution areas through consumptive use permitting to the volume required in other areas in the district through consumptive use permitting.

(f) An explanation of the factors the district considered when determining how much, if any, reuse of reclaimed water to require through consumptive use permitting.

(g) A description of the district's efforts to work in cooperation with local government and private domestic wastewater treatment facilities to increase the reuse of reclaimed water. The districts, in consultation with the department, shall devise a uniform format for the report required by this subsection and for presenting the information provided in the report.

Section 19. Paragraph (b) of subsection (4) of section 370.06, Florida Statutes, 1996 Supplement is added to read:

(4) SPECIAL ACTIVITY LICENSES.—

(a) Any person who seeks to use special gear or equipment in harvesting saltwater species must purchase a special activity license as specified by law to engage in such activities. The department may issue special activity licenses, in accordance with s. 370.071, to permit the cultivation of oysters, clams, mussels, and crabs when such aquaculture activities relate to quality control, sanitation, and public health regulations. The department may prescribe by rule special terms, conditions, and restrictions for any special activity license.

(b) The department is authorized to issue special activity licenses in accordance with s. 370.06 and s. 370.31, to permit the importation, possession, and aquaculture of anadromous sturgeon. The special activity license shall provide for best management practices to prevent the release and escape of cultured anadromous sturgeon and to protect indigenous populations of saltwater species from sturgeon-borne disease.

Section 20. Subsections (3) and (4) of section 370.092, Florida Statutes, 1996 Supplement, are amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3)(a) It shall be a major violation pursuant to this section and shall be punished as provided in subsection (4) for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are operated in coordination with one another including vessels towed behind a main vessel. This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:

1. The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.

2. The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.

3. The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.

4. The mullet being transported are totally removed from any net also being transported.

(b) It shall be a major violation pursuant to this section for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.

(4)(a) In addition to being subject to the other penalties provided in this chapter, any violation of s. 16, Art. X of the State Constitution, paragraph (3)(a), or any rules of the Marine Fisheries Commission which implement the gear prohibitions and restrictions specified therein shall be considered a major violation; and any person, firm, or corporation receiving any judicial disposition other than acquittal or dismissal of such violation shall be subject to the following additional penalties:

1. For a first major violation within a 7-year period, a civil penalty of $2,500 and suspension of all saltwater products license privileges for 90 calendar days following final disposition shall be imposed.

2. For a second major violation under this paragraph charged within 7 years of a previous judicial disposition, which results in a second judicial disposition other than acquittal or dismissal, a civil penalty of $5,000 and suspension of all saltwater products license privileges for 12 months shall be imposed.

3. For a third and subsequent major violation under this paragraph, charged within a 7-year period, resulting in a third or subsequent judicial disposition other than acquittal or dismissal, a civil penalty of $5,000, lifetime revocation of the saltwater products license, and forfeiture of all gear and equipment used in the violation shall be imposed.

A court may suspend, defer or withhold adjudication of guilt or imposition of sentence only for any first violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, determined by a court only after consideration of competent evidence of mitigating circumstances to be a nonflagrant or minor violation of those restrictions upon the use of nets. Any violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, occurring within a 7-year period commencing upon the conclusion of any judicial proceeding resulting in any outcome other than acquittal shall be punished as a second, third, or subsequent violation accordingly.

(b) During the period of suspension or revocation of saltwater license privileges under this section, the licensee may not participate in the taking or harvesting or attempt the taking or harvesting of saltwater products from any vessel within the waters of the state, or any other activity requiring a license, permit, or certificate issued pursuant to this chapter. Any person who violates this paragraph is:

1. Upon a first or second conviction, to be punished as provided by s. 370.021(2)(a) and (b).

2. Upon a third or subsequent conviction, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Upon reinstatement of saltwater license privileges suspended pursuant to a violation of this section, a licensee owning or operating a vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net, or containing or otherwise transporting in nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall remain restricted for a period of 12 months following reinstatement, to operation under the following conditions:

1. Vessels subject to this reinstatement period shall be restricted to the corridors established by department rule.

2. A violation of the reinstatement period provisions shall be punishable pursuant to s. 370.021(2)(a) and (b).

(d) Rescission and revocation proceedings under this section shall be governed by chapter 120.

Section 21. Section 370.093, Florida Statutes, is created to read:

370.093 Illegal use of nets.—

(1) It is unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net that is not consistent with the provisions of s. 16, Art. X of the State Constitution.

(2)(a) Beginning July 1, 1998, it is also unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net, as defined in subsection (3) and any attachments to such net, that combined are larger than 500 square feet and have not been expressly authorized for such use by rule of the Marine Fisheries Commission under s. 370.027. The use of currently legal shrimp trawls and purse seines outside nearshore and inshore Florida waters shall continue to be legal until the Commission implements rules regulating those types of gear.

(b) The use of gill or entangling nets of any size is prohibited, as such nets are defined in s. 16, Art. X of the State Constitution. Any net constructed wholly or partially of monofilament or multifilament material, other than a hand thrown cast net, or a hand-held landing or dip net, shall be considered to be an entangling net within the prohibition of S. 16, Art. X of the state constitution unless specifically authorized by rule of the commission. Multifilament material shall not be defined to include nets constructed of braided or twisted nylon, cotton, linen twine, or polypropylene twine.

(c) This subsection shall not be construed to apply to aquaculture activities licenses issued pursuant to s. 370.26.

(3) As used in s. 16, Art. X of the State Constitution and this subsection, the term "net" or "netting" must be broadly construed to include all manner or combination of mesh or webbing or any other solid or semi-solid fabric or other material used to comprise a device that is used to take or harvest marine life.

(4) Upon the arrest of any person for violation of this subsection, the arresting officer shall seize the nets illegally used. Upon conviction of the offender, the arresting authority shall destroy the nets.

(5) Any person who violates this section shall be punished as provided in s. 370.092(4).

(6) The Marine Fisheries Commission is granted authority to adopt rules pursuant to ss. 370.025 and 370.027 implementing the prohibitions and restrictions of s. 16, Art. X of the State Constitution.

Section 22. Subsection (8) of section 370.14, Florida Statutes, 1996 Supplement, is amended to read:

370.14 Crawfish; regulation.—

(8)(a) By a special permit granted by the Division of Law Enforcement, a Florida-licensed seafood dealer may lawfully import, process, and package saltwater crawfish or uncooked tails of the species Panulirus argus during the closed season. However, crawfish landed under special permit shall not be sold in the state.

(b) The licensed seafood dealer importing any such crawfish under the permit shall, 12 hours prior to the time the seagoing vessel or airplane delivering such imported crawfish enters the state, notify the Division of Law Enforcement as to the seagoing vessel's name or the airplane's registration number and its captain, location, and point of destination.

(c) At the time the crawfish cargo is delivered to the permitholder's place of business, the crawfish cargo shall be weighed ~~in the presence of the marine patrol officer,~~ and shall be available for inspection by the Department of Environmental Protection. A signed receipt of such quantity in pounds shall be forwarded ~~furnished~~ to ~~said officer, which receipt shall be filed by the marine patrol officer with~~ the Division of Law Enforcement's local Florida Marine Patrol office within 48 hours after shipment weigh-in completion. If requested by the department, the weigh-in process will be delayed up to 4 hours to allow for a department representative to be present during the process ~~Enforcement~~.

(d) Within 48 hours after shipment weigh-in completion ~~from the time the receipt is given to the marine patrol officer~~, the permitholder shall submit to the Division of Law Enforcement, on forms provided by the division, a sworn report of the quantity in pounds of the saltwater crawfish received, which report shall include the location of said crawfish and a sworn statement that said crawfish were taken at least 50 miles from Florida's shoreline. The landing of crawfish or crawfish tails from which the eggs, swimmerettes, or pleopods have been removed; the falsification of information as to area from which crawfish were obtained; or the failure to file the report called for in this section shall be grounds to revoke the permit.

(e) Each permitholder shall keep throughout the period of the closed season copies of the bill of sale or invoices covering each transaction involving crawfish imported under this permit. Such invoices and bills shall be kept available at all times for inspection by the division.

Section 23. Effective October 1, 1997, section 370.1405, Florida Statutes, is created to read:

370.1405 Crawfish reports by dealers during closed season required.—

(1) Within 3 days after the commencement of the closed season for the taking of saltwater crawfish, each and every seafood dealer, either retail or wholesale, intending to possess crawfish, crawfish tails, or crawfish meat during closed season shall submit to the Department of Environmental Protection, on forms provided by the department, a sworn report of the quantity, in pounds, of saltwater whole crawfish, crawfish tails, and crawfish meat in the dealer's name or possession as of the date the season closed. This report shall state the location and number of pounds of whole crawfish, crawfish tails, and crawfish meat. The department shall not accept any reports not delivered or postmarked by midnight of the 3rd calendar day after the commencement of the closed season, and any stocks of crawfish reported therein are declared a nuisance and may be seized by the department.

(2) Failure to submit a report as described in subsection (1) or reporting a greater or lesser amount of whole crawfish, crawfish tails, or crawfish meat than is actually in the dealer's possession or name is a major violation of this chapter, punishable as provided in s. 370.021(2), s. 370.07(6)(b), or both. The department shall seize the entire supply of unreported or falsely reported whole crawfish, crawfish tails, or crawfish meat, and shall carry the same before the court for disposal. The dealer shall post a cash bond in

the amount of the fair value of the entire quantity of unreported or falsely reported crawfish as determined by the judge. After posting the cash bond, the dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the department according to law.

(3) All dealers having reported stocks of crawfish may sell or offer to sell such stocks of crawfish; however, such dealers shall submit an additional report on the last day of each month during the duration of the closed season. Reports shall be made on forms supplied by the department. Each dealer shall state on this report the number of pounds sold during the report period and the pounds remaining on hand. In every case, the amount of crawfish sold and the amount reported on hand shall equal the amount remaining on hand in the last submitted report. Reports postmarked later than midnight on the 3rd calendar day of each month during the duration of the closed season will not be accepted by the department. Dealers for which late supplementary reports are not accepted by the department, must show just cause why their entire stock of whole crawfish, crawfish tails, or crawfish meat should not be seized by the department. Whenever a dealer fails to make the monthly supplementary report as described in this subsection, the dealer may be subject to the following civil penalties as follows:

(a) For a first violation, the department shall assess a civil penalty of $500.

(b) For a second violation within the same crawfish closed season, the department shall assess a civil penalty of $1,000.

(c) For a third violation within the same crawfish closed season, the department shall assess a civil penalty of $2,500 and may seize said dealer's entire stock of whole crawfish, crawfish tails, or crawfish meat and carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire remaining quantity of crawfish as determined by the judge. After posting the cash bond, a dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the department according to law.

(4) All seafood dealers shall at all times during the closed season make their stocks of whole crawfish, crawfish tails, or crawfish meat available for inspection by the department.

(5) Each dealer in whole crawfish, crawfish tails, or crawfish meat shall keep throughout the period of the crawfish closed season copies of the bill of sale or invoice covering each transaction involving whole crawfish, crawfish tails, or crawfish meat. Such invoices and bills shall be kept available at all times for inspection by the department.

Section 24. (1) Notwithstanding the provisions of section 370.093(3), Florida Statutes, there is hereby established a 3-year pilot program that allows for participation by Saltwater Products License holders with purse seine endorsements during the years 1995 or 1996 located in the counties of Wakulla, Franklin, Gulf, Bay, Walton, and Okaloosa. Priority shall be

given to such Saltwater Products License holders with landings in 1996 as recorded on Florida DEP trip tickets of one or more of the following baitfish species: Spanish sardines, cigar minnows, thread herring, chub mackerel, anchovy, little tunny, menhaden, blue runner, and ladyfish. No more than 7 such licenses shall be issued which allow for and shall be limited to the following:

(a) These licenses shall be issued only for the use of baitfish purse seines, not exceeding 600 yards in length, to be used in the nearshore and inshore waters, modified to employ solid tarpaulin material in conjunction with 500 square feet of traditional seine mesh netting in the State of Florida in and south of the counties of Wakulla, Franklin, Gulf, Bay, Walton, and Okaloosa. Only one purse seine per license shall be allowed.

(b) Each licensee shall post a bond of $50,000 payable to the State of Florida as security to pay for any environmental damage or cleanup of material caused by this fishing gear of the licensee.

(2) The Marine Fisheries Commission shall establish limits on annual harvest levels for the area, for each of the baitfish species that are the subject of this section, based on maintaining healthy scientific and biological levels of stock abundance of those certain baitfish species by allowing annual harvest of the baitfish species in the program area limited by the Florida Marine Fisheries Commission not to exceed 50 percent of the annual average of reported landings which occurred over the 3 years prior to July 1, 1995.

Section 25. Section 253.022, Florida Statutes, is repealed.

Section 26. Section 403.075, Florida Statutes, is created to read:

403.075 Legislative findings.—In addition to the declarations contained in s. 403.021, the Legislature finds that:

(1) Ecosystem management is a concept that includes coordinating the planning activities of state and other governmental units, land management, environmental permitting and regulatory programs, and voluntary programs, together with the needs of the business community, private landowners, and the public, as partners in a streamlined and effective program for the protection of the environment. It is particularly in the interest of persons residing and doing business within the boundaries of a particular ecosystem to share in the responsibility of ecosystem restoration or maintenance. The proper stewardship of an ecosystem by its affected residents will, in general, enhance the economic and social welfare of all Floridians by maintaining the natural beauty and functions of that ecosystem, which will, in turn, contribute to the beauty and function of larger inclusive ecosystems and add immeasurably to the quality of life and the economy of all Florida counties dependent on those ecosystems, thus serving a public purpose.

(2) Most ecosystems are subject to multiple governmental jurisdictions. Therefore, there is a need for a unified and stable mechanism to plan for restoration and continued long-term maintenance of ecosystems.

(3) It is in the public interest and serves a public purpose that the Department of Environmental Protection take a leading role among the agencies of the state in developing and implementing comprehensive ecosystem management solutions, in cooperation with both public and private regulated entities, which improves the integration between land use planning and regulation, and which achieves positive environmental results in an efficient and cost-effective manner.

Section 27. Section 403.0752, Florida Statutes, is created to read:

403.0752 Ecosystem management agreements.—

(1) Upon the request of an applicant, the secretary of the department is authorized to enter into an ecosystem management agreement regarding any environmental impacts with regulated entities to better coordinate the legal requirements and timelines applicable to a regulated activity, which may include permit processing, project construction, operations monitoring, enforcement actions, proprietary approvals, and compliance with development orders and regional and local comprehensive plans. Entering into an ecosystem management agreement shall be voluntary for both the regulated entity and the department.

(2) An ecosystem management agreement may be entered into by the department and regulated entities when the department determines that:

(a) Implementation of such agreement meets all applicable standards and criteria so that there is a net ecosystem benefit to the subject ecosystem more favorable than operation under applicable rules;

(b) Entry into such agreement will not interfere with the department's obligations under any federally delegated or approved program;

(c) Implementation of the agreement will result in a reduction in overall risks to human health and the environment compared to activities conducted in the absence of the agreement; and

(d) Each regulated entity has certified to the department that it has in place internal environmental management systems or alternative internal controls sufficient to implement the agreement.

(3)(a) An ecosystem management agreement shall include provision for the department to terminate the agreement by written notice to all other parties to the agreement when the department demonstrates that:

1. There has been a material change in conditions from the original agreement such that the intended net ecosystem benefit is not being, and may not reasonably be expected to be, achieved through continuation of the agreement;

2. Continuation of the agreement will result in economic hardship or competitive disadvantage; or

3. A party has violated the terms of the agreement.

(b) Termination of an ecosystem management agreement by the department shall be subject to the requirements of ss. 120.569 and 120.57.

(c) The applicant for an ecosystem management agreement may terminate such agreement at any time. Governmental parties, other than the department, may withdraw in accordance with the terms of the agreement at any time, but may not terminate the agreement.

(4) An ecosystem management agreement may include incentives for participation and implementation by a regulated entity, including, but not limited to, any or all of the following:

(a) Coordinated regulatory contact per facility.

(b) Permitting process flexibility.

(c) Expedited permit processing.

(d) Alternative monitoring and reporting requirements.

(e) Coordinated permitting and inspections.

(f) Cooperative inspections that provide opportunity for informal resolution of compliance issues before enforcement action is initiated.

(g) Alternative means of environmental protection which provide for equivalent or reduced overall risk to human health and the environment and which are available under existing law such as variances, waivers, or other relief mechanisms.

(5) The Secretary of Community Affairs, the Secretary of Transportation, the Commissioner of Agriculture, the Executive Director of the Game and Fresh Water Fish Commission, and the executive directors of the water management districts are authorized to participate in the development of ecosystem management agreements with regulated entities and other governmental agencies as necessary to effectuate the provisions of this section. Local governments are encouraged to participate in ecosystem management agreements.

(6) The secretary of the department may form ecosystem management advisory teams for consultation and participation in the preparation of an ecosystem management agreement. The secretary shall request the participation of at least the state and regional and local government entities having regulatory authority over the activities to be subject to the ecosystem management agreement. Such teams may also include representatives of other participating or advisory government agencies, which may include regional planning councils, private landowners, public landowners and managers, public and private utilities, corporations, and environmental interests. Team members shall be selected in a manner that ensures adequate representation of the diverse interests and perspectives within the designated ecosystem. Participation by any department of state government is at the discretion of that agency.

(7) An application for a binding ecosystem management agreement shall include:

(a) The name and address of the applicant;

(b) The location and a description of the project; and

(c) All application materials required for any requested permit, license, approval, variance, or waiver under all applicable statutes and rules.

(8)(a) An applicant for a binding ecosystem management agreement shall, at the applicant's own expense, publish a notice of its request to enter into the agreement in a newspaper of general circulation in the county in which the activity that is the subject of the agreement will be located or take place. Proof of publication shall be provided to the department by the applicant. Actual mailed notice of the application shall also be provided to owners of property adjacent to the activity that is the subject of the agreement and to any other person whose interest is known to the department or the applicant.

(b) A binding ecosystem management agreement is subject to the following requirements:

1. Notice of intent to enter into the agreement shall be published by the regulated entity in a newspaper of general circulation in each county where the ecosystem management area is located. The notice shall specifically identify any standards, rules, or other legal or regulatory requirements proposed to be subject to variance or waiver under the agreement, and any permit, license, or approval to be granted. The notice shall include the opportunity to request a hearing on the agreement under the provisions of ss. 120.569 and 120.57.

2. Substantially affected persons may challenge the terms of the agreement and the proposed issuance of any permit, license, approval, variance, or waiver contained in the agreement pursuant to ss. 120.569 and 120.57.

3. A substantially affected person may challenge the subsequent issuance of any permit, license, approval, variance, or waiver pursuant to the agreement, but which is not contained in the agreement, pursuant to ss. 120.569 and 120.57. In any such proceeding, any relevant and material elements of the agreement shall be admissible.

4. Any substantial modification or amendment to the agreement shall be subject to the same processes as the original agreement.

(c) The parties to an ecosystem management agreement may elect to enter into a nonbinding agreement that does not constitute agency action. Such agreements shall be considered advisory in nature and are not binding on any party to the agreement. If such election is made, any permit, license, approval, waiver, or variance subsequently issued by an agency shall be subject to the provisions of chapter 120.

(d) Waivers and variances available under applicable statutes and rules may be granted as a part of a binding ecosystem management agreement.

(e) A person who requests a binding ecosystem management agreement and as a part of that request seeks a permit, license, approval, variance, or waiver that is subject to a statutory application review time limit waives his right to a default permit, license, approval, variance, or waiver.

(9) Implementation of this section by the department must be consistent with federally delegated programs and federal law.

Section 28. This act shall take effect upon becoming a law.

Approved by the Governor May 29, 1997.

Filed in Office Secretary of State May 29, 1997.