

House Bill No. 1347

An act relating to land acquisition and management; amending s. 201.15, F.S.; providing that taxes distributed to pay debt service on Preservation 2000 bonds, Florida Forever bonds, and Save Our Everglades bonds shall, under specified circumstances, be collectively distributed on a pro rata basis; correcting a cross-reference; deleting obsolete provisions; amending s. 215.619, F.S.; providing that Everglades restoration bonds are on a parity basis with other land acquisition bonds; amending s. 259.032, F.S.; authorizing the use of funds in the Conservation and Recreation Lands Trust Fund for management, maintenance, and capital improvements for conservation and recreation lands, including lands acquired under the Babcock Crescent B Ranch Florida Forever acquisition; revising requirements for the development of an individual land management plan; amending s. 259.105, F.S.; establishing the Legislature's intent that the protection and buffering of military installations is of great importance; directing the Acquisition and Restoration Council to also give priority consideration to the acquisition of lands that protect and buffer military installations; amending s. 259.1051, F.S.; conforming the distribution of funds from the Florida Forever Trust Fund; creating s. 259.1052, F.S.; providing for the acquisition of the state's portion of the Babcock Crescent B Ranch; providing a definition; granting authority to the Department of Environmental Protection to distribute funds for the acquisition of the Babcock Crescent B Ranch; creating s. 259.10521, F.S.; authorizing the creation of a citizen support organization; providing duties and responsibilities; creating s. 259.1053, F.S.; creating the Babcock Ranch Preserve Act; providing a short title; providing definitions; requiring the Division of State Lands of the Department of Environmental Protection to perform certain staff duties and functions for Babcock Ranch, Inc.; creating Babcock Ranch, Inc., a not-for-profit corporation to be incorporated in the state; providing that the corporation shall act as an instrumentality of the state for purposes of sovereign immunity under s. 768.28, F.S.; providing that the corporation shall not be an agency under s. 20.03, F.S.; providing that the corporation is subject to the provisions of chs. 119 and 286, F.S., requiring public records and meetings; providing for the corporation to be governed by the Babcock Board of Directors; providing for the appointment of board members and terms of office; prohibiting any board member from voting on any measure that constitutes a conflict of interest; providing for the board members to serve without compensation, but to receive per diem and travel expenses; authorizing state agencies to provide state employees for purposes of implementing the Babcock Ranch Preserve; providing certain powers and duties of the corporation; providing limitations on the powers and duties of the corporation; providing that the corporation and its subsidiaries must provide equal employment opportunities; providing for the corporation to establish and manage an operating fund; requiring an annual

financial audit of the accounts and records of the corporation; requiring annual reports by the corporation to the Board of Trustees of the Internal Improvement Trust Fund, the Legislature, the Department of Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission; requiring that the corporation prepare an annual budget; specifying a goal of self-sustaining operation within a certain period; providing for the corporation to retain donations and other moneys; requiring that the corporation adopt articles of incorporation and bylaws subject to the approval of the Board of Trustees of the Internal Improvement Trust Fund; authorizing the corporation to appoint advisory committees; providing requirements for a comprehensive business plan; specifying the procedures by which the corporation shall assume the management and operation of the Babcock Ranch Preserve; prohibiting the corporation from taking certain actions without the consent of the Board of Trustees of the Internal Improvement Trust Fund; requiring that the corporation be subject to certain state laws and rules governing the procurement of commodities and services; authorizing the corporation to assess fees; providing for management of the Babcock Ranch Preserve until expiration of a current management agreement; providing for reversion of the management and operation responsibilities to certain agencies upon the dissolution of the corporation; providing that the corporation may be dissolved only by an act of the Legislature; providing for reversion of funds upon the dissolution of the corporation; providing appropriations; providing effective dates.

WHEREAS, the Babcock Ranch comprises the largest private undeveloped single-ownership tract of land in Charlotte County and contains historical evidence in the form of old logging camps and other artifacts that indicate the importance of this land for domesticated livestock production, timber supply, and other bona fide agricultural uses, and

WHEREAS, the careful husbandry of the Babcock Ranch, including selective timbering, limited grazing and hunting, and the use of prescribed burning, has preserved a mix of healthy range and timberland with significant species diversity and provides a model for sustainable land development and use, and

WHEREAS, the Babcock Ranch must be protected for current and future generations by continued operation as a working ranch under a unique management regime that protects the land and resource values of the property and the surrounding ecosystem while allowing and providing for the ranch to become financially self-sustaining, and

WHEREAS, it is in the public's best interest that the management regime for the Babcock Ranch include the development of an operational program for appropriate preservation and development of the ranch's land and resources, and

WHEREAS, the public's interest will be served by the creation of a not-for-profit corporation to develop and implement environmentally sensitive, cost-effective, and creative methods to manage and operate a working ranch, NOW, THEREFORE,

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

Section 1. Paragraph (b) of subsection (1) and subsections (11) and (13) of section 201.15, Florida Statutes, are amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(b) ~~Moneys The remainder of the moneys distributed under this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the Save Our Everglades Trust Fund in amounts necessary to pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to bonds issued under s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.~~

(11) From the moneys specified in ~~paragraphs (1)(e) paragraphs (1)(d)~~ and (2)(a) and prior to deposit of any moneys into the General Revenue Fund, \$30 million shall be paid into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund in fiscal year 2000-2001 and each fiscal year thereafter, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212, and \$2 million shall be paid into the State Treasury to the credit of the Marine Resources Conservation Trust Fund to be used for marine mammal care as provided in s. 370.0603(3).

(13) The distribution of proceeds deposited into the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund, pursuant to subsections (4) and (5), shall not be used for land acquisition, but may be used for preacquisition costs associated with land purchases. The Legislature intends that the Florida Forever program supplant the acquisition programs formerly authorized under ss. 259.032 and 373.59. ~~Prior to the 2005 Regular Session of the Legislature, the Acquisition and Restoration Council shall review and make recommendations to the Legislature concerning the need to repeal this provision. Based on these recommendations, the Legislature shall review the need to repeal this provision during the 2005 Regular Session.~~

Section 2. Effective July 1, 2007, paragraph (b) of subsection (1), and subsections (11) and (13) of section 201.15, Florida Statutes, as amended by section 1 of chapter 2005-92, Laws of Florida, are amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service

charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

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Section 3. Subsection (3) of section 215.619, Florida Statutes, is amended to read:

215.619 Bonds for Everglades restoration.—

(3) Everglades restoration bonds are payable from, and secured by a first lien on, taxes distributable under s. 201.15(1)(b) and do not constitute a general obligation of, or a pledge of the full faith and credit of, the state. Everglades restoration bonds shall be secured on a parity basis with ~~are junior and subordinate to~~ bonds secured by moneys distributable under s. 201.15(1)(a).

Section 4. Paragraph (b) of subsection (2), paragraphs (e) and (f) of subsection (9), paragraph (d) of subsection (10), and paragraph (b) of subsection (11) of section 259.032, Florida Statutes, are amended to read:

259.032 Conservation and Recreation Lands Trust Fund; purpose.—

(2)

(b) There shall annually be transferred from the Conservation and Recreation Lands Trust Fund to the Land Acquisition Trust Fund that amount, not to exceed \$20 million annually, as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to s. 375.051 to acquire lands on the established priority list developed pursuant to ss. 259.101(4) and 259.105 ~~this section~~; however, no moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds. Amounts transferred annually from the Conservation and Recreation Lands Trust Fund to the Land Acquisition Trust Fund pursuant to this paragraph shall have the highest priority over other payments or transfers from the Conservation and Recreation Lands Trust Fund, and no other payments or transfers shall be made from the Conservation and Recreation Lands Trust Fund until such transfers to the Land Acquisition Trust Fund have been made. ~~Effective July 1, 2001,~~ Moneys in the Conservation and Recreation Lands Trust Fund also shall be used to manage lands and to pay for related costs, activities, and functions pursuant to the provisions of this section.

(9) All lands managed under this chapter and s. 253.034 shall be:

(e) Concurrent with the approval of the acquisition contract pursuant to s. 259.041(3)(c) for any interest in lands except those lands being acquired under the provisions of s. 259.1052, the board of trustees shall designate an agency or agencies to manage such lands. The board ~~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.

(f) State agencies designated to manage lands acquired under this chapter except those lands acquired under s. 259.1052 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.

(10)

(d)1. 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 priority list developed pursuant to ss. 259.101(4) and 259.105 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.

2. The requirements of subparagraph 1. do not apply to the individual management plan for the Babcock Crescent B Ranch being acquired pursuant to s. 259.1052. The management plan for the ranch shall be adopted and in place no later than 2 years following the date of acquisition by the state.

(11)

(b) An amount up to 1.5 percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund and the Florida Forever Trust Fund shall be made available for the purposes of management, maintenance, and capital improvements not eligible for funding pursuant to s. 11(e), Art. VII of the State Constitution, and for associated contractual services, for lands acquired pursuant to this section, s. 259.101, s. 259.105, s. 259.1052, or previous programs for the acquisition of lands for conservation and recreation, including state forests, to which title is vested in the board of trustees and other conservation and recreation lands managed by a state agency. Of this amount, \$250,000 shall be transferred annually to the Plant Industry Trust Fund within the Department of Agriculture and Consumer Services for the purpose of implementing the Endangered or Threatened Native Flora Conservation Grants Program pursuant to s. 581.185(11). Each agency with management responsibilities shall annually request from the Legislature funds sufficient to fulfill such responsibilities. For the purposes of this paragraph, 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. Any equipment purchased with funds provided pursuant to this paragraph may be used for the purposes described in this paragraph on any conservation and recreation lands managed by a state agency.

Section 5. Subsections (2), and (10) of section 259.105, Florida Statutes, are amended to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. The Preservation 2000 program provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development, thereby assuring present and future generations access to important open spaces and recreation and conservation lands.

2. The continued alteration and development of Florida's natural areas to accommodate the state's rapidly growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, and public beaches.

3. The potential development of Florida's remaining natural areas and escalation of land values require a continuation of government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's invaluable quality of life.

4. Florida's groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, where compatible with the resource values of and management objectives for the lands, are appropriate.

5. The needs of urban Florida for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, greenways, and recreation properties within urban areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

6. Many of Florida's unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to Florida's burgeoning population. To preserve these valuable ecosystems for future generations, parcels of land must be acquired to facilitate ecosystem restoration.

7. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, where compatible with the resource values of and management objectives for such lands, promotes an appreciation for Florida's natural assets and improves the quality of life.

8. Acquisition of lands, in fee simple or in any lesser interest, should be based on a comprehensive assessment of Florida's natural resources and planned so as to protect the integrity of ecological systems and provide

multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban as well as rural areas, and water recharge.

9. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

10. It is the intent of the Legislature to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of Florida.

(b) The Legislature recognizes that acquisition is only one way to achieve the aforementioned goals and encourages the development of creative partnerships between governmental agencies and private landowners. Land protection agreements and similar tools should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection at a lower financial cost to the public, and to provide private landowners with the opportunity to enjoy and benefit from their property.

(c) Public agencies or other entities that receive funds under this section are encouraged to better coordinate their expenditures so that project acquisitions, when combined with acquisitions under Preservation 2000, Save Our Rivers, the Florida Communities Trust, and other public land acquisition programs, will form more complete patterns of protection for natural areas and functioning ecosystems, to better accomplish the intent of this section.

(d) A long-term financial commitment to managing Florida's public lands must accompany any new land acquisition program to ensure that the natural resource values of such lands are protected, that the public has the opportunity to enjoy the lands to their fullest potential, and that the state achieves the full benefits of its investment of public dollars.

(e) With limited dollars available for restoration and acquisition of land and water areas and for providing long-term management and capital improvements, a competitive selection process can select those projects best able to meet the goals of Florida Forever and maximize the efficient use of the program's funding.

(f) To ensure success and provide accountability to the citizens of this state, it is the intent of the Legislature that any bond proceeds used pursuant to this section be used to implement the goals and objectives recommended by the Florida Forever Advisory Council as approved by the Board of Trustees of the Internal Improvement Trust Fund and the Legislature.

(g) As it has with previous land acquisition programs, the Legislature recognizes the desires of the citizens of this state to prosper through economic development and to preserve the natural areas and recreational open space of Florida. The Legislature further recognizes the urgency of restoring the natural functions of public lands or water bodies before they are degraded to a point where recovery may never occur, yet acknowledges the difficulty of ensuring adequate funding for restoration efforts in light of other equally critical financial needs of the state. It is the Legislature's desire and intent to fund the implementation of this section and to do so in a fiscally responsible manner, by issuing bonds to be repaid with documentary stamp tax revenue.

(h) The Legislature further recognizes the important role that many of our state and federal military installations contribute to protecting and preserving Florida's natural resources as well as our economic prosperity. Where the state's land conservation plans overlap with the military's need to protect lands, waters, and habitat to ensure the sustainability of military missions, it is the Legislature's intent that agencies receiving funds under this program cooperate with our military partners to protect and buffer military installations and military airspace, by:

1. Protecting habitat on non-military land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute.

2. Protecting areas underlying low-level military air corridors or operating areas, and

3. Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners.

(10) The Acquisition and Restoration Council shall give increased priority to those projects for which matching funds are available and to project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value. The council shall also give increased priority to those projects where the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:

(a) Protecting habitat on non-military land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute.

(b) Protecting areas underlying low-level military air corridors or operating areas, and

(c) Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.

Section 6. Subsections (1) and (2) of section 259.1051, Florida Statutes, are amended to read:

259.1051 Florida Forever Trust Fund.—

(1) There is created the Florida Forever Trust Fund to carry out the purposes of ss. 259.032, 259.105, 259.1052, and 375.031. The Florida Forever Trust Fund shall be held and administered by the Department of Environmental Protection. Proceeds from the sale of bonds, except proceeds of refunding bonds, issued under s. 215.618 and payable from moneys transferred to the Land Acquisition Trust Fund under s. 201.15(1)(a), not to exceed \$3 billion, must be deposited into this trust fund to be distributed and used as provided in s. 259.105(3). The bond resolution adopted by the governing board of the Division of Bond Finance of the State Board of Administration may provide for additional provisions that govern the disbursement of the bond proceeds.

(2) The Department of Environmental Protection shall distribute revenues from the Florida Forever Trust Fund only to programs of state agencies or local governments as set out in s. 259.105(3) or as provided in s. 259.1052. Excluding distributions to the Save Our Everglades Trust Fund and distributions for the acquisition of the Babcock Crescent B Ranch Florida Forever acquisition as provided in s. 259.1052, the distributions shall be spent by the recipient within 90 days after the date on which the Department of Environmental Protection initiates the transfer.

Section 7. Section 259.1052, Florida Statutes, is created to read:

259.1052 Babcock Crescent B Ranch Florida Forever acquisition; conditions for purchase.—

(1) The acquisition of the state's portion of the Babcock Crescent B Ranch by the Board of Trustees of the Internal Improvement Trust Fund is a conservation acquisition under the Florida Forever program created in s. 259.105, with a goal of sustaining the ecological and economic integrity of the property being acquired while allowing the business of the ranch to operate and prosper.

(2) The Babcock Crescent B Ranch constitutes a unique land mass that has significant scientific, cultural, historical, recreational, ecological, wildlife, fisheries, and productive values. The property is part of a potential greenway of undeveloped land extending from Lake Okeechobee to the east and Charlotte Harbor to the west. The natural beauty and abundant resources of the ranch provide numerous public recreational opportunities such as hiking, fishing, camping, horseback riding, and hunting.

(3) The Legislature recognizes that the acquisition of the state's portion of the Babcock Crescent B Ranch represents a unique opportunity to assist in preserving the largest private and undeveloped single-ownership tract of land in Charlotte County. The Legislature further recognizes Lee County as a partner in the acquisition of the ranch.

(4) This section authorizes the acquisition of the state's portion of the Babcock Crescent B Ranch in order to protect and preserve for future gener-

ations the scientific, scenic, historic, and natural values of the ranch, including rivers and ecosystems; to protect and preserve the archaeological, geological, and cultural resources of the ranch; to provide for species recovery; and to provide opportunities for public recreation.

(5) The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be the lead managing agencies responsible for the management of Babcock Crescent B Ranch.

(6) In addition to distributions authorized under s. 259.105(3), the Department of Environmental Protection is authorized to distribute \$310 million in revenues from the Florida Forever Trust Fund. This distribution shall represent payment in full for the portion of the Babcock Crescent B Ranch to be acquired by the state under this section.

(7) As used in this section, the term “state’s portion of the Babcock Crescent B Ranch” comprises those lands to be conveyed by special warranty deed to the Board of Trustees of the Internal Improvement Trust Fund under the provisions of the agreement for sale and purchase executed by the Board of Trustees of the Internal Improvement Trust Fund, the Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, and the participating local government, as purchaser, and MSKP, III, a Florida corporation, as seller.

Section 8. Section 259.10521, Florida Statutes, is created to read:

259.10521 Citizen support organization; use of property.—

(1) DEFINITIONS.—For the purpose of this section, the “Citizen support organization” means an organization that is:

(a) A Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State;

(b) Organized and operated to conduct programs and activities in the best interest of the state; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Babcock Crescent B Ranch;

(c) Determined by the Fish and Wildlife Conservation Commission and the Division of Forestry within the Department of Agriculture and Consumer Services to be consistent with the goals of the state in acquiring the ranch and in the best interests of the state; and

(d) Approved in writing by the Fish and Wildlife Conservation Commission and the Division of Forestry to operate for the direct or indirect benefit of the ranch and in the best interest of the state. Such approval shall be given in a letter of agreement from the Fish and Wildlife Conservation Commission and the Division of Forestry. Only one citizen support organization may be created to operate for the direct or indirect benefit of the Babcock Crescent B Ranch.

(2) USE OF PROPERTY.—

(a) The Fish and Wildlife Conservation Commission and the Division of Forestry may permit, without charge, appropriate use of fixed property and facilities of the Babcock Crescent B Ranch by a citizen support organization, subject to the provisions of this section. Such use must be directly in keeping with the approved purposes of the citizen support organization, and may not be made at times or places that would unreasonably interfere with recreational opportunities for the general public.

(b) The Fish and Wildlife Conservation Commission and the Division of Forestry may prescribe by rule any condition with which the citizen support organization shall comply in order to use fixed property or facilities of the ranch.

(c) The Fish and Wildlife Conservation Commission and the Division of Forestry shall not permit the use of any fixed property or facilities of the ranch by a citizen support organization that does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(3) PARTNERSHIPS.—

(a) The Legislature recognizes that the Babcock Crescent B Ranch will need a variety of facilities to enhance its public use and potential. Such facilities include, but are not limited to, improved access, camping areas, picnic shelters, management facilities, and environmental education facilities. The need for such facilities may exceed the ability of the state to provide such facilities in a timely manner with moneys available. The Legislature finds it to be in the public interest to provide incentives for partnerships with private organizations with the intent of producing additional revenue to help enhance the use and potential of the ranch.

(b) The Legislature may annually appropriate funds from the Land Acquisition Trust Fund for use only as state matching funds, in conjunction with private donations in aggregates of at least \$60,000, matched by \$40,000 of state funds, for a total minimum project amount of \$100,000 for capital improvement facility development at the ranch at either individually designated locations or for priority projects within the overall ranch system. The citizen support organization may acquire private donations pursuant to this section, and matching state funds for approved projects may be provided in accordance with this subsection. The Fish and Wildlife Conservation Commission and the Division of Forestry are authorized to properly recognize and honor a private donor by placing a plaque or other appropriate designation noting the contribution on project facilities or by naming project facilities after the person or organization that provided matching funds. The Fish and Wildlife Conservation Commission and the Division of Forestry are authorized to adopt necessary administrative rules to carry out the purposes of this subsection.

Section 9. Section 259.1053, Florida Statutes, is created to read:

259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.; creation; membership; organization; meetings.—

(1) SHORT TITLE.—This section may be cited as the “Babcock Ranch Preserve Act.”

(2) DEFINITIONS.—As used in this section, the term:

(a) “Babcock Ranch Preserve” and “preserve” mean the lands and facilities acquired in the purchase of the Babcock Crescent B Ranch, as provided in s. 259.1052.

(b) “Babcock Ranch, Inc.,” and “corporation” mean the not-for-profit corporation created under this section to operate and manage the Babcock Ranch Preserve as a working ranch.

(c) “Board of directors” means the governing board of the not-for-profit corporation created under this section.

(d) “Commission” means the Fish and Wildlife Conservation Commission.

(e) “Commissioner” means the Commissioner of Agriculture.

(f) “Department” means the Department of Agriculture and Consumer Services.

(g) “Executive director” means the Executive Director of the Fish and Wildlife Conservation Commission.

(h) “Financially self-sustaining” means having management and operation expenditures not more than the revenues collected from fees and other receipts for resource use and development, and from interest and invested funds.

(i) “Management and operating expenditures” means expenses of the corporation, including, but not limited to, salaries and benefits of officers and staff, administrative and operating expenses, costs of improvements to and maintenance of lands and facilities of the Babcock Ranch Preserve, and other similar expenses. Such expenditures shall be made from revenues generated from the operation of the ranch and not from funds appropriated by the Legislature except as provided in this section.

(j) “Member” means a person appointed to the board of directors of the not-for-profit corporation created under this section.

(k) “Multiple use” means the management of all of the renewable surface resources of the Babcock Ranch Preserve to best meet the needs of the public, including the use of the land for some or all of the renewable surface resources or related services over areas large enough to allow for periodic adjustments in use to conform to the changing needs and conditions of the preserve while recognizing that a portion of the land will be used for some of the renewable surface resources available on that land. The goal of multiple use is the harmonious and coordinated management of the renewable

surface resources without impairing the productivity of the land and considering the relative value of the renewable surface resources, and not necessarily a combination of uses to provide the greatest monetary return or the greatest unit output.

(l) "Sustained yield of the renewable surface resources" means the achievement and maintenance of a high level of annual or regular periodic output of the various renewable surface resources of the preserve without impairing the productivity of the land.

(3) CREATION OF BABCOCK RANCH PRESERVE.—

(a) Upon the date of acquisition of the Babcock Crescent B Ranch, there is created the Babcock Ranch Preserve, which shall be managed in accordance with the purposes and requirements of this section.

(b) The preserve is established to protect and preserve the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve, and to provide for the multiple use and sustained yield of the renewable surface resources within the preserve consistent with this section.

(c) Babcock Ranch, Inc., and its officers and employees shall participate in the management of the Babcock Ranch Preserve in an advisory capacity only until the management agreement referenced in paragraph (11)(a) is terminated or expires.

(d) Nothing in this section shall preclude Babcock Ranch, Inc., prior to assuming management and operation of the preserve and thereafter, from allowing the use of common varieties of mineral materials such as sand, stone, and gravel for construction and maintenance of roads and facilities within the preserve.

(e) Nothing in this section shall be construed as affecting the constitutional responsibilities of the commission in the exercise of its regulatory and executive power with respect to wild animal life and freshwater aquatic life, including the regulation of hunting, fishing, and trapping within the preserve.

(f) Nothing in this section shall be construed to interfere with or prevent the ability of Babcock Ranch, Inc., to implement agricultural practices authorized by the agricultural land use designations established in the local comprehensive plans of either Charlotte or Lee Counties as those plans apply to the Babcock Ranch Preserve.

(g) To clarify the responsibilities of the lead managing agencies and the not-for-profit corporation created under this section, the lead managing agencies are directed to establish a range of resource protection values for the Babcock Ranch Preserve, and the corporation shall establish operational parameters to conduct the business of the ranch within the range of values. The corporation shall establish a range of operational values for conducting the business of the ranch, and the lead managing agencies providing ground support to the ranch outside of each agency's jurisdictional responsibilities shall establish management parameters within that range of values.

(h) Nothing in this section shall preclude the maintenance and use of roads and trails or the relocation of roads in existence on the effective date of this section, or the construction, maintenance, and use of new trails, or any motorized access necessary for the administration of the land contained within the preserve, including motorized access necessary for emergencies involving the health or safety of persons within the preserve.

(i) The Division of State Lands of the Department of Environmental Protection shall perform staff duties and functions for Babcock Ranch, Inc., the not-for-profit corporation created under this section, until such time as the corporation organizes to elect officers, file articles of incorporation, and exercise its powers and duties.

(4) CREATION OF BABCOCK RANCH, INC.—

(a) Subject to filing articles of incorporation, there is created a not-for-profit corporation, to be known as Babcock Ranch, Inc., which shall be registered, incorporated, organized, and operated in compliance with the provisions of chapter 617, and which shall not be a unit or entity of state government. For purposes of sovereign immunity, the corporation shall be a corporation primarily acting as an instrumentality of the state but otherwise shall not be an agency within the meaning of s. 20.03(11) or a unit or entity of state government.

(b) The corporation is organized on a nonstock basis and shall operate in a manner consistent with its public purpose and in the best interest of the state.

(c) Meetings and records of the corporation, its directors, advisory committees, or similar groups created by the corporation, including any not-for-profit subsidiaries, are subject to the public records provisions of chapter 119 and the public meetings and records provisions of s. 286.011.

(5) APPLICABILITY OF SECTION.—In any conflict between a provision of this section and a provision of chapter 617, the provisions of this section shall prevail.

(6) PURPOSE.—The purpose of Babcock Ranch, Inc., is to provide management and administrative services for the preserve, to establish and implement management policies that will achieve the purposes and requirements of this section, to cooperate with state agencies to further the purposes of the preserve, and to establish the administrative and accounting procedures for the operation of the corporation.

(7) BOARD; MEMBERSHIP; REMOVAL; LIABILITY.—The corporation shall be governed by a nine-member board of directors who shall be appointed by the Board of Trustees of the Internal Improvement Trust Fund; the executive director of the commission; the Commissioner of Agriculture; the Babcock Florida Company, a corporation registered to do business in the state, or its successors or assigns; the Charlotte County Board of County Commissioners, and the Lee County Board of County Commissioners in the following manner:

(a)1. The Board of Trustees of the Internal Improvement Trust Fund shall appoint four members. One appointee shall have expertise in domesticated livestock management, production, and marketing, including range management and livestock business management. One appointee shall have expertise in the management of game and nongame wildlife and fish populations, including hunting, fishing, and other recreational activities. One appointee shall have expertise in the sustainable management of forest lands for commodity purposes. One appointee shall have expertise in financial management, budget and program analysis, and small business operations.

2. The executive director shall appoint one member with expertise in hunting; fishing; nongame species management; or wildlife habitat management, restoration, and conservation.

3. The commissioner shall appoint one member with expertise in agricultural operations or forestry management.

4. The Babcock Florida Company, or its successors or assigns, shall appoint one member with expertise in the activities and management of the Babcock Ranch on the date of acquisition of the ranch by the state as provided under s. 259.1052. This appointee shall serve on the board of directors only until the termination of or expiration of the management agreement attached as Exhibit "E" to that certain Agreement for Sale and Purchase approved by the Board of Trustees of the Internal Improvement Trust Fund on November 22, 2005, and by Lee County, a political subdivision of the state, on November 20, 2005. Upon termination of or expiration of the management agreement, the person serving as the head of the property owners' association, if any, required to be created under the agreement for sale and purchase shall serve as a member of the board of directors of Babcock Ranch, Inc.

5. The Charlotte County Board of County Commissioners shall appoint one member who shall be a resident of the county and who shall be active in an organization concerned with the activities of the ranch.

6. The Lee County Board of County Commissioners shall appoint one member who shall be a resident of the county and who shall have experience in land conservation and management. This appointee, or a successor appointee, shall serve as a member of the board of directors so long as the county participates in the state land management plan.

(b) All members of the board of directors shall be appointed no later 90 days following the initial acquisition of the Babcock Ranch by the state, and:

1. Four members initially appointed by the Board of Trustees of the Internal Improvement Trust Fund shall each serve a 4-year term.

2. The remaining initial five appointees shall each serve a 2-year term.

3. Each member appointed thereafter shall serve a 4-year term.

4. A vacancy shall be filled in the same manner in which the original appointment was made, and a member appointed to fill a vacancy shall serve for the remainder of that term.

5. No member may serve more than 8 years in consecutive terms.

(c) With the exception of the Babcock Florida Company appointee, no member may be an officer, director, or shareholder in any entity that contracts with or receives funds from the corporation or its subsidiaries.

(d) No member shall vote in an official capacity upon any measure that would inure to his or her special private gain or loss, that he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a principal by which he or she is retained, or that he or she knows would inure to the special private gain or loss of a relative or business associate of the member. Such member shall, prior to the vote being taken, publicly state the nature of his or her interest in the matter from which he or she is abstaining from voting and, no later than 15 days following the date the vote occurs, shall disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes of the meeting.

(e) Each member of the board of directors is accountable for the proper performance of the duties of office, and each member owes a fiduciary duty to the people of the state to ensure that funds provided in furtherance of this section are disbursed and used as prescribed by law and contract. Any official appointing a member may remove that member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, unexcused absence from three consecutive meetings of the board, arrest or indictment for a crime that is a felony or misdemeanor involving theft or a crime of dishonesty, or pleading nolo contendere to, or being found guilty of, any crime.

(f) Each member of the board of directors shall serve without compensation, but shall receive travel and per diem expenses as provided in s. 112.061 while in the performance of his or her duties.

(g) No appointee shall be an employee of any governmental entity.

(8) ORGANIZATION; MEETINGS.—

(a)1. The board of directors shall annually elect a chairperson and a vice chairperson from among the board's members. The members may, by a vote of five of the nine board members, remove a member from the position of chairperson or vice chairperson prior to the expiration of his or her term as chairperson or vice chairperson. His or her successor shall be elected to serve for the balance of the removed chairperson's or vice chairperson's term.

2. The chairperson shall ensure that records are kept of the proceedings of the board of directors, and is the custodian of all books, documents, and papers filed with the board, the minutes of meetings of the board, and the official seal of the corporation.

(b)1. The board of directors shall meet upon the call of the chairperson at least three times per year in Charlotte County or in Lee County.

2. A majority of the members of the board of directors constitutes a quorum. Except as otherwise provided in this section, the board of directors may take official action by a majority of the members present at any meeting at which a quorum is present. Members may not vote by proxy.

(9) POWERS AND DUTIES.—

(a) The board of directors shall adopt articles of incorporation and bylaws necessary to govern its activities. The adopted articles of incorporation and bylaws must be approved by the Board of Trustees of the Internal Improvement Trust Fund prior to filing with the Department of State.

(b) The board of directors shall review and approve any management plan developed pursuant to ss. 253.034 and 259.032 for the management of lands in the preserve prior to the submission of that plan to the Board of Trustees of the Internal Improvement Trust Fund for approval and implementation.

(c)1. Except for the constitutional powers of the commission as provided in s. 9, Art. IV of the State Constitution, the board of directors shall have all necessary and proper powers for the exercise of the authority vested in the corporation, including, but not limited to, the power to solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other public or private entities for the purposes of this section. All funds received by the corporation shall be deposited into the operating fund authorized under this section unless otherwise directed by the Legislature.

2. The board of directors may not increase the number of its members.

3. Except as necessary to manage and operate the preserve as a working ranch, the corporation may not purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with real property, or any interest therein, wherever situated.

4. The corporation may not sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of any real property.

5. The corporation may not purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of or otherwise use and deal in and with, shares and other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States, or any other government, state, territory, government district, municipality, or any instrumentality thereof.

6. The corporation may not lend money for its corporate purposes, invest and reinvest its funds, or take and hold real and personal property as security for the payment of funds lent or invested.

7. The corporation may not merge with other corporations or other business entities.

8. The corporation may not enter into any contract, lease, or other agreement related to the use of ground or surface waters located in, on, or through the preserve without the consent of the Board of Trustees of the Internal Improvement Trust Fund and permits that may be required by the Department of Environmental Protection or the appropriate water management district under chapters 373 and 403.

9. The corporation may not grant any easements in, on, or across the preserve. Any easements to be granted for the use of, access to, or ingress and egress across state property within the preserve must be executed by the Board of Trustees of the Internal Improvement Trust Fund as the owners of the state property within the preserve. Any easements to be granted for the use of, access to, or ingress and egress across property within the preserve titled in the name of a local government must be granted by the governing body of that local government.

10. The corporation may not enter into any contract, lease, or other agreement related to the use and occupancy of the property within the preserve for a period greater than 10 years.

(c) The members may, with the written approval of the commission and in consultation with the department, designate hunting, fishing, and trapping zones and may establish additional periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, and the protection and enhancement of nongame habitat and nongame species, as defined under s. 372.001.

(d) The corporation shall have the sole and exclusive right to use the words "Babcock Ranch, Inc.," and any seal, emblem, or other insignia adopted by the members. Without the express written authority of the corporation, no person may use the words "Babcock Ranch, Inc.," as the name under which that person conducts or purports to conduct business, for the purpose of trade or advertisement, or in any manner that may suggest any connection with the corporation.

(e) The corporation may from time to time appoint advisory committees to further any part of this section. The advisory committees shall be reflective of the expertise necessary for the particular function for which the committee is created, and may include public agencies, private entities, and not-for-profit conservation and agricultural representatives.

(f) State laws governing the procurement of commodities and services by state agencies, as provided in s. 287.057, shall apply to the corporation.

(g) The corporation and its subsidiaries must provide equal employment opportunities for all persons regardless of race, color, religion, gender, national origin, age, handicap, or marital status.

(10) OPERATING FUND, ANNUAL BUDGET, AUDIT, REPORTING REQUIREMENTS.—

(a) The board of directors may establish and manage an operating fund to address the corporation's unique cash-flow needs and to facilitate the management and operation of the preserve as a working ranch.

(b) The board of directors shall provide for an annual financial audit of the corporate accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General under s. 11.45(8). The audit report shall be submitted no later than 3 months following the end of the fiscal year to the Auditor General, the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive and fiscal committees of the Legislature. The Auditor General, the Office of Program Policy Analysis and Government Accountability, and the substantive or fiscal committees of the Legislature to which legislation affecting the Babcock Ranch Preserve may be referred shall have the authority to require and receive from the corporation or from the independent auditor any records relative to the operation of the corporation.

(c) Not later than January 15 of each year, Babcock Ranch, Inc., shall submit to the Board of Trustees of the Internal Improvement Trust Fund, the President of the Senate, the Speaker of the House of Representatives, the department, and the commission a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year, including information on the status of the ecological, cultural, and financial resources being managed by the corporation, and benefits provided by the preserve to local communities. The report shall also include a section describing the corporation's goals for the current year.

(d) The board of directors shall prepare an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the initial acquisition of the Babcock Ranch by the state. The department shall provide necessary assistance, including details as necessary, to the corporation for the timely formulation and submission of an annual legislative budget request for appropriations, if any, to support the administration, operation, and maintenance of the preserve. A request for appropriations shall be submitted to the department and shall be included in the department's annual legislative budget request. Requests for appropriations shall be submitted to the department in time to allow the department to meet the requirements of s. 216.023. The department may not deny a request or refuse to include in its annual legislative budget submission a request from the corporation for an appropriation.

(e) Notwithstanding any other provision of law, all moneys received from donations or from management of the preserve shall be retained by the corporation in the operating fund and shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvements, repairs, and related expenses incurred with respect to properties being managed by the corporation. Except as provided in this section, moneys received by the corporation for the management of the preserve shall not be subject to distribution by the state. Upon assuming management responsibilities for the preserve, the corporation shall optimize the generation of income based on existing marketing conditions to the extent that activities do not unreasonably diminish the long-term environmental, agricultural, scenic, and natural values of the preserve, or the multiple-use and sustained-yield capability of the land.

(f) All parties in contract with the corporation and all holders of leases from the corporation which are authorized to occupy, use, or develop properties under the management jurisdiction of the corporation must procure proper insurance as is reasonable or customary to insure against any loss in connection with the properties or with activities authorized in the leases or contracts.

(11) COMPREHENSIVE BUSINESS PLAN.—

(a) A comprehensive business plan for the management and operation of the preserve as a working ranch and amendments to the business plan may be developed only with input from the department and the commission, and may be implemented by Babcock Ranch, Inc., only upon expiration of the management agreement attached as Exhibit “E” to that certain agreement for sale and purchase approved by the Board of Trustees of the Internal Improvement Trust Fund on November 22, 2005, and by Lee County on November 20, 2005.

(b) Any final decision of Babcock Ranch, Inc., to adopt or amend the comprehensive business plan or to approve any activity related to the management of the renewable surface resources of the preserve shall be made in sessions that are open to the public. The board of directors shall establish procedures for providing adequate public information and opportunities for public comment on the proposed comprehensive business plan for the preserve or for amendments to the comprehensive business plan adopted by the members.

(c) Not less than 2 years prior to the corporation’s assuming management and operation responsibilities for the preserve, the corporation, with input from the commission and the department, must begin developing the comprehensive business plan to carry out the purposes of this section. To the extent consistent with these purposes, the comprehensive business plan shall provide for:

1. The management and operation of the preserve as a working ranch;
2. The protection and preservation of the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve;
3. The promotion of high-quality hunting experiences for the public, with emphasis on deer, turkey, and other game species;
4. Multiple use and sustained yield of renewable surface resources within the preserve;
5. Public use of and access to the preserve for recreation; and
6. The use of renewable resources and management alternatives that, to the extent practicable, benefit local communities and small businesses and enhance the coordination of management objectives with those on surrounding public or private lands. The use of renewable resources and management alternatives should provide cost savings to the corporation through the

exchange of services, including, but not limited to, labor and maintenance of facilities, for resources or services provided to the corporation.

(d) On or before the date on which title to the portion of the Babcock Crescent B Ranch being purchased by the state as provided in s. 259.1052 is vested in the Board of Trustees of the Internal Improvement Trust Fund, Babcock Ranch Management, LLC, a limited liability company incorporated in this state, shall provide the commission and the department with the management plan and business plan in place for the operation of the ranch as of November 22, 2005, the date on which the board of trustees approved the purchase.

(12) MANAGEMENT OF PRESERVE; FEES.—

(a) The corporation shall assume all authority provided by this section to manage and operate the preserve as a working ranch upon a determination by the Board of Trustees of the Internal Improvement Trust Fund that the corporation is able to conduct business, and that provision has been made for essential services on the preserve, which, to the maximum extent practicable, shall be made no later than 60 days prior to the termination of the management agreement referenced in paragraph (11)(a).

(b) Upon assuming management and operation of the preserve, the corporation shall:

1. With input from the commission and the department, manage and operate the preserve and the uses thereof, including, but not limited to, the activities necessary to administer and operate the preserve as a working ranch; the activities necessary for the preservation and development of the land and renewable surface resources of the preserve; the activities necessary for interpretation of the history of the preserve on behalf of the public; the activities necessary for the management, public use, and occupancy of facilities and lands within the preserve; and the maintenance, rehabilitation, repair, and improvement of property within the preserve;

2. Develop programs and activities relating to the management of the preserve as a working ranch;

3. Negotiate directly with and enter into such agreements, leases, contracts, and other arrangements with any person, firm, association, organization, corporation, or governmental entity, including entities of federal, state, and local governments, as are necessary and appropriate to carry out the purposes and activities authorized by this section;

4. Establish procedures for entering into lease agreements and other agreements for the use and occupancy of the facilities of the preserve. The procedures shall ensure reasonable competition and set guidelines for determining reasonable fees, terms, and conditions for such agreements; and

5. Assess reasonable fees for admission to, use of, and occupancy of the preserve to offset costs of operating the preserve as a working ranch. These fees are independent of fees assessed by the commission for the privilege of hunting, fishing, or pursuing outdoor recreational activities within the pre-

serve, and shall be deposited into the operating fund established by the board of directors under the authority provided under this section.

(13) MISCELLANEOUS PROVISIONS.—

(a) Except for the powers of the commissioner provided in this section, and the powers of the commission provided in s. 9, Art. IV of the State Constitution, the preserve shall be managed by Babcock Ranch, Inc.

(b) Officers and employees of Babcock Ranch, Inc., are private employees. At the request of the board of directors, the commission and the department may provide state employees for the purpose of implementing this section. Any state employees provided to assist the directors in implementing this section for more than 30 days shall be provided on a reimbursable basis. Reimbursement to the commission and the department shall be made from the corporation's operating fund provided under this section and not from any funds appropriated to the corporation by the Legislature.

(14) DISSOLUTION OF BABCOCK RANCH, INC.—

(a) The corporation may be dissolved only by an act of the Legislature.

(b) Upon dissolution of the corporation, the management responsibilities provided in this section shall revert to the commission and the department unless otherwise provided by the Legislature under the act dissolving Babcock Ranch, Inc.

(c) Upon dissolution of the corporation, any cash balances of funds shall revert to the General Revenue fund or such other state fund as may be provided under the act dissolving Babcock Ranch, Inc.

Section 10. For the 2006-2007 fiscal year, the sum of \$310 million in nonrecurring funds is appropriated from the Florida Forever Trust Fund in the Department of Environmental Protection for the purchase of the Babcock Crescent B Ranch as provided in s. 259.1052, Florida Statutes.

Section 11. For the 2006-2007 fiscal year, the sum of \$50,000 is appropriated in nonrecurring funds from the Conservation and Recreation Lands Trust Fund in the Department of Environmental Protection for the operation and management of the Babcock Ranch Preserve, to be administered by Babcock Ranch, Inc., as provided under s. 259.1053, Florida Statutes.

Section 12. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 19, 2006.

Filed in Office Secretary of State June 19, 2006.