

Senate Bill No. 4-A

An act implementing the 2008-2009 Special Appropriations Act; providing legislative intent; reenacting s. 215.32(2)(b), F.S., relating to the source and use of certain trust funds, in order to implement the transfer of moneys to the General Revenue Fund from trust funds as provided in the 2008-2009 Special Appropriations Act; amending s. 215.5601, F.S.; authorizing the transfer of funds from the Lawton Chiles Endowment Fund to the General Revenue Fund for the 2008-2009 fiscal year; providing legislative intent with respect to the repayment of moneys to the Lawton Chiles Endowment Fund; amending s. 259.105, F.S.; requiring that proceeds from bonds issued under the Florida Forever Act be deposited into the Florida Forever Trust Fund; revising the distribution of bond proceeds; declaring of no force or effect certain approved or pending acquisitions, contracts, options, or other instruments indicating an intent to purchase; requiring that project lists approved by the Florida Communities Trust Governing Board be amended to provide for an extension of time; amending s. 373.1961, F.S.; providing for the allocation of certain funds for alternative water supply trust fund accounts; providing for the reallocation of such funds for the 2008-2009 fiscal year only; amending s. 403.890, F.S.; revising the distribution of funds from the Water Protection and Sustainability Program Trust Fund; providing for future expiration of such provisions; providing for the reallocation of funds to conform to changes made by the act; amending ss. 420.0005 and 420.9079, F.S.; requiring that the Florida Housing Finance Corporation return to the State Treasury for the 2008-2009 fiscal year only certain unexpended funds held by the corporation; authorizing the corporation to adopt emergency rules; providing legislative findings with respect to the necessity for such emergency rules; exempting the corporation from certain requirements and limitations with respect to the emergency rules; repealing s. 47 of chapter 2008-153, Laws of Florida, relating to transfers of funds from the Budget Stabilization Fund; providing for the effect of a veto of one or more specific appropriations or proviso provisions to which implementing language refers; providing for severability; providing an effective date.

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

Section 1. It is the intent of the Legislature that the implementing and administering provisions of this act apply to Senate Bill 2-A, the act making appropriations and reductions in appropriations for the 2008-2009 fiscal year.

Section 2. In order to implement the transfer of moneys to the General Revenue Fund from trust funds as provided in Senate Bill 2-A, an act making appropriations and reductions in appropriations for the 2008-2009 fiscal year, paragraph (b) of subsection (2) of section 215.32, Florida Statutes, is reenacted to read:

215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(b)

1. The trust funds shall consist of moneys received by the state which under law or under trust agreement are segregated for a purpose authorized by law. The state agency or branch of state government receiving or collecting such moneys shall be responsible for their proper expenditure as provided by law. Upon the request of the state agency or branch of state government responsible for the administration of the trust fund, the Chief Financial Officer may establish accounts within the trust fund at a level considered necessary for proper accountability. Once an account is established within a trust fund, the Chief Financial Officer may authorize payment from that account only upon determining that there is sufficient cash and releases at the level of the account.

2. In addition to other trust funds created by law, to the extent possible, each agency shall use the following trust funds as described in this subparagraph for day-to-day operations:

a. Operations or operating trust fund, for use as a depository for funds to be used for program operations funded by program revenues, with the exception of administrative activities when the operations or operating trust fund is a proprietary fund.

b. Operations and maintenance trust fund, for use as a depository for client services funded by third-party payors.

c. Administrative trust fund, for use as a depository for funds to be used for management activities that are departmental in nature and funded by indirect cost earnings and assessments against trust funds. Proprietary funds are excluded from the requirement of using an administrative trust fund.

d. Grants and donations trust fund, for use as a depository for funds to be used for allowable grant or donor agreement activities funded by restricted contractual revenue from private and public nonfederal sources.

e. Agency working capital trust fund, for use as a depository for funds to be used pursuant to s. 216.272.

f. Clearing funds trust fund, for use as a depository for funds to account for collections pending distribution to lawful recipients.

g. Federal grant trust fund, for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources.

To the extent possible, each agency must adjust its internal accounting to use existing trust funds consistent with the requirements of this subparagraph. If an agency does not have trust funds listed in this subparagraph

and cannot make such adjustment, the agency must recommend the creation of the necessary trust funds to the Legislature no later than the next scheduled review of the agency's trust funds pursuant to s. 215.3206.

3. All such moneys are hereby appropriated to be expended in accordance with the law or trust agreement under which they were received, subject always to the provisions of chapter 216 relating to the appropriation of funds and to the applicable laws relating to the deposit or expenditure of moneys in the State Treasury.

4.a. Notwithstanding any provision of law restricting the use of trust funds to specific purposes, unappropriated cash balances from selected trust funds may be authorized by the Legislature for transfer to the Budget Stabilization Fund and General Revenue Fund in the General Appropriations Act.

b. This subparagraph does not apply to trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the State Transportation Trust Fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida Retirement System Trust Fund; trust funds under the management of the State Board of Education or the Board of Governors of the State University System, where such trust funds are for auxiliary enterprises, self-insurance, and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the Chief Financial Officer or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by the State Constitution.

Section 3. In order to implement section 52 of Senate Bill 2-A, paragraph (f) is added to subsection (5) of section 215.5601, Florida Statutes, to read:

215.5601 Lawton Chiles Endowment Fund.—

(5) AVAILABILITY OF FUNDS; USES.—

(f) Notwithstanding any provision of this section to the contrary, during the 2008-2009 fiscal year, up to \$700 million may be transferred from the endowment to the General Revenue Fund. This paragraph expires June 30, 2009.

Section 4. It is the intent of the Legislature that the repayment of the distribution from the Lawton Chiles Endowment Fund will begin in the first year that recurring General Revenue Fund receipts are estimated to exceed the prior year's recurring General Revenue Fund receipts by 5 percent. In addition, it is the intent of the Legislature that, from the growth in general revenue receipts, up to \$150 million may be used to repay the fund in each year.

Section 5. In order to implement Specific Appropriations 620A, 684A, 689A, 689B, and 690 of Senate Bill 2-A, subsections (21) and (22) are added to section 259.105, Florida Statutes, to read:

259.105 The Florida Forever Act.—

(21) Notwithstanding the provisions of subsection (3), proceeds from bonds issued pursuant to this section as authorized pursuant to Specific Appropriation 1656 of chapter 2008-152, Laws of Florida, shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The first \$31.5 million of these proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(a) Nineteen and four hundredths percent to the Department of Environmental Protection for grants pursuant to s. 375.075.

(b) Fourteen and twenty-nine hundredths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks and for capital project expenditures as described in this section.

(c) Fourteen and twenty-nine hundredths percent to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions pursuant to s. 589.07, the implementation of reforestation plans or sustainable forestry management practices, and for capital project expenditures as described in this section.

(d) Fourteen and twenty-nine hundredths percent to the Fish and Wildlife Conservation Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife and for capital project expenditures as described in this section.

(e) Fourteen and twenty-nine hundredths percent to the Department of Environmental Protection for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trail systems pursuant to chapter 260, including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail and for capital project expenditures as described in this section.

(f) Twenty-three and eight-tenths percent to the Department of Community Affairs for the acquisition of land and capital project expenditures necessary to implement the Stan Mayfield Working Waterfronts Program within the Florida Communities Trust pursuant to s. 380.5105.

(22)(a) Of the money remaining in the Florida Forever Trust Fund, the distribution shall be made as follows:

1. To purchase lands acquired by third parties with the understanding that the state would reimburse and take title of the land and the land was identified in a multiparty acquisition agreement or acquired pursuant to statute. The multiparty agreements must have been entered into by the Division of State Lands of the Department of Environmental Protection prior to January 1, 2009. These acquisitions are not subject to the provisions of paragraph (b).

2. To the Department of Environmental Protection from interest earnings and from the money remaining an amount sufficient to cover previously expended funds from the 2008-2009 fiscal year.

3. The remaining funds shall be distributed pursuant to the General Appropriations Act in effect when the appropriation was made.

(b) For those programs receiving funds from the Florida Forever Trust Fund, any approved or pending acquisitions, contracts, options, or other instruments used to indicate an intent to purchase shall not be performed but are hereby discharged and of no further force or effect.

(c) Project lists that have been approved for funding by the Florida Communities Trust Governing Board shall remain in force and effect but project grants shall be amended to provide for an extension until such time that funds become available to complete the terms of the grant. Such extension of time shall be conditioned upon the project being reappraised prior to the expenditure of funds. The new appraisals shall be submitted to the governing board of the trust and the terms of the grant shall be amended as necessary.

Section 6. In order to implement Specific Appropriation 701 of Senate Bill 2-A, subsection (6) is added to section 373.1961, Florida Statutes, to read:

373.1961 Water production; general powers and duties; identification of needs; funding criteria; economic incentives; reuse funding.—

(6) For the 2008-2009 fiscal year only, funds remaining to be distributed, after the distribution provided for in subsection (5), pursuant to paragraph (3)(b) shall be allocated as follows:

(a) Fifty percent to the Northwest Florida Water Management District.

(b) Fifty percent to the Suwannee River Water Management District.

Section 7. To the extent that revenues have been distributed before March 1, 2009, for the 2008-2009 fiscal year in excess of the amounts authorized in s. 373.1961(6), Florida Statutes, the Department of Environmental Protection shall reallocate funds so that the total distribution in the 2008-2009 fiscal year is consistent with the distribution set forth in s. 373.1961, Florida Statutes.

Section 8. In order to implement Specific Appropriations 616, 697, 700, and 701 of Senate Bill 2-A, subsection (3) of section 403.890, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

403.890 Water Protection and Sustainability Program; intent; goals; purposes.—

~~(3) In addition to the uses allowed in subsection (1)~~ For the 2008-2009 fiscal year only, moneys in the Water Protection and Sustainability Program Trust Fund shall be transferred to the Ecosystem Management and Restoration Trust Fund for grants and aids to local governments for water projects

as provided in the General Appropriations Act. This subsection expires July 1, 2009.

(6) For the 2008-2009 fiscal year only, in lieu of the distributions authorized in subsection (2) for revenues transferred from the Department of Revenue pursuant to s. 201.15(1)(c)2., and after the distribution authorized in subsection (3), remaining funds shall be distributed as follows:

(a) Thirty-one and twenty-one hundredths percent to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.1961.

(b) Twenty-six and eighty-seven hundredths percent for the implementation of best-management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 86 percent shall be transferred to the credit of the Water Quality Assurance Trust Fund of the Department of Environmental Protection to address water quality impacts associated with nonagricultural nonpoint sources. Fourteen percent of these funds shall be transferred to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of the total maximum daily load program under s. 403.067, suitable best-management practices, or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best-management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of capital projects, best-management practices, and other measures. These funds may not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement that allocates responsibility for the cleanup of point and nonpoint sources.

(c) Forty-one and ninety-two hundredths percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.

This subsection expires July 1, 2009.

Section 9. To the extent that revenues have been distributed before March 1, 2009, for the 2008-2009 fiscal year in excess of the amounts authorized in s. 403.890(6), Florida Statutes, the Department of Environmental Protection shall reallocate funds so that the total distribution in the 2008-2009 fiscal year is consistent with the distribution set forth in s. 403.890(6), Florida Statutes.

Section 10. In order to implement sections 44 through 47 of Senate Bill 2-A, section 420.0005, Florida Statutes, is amended to read:

420.0005 State Housing Trust Fund; State Housing Fund.—

(1) There is hereby established in the State Treasury a separate trust fund to be named the “State Housing Trust Fund.” There shall be deposited in the fund all moneys appropriated by the Legislature, or moneys received from any other source, for the purpose of this chapter, and all proceeds derived from the use of such moneys. The fund shall be administered by the Florida Housing Finance Corporation on behalf of the department, as specified in this chapter. Money deposited to the fund and appropriated by the Legislature must, notwithstanding the provisions of chapter 216 or s. 420.504(3), be transferred quarterly in advance, to the extent available, or, if not so available, as soon as received into the State Housing Trust Fund, and subject to the provisions of s. 420.5092(6)(a) and (b) by the Chief Financial Officer to the corporation upon certification by the Secretary of Community Affairs that the corporation is in compliance with the requirements of s. 420.0006. The certification made by the secretary shall also include the split of funds among programs administered by the corporation and the department as specified in chapter 92-317, Laws of Florida, as amended. Moneys advanced by the Chief Financial Officer must be deposited by the corporation into a separate fund established with a qualified public depository meeting the requirements of chapter 280 to be named the “State Housing Fund” and used for the purposes of this chapter. Administrative and personnel costs incurred in implementing this chapter may be paid from the State Housing Fund, but such costs may not exceed 5 percent of the moneys deposited into such fund. To the State Housing Fund shall be credited all loan repayments, penalties, and other fees and charges accruing to such fund under this chapter. It is the intent of this chapter that all loan repayments, penalties, and other fees and charges collected be credited in full to the program account from which the loan originated. Moneys in the State Housing Fund which are not currently needed for the purposes of this chapter shall be invested in such manner as is provided for by statute. The interest received on any such investment shall be credited to the State Housing Fund.

(2) Notwithstanding any provision of this section to the contrary and for the 2008-2009 fiscal year only, the corporation shall return unexpended funds held by the corporation pursuant to this section and part V of this chapter to the State Treasury as directed by law. This subsection expires June 30, 2009.

Section 11. In order to implement sections 44 through 47 of Senate Bill 2-A, section 420.9079, Florida Statutes, is amended to read:

420.9079 Local Government Housing Trust Fund.—

(1) There is created in the State Treasury the Local Government Housing Trust Fund, which shall be administered by the corporation on behalf of the department according to the provisions of ss. 420.907-420.9078 and this section. There shall be deposited into the fund a portion of the documentary stamp tax revenues as provided in s. 201.15, moneys received from any other

source for the purposes of ss. 420.907-420.9078 and this section, and all proceeds derived from the investment of such moneys. Moneys in the fund that are not currently needed for the purposes of the programs administered pursuant to ss. 420.907-420.9078 and this section shall be deposited to the credit of the fund and may be invested as provided by law. The interest received on any such investment shall be credited to the fund.

(2) The corporation shall administer the fund exclusively for the purpose of implementing the programs described in ss. 420.907-420.9078 and this section. With the exception of monitoring the activities of counties and eligible municipalities to determine local compliance with program requirements, the corporation shall not receive appropriations from the fund for administrative or personnel costs. For the purpose of implementing the compliance monitoring provisions of s. 420.9075(9), the corporation may request a maximum of one-quarter of 1 percent of the annual appropriation per state fiscal year. When such funding is appropriated, the corporation shall deduct the amount appropriated prior to calculating the local housing distribution pursuant to ss. 420.9072 and 420.9073.

(3) Notwithstanding any provision of this section to the contrary and for the 2008-2009 fiscal year only, the corporation shall return unexpended funds held by the corporation pursuant to this section and part V of this chapter to the State Treasury as directed by law. This subsection expires June 30, 2009.

Section 12. In order to ensure that the funds transferred by sections 44 through 47 of SB 2-A are available, the Florida Housing Finance Corporation shall adopt emergency rules pursuant to s. 120.54, Florida Statutes. The Legislature finds that emergency rules adopted pursuant to this section meet the health, safety, and welfare requirement of s. 120.54(4), Florida Statutes. The Legislature finds that such emergency rulemaking power is necessitated by the immediate danger to the preservation of the rights and welfare of the people and is immediately necessary in order to implement the action of the Legislature to address the revenue shortfall of the 2008-2009 fiscal year. Therefore, in adopting such emergency rules, the corporation need not publish the facts, reasons, and findings required by s. 120.54(4)(a)3., Florida Statutes. Emergency rules adopted under this section are exempt from s. 120.54(4)(c), Florida Statutes, and shall remain in effect for 180 days.

Section 13. Section 47 of chapter 2008-153, Laws of Florida, is repealed.

Section 14. Any section of this act which implements a specific appropriation or specifically identified proviso language in the act making appropriations and reductions in appropriations for the 2008-2009 fiscal year is void if the specific appropriation or specifically identified proviso language is vetoed. Any section of this act which implements more than one specific appropriation or more than one portion of specifically identified proviso language in the act making appropriations and reductions in appropriations for the 2008-2009 fiscal year is void if all the specific appropriations or portions of specifically identified proviso language are vetoed.

Section 15. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 16. This act shall take effect upon becoming a law.

Approved by the Governor January 27, 2009.

Filed in Office Secretary of State January 27, 2009.