

CHAPTER 2016-225

Committee Substitute for Committee Substitute for House Bill No. 447

An act relating to local government environmental financing; providing a short title; amending s. 212.055, F.S.; expanding the uses of local government infrastructure surtaxes to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; revising definitions for purposes of using surtax proceeds; amending s. 215.619, F.S.; expanding the use of Everglades restoration bonds to include the City of Key West Area of Critical State Concern; expanding the types of water management projects eligible for funding; revising the date for the maturity of Everglades restoration bonds; authorizing bond proceeds to be spent on the City of Key West Area of Critical State Concern; expanding projects that may be funded by bond proceeds; specifying procedures to be followed for certain lands that are no longer needed for certain restoration purposes; amending s. 259.045, F.S.; requiring the Department of Environmental Protection to annually consider certain recommendations to buy specific lands within and outside an area of critical state concern; authorizing certain local governments and special districts to recommend additional lands for purchase; amending s. 259.105, F.S.; requiring specific Florida Forever appropriations to be used for the purchase of lands in the Florida Keys Area of Critical State Concern; providing an appropriation; amending s. 380.0552, F.S.; revising legislative intent regarding the Florida Keys Area of Critical State Concern; specifying that plan amendments in the Florida Keys must also be consistent with protecting and improving specified water quality and water supply projects; amending s. 380.0666, F.S.; expanding powers of a land authority to include acquiring lands to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern and contribute funds for certain land purchases by the department; providing limitations relating to acquiring or contributing lands to improve public transportation facilities; providing an effective date.

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

Section 1. This act may be cited as the “Florida Keys Stewardship Act.”

Section 2. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the

levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term “infrastructure” means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, ~~and any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service.~~ For purposes of this sub-subparagraph, the term “public facilities” means facilities as defined in s. 163.3164(38), s. 163.3221(13), or s. 189.012(5), regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and

the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

2. For the purposes of this paragraph, the term “energy efficiency improvement” means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county’s accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives

related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 3. Subsection (1) of section 215.619, Florida Statutes, is amended, subsections (7) and (8) are renumbered as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:

215.619 Bonds for Everglades restoration.—

(1) The issuance of Everglades restoration bonds to finance or refinance the cost of the acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan under s. 373.470, the Lake Okeechobee Watershed Protection Plan under s. 373.4595, the Caloosahatchee River Watershed Protection Plan under s. 373.4595, the St. Lucie River Watershed Protection Plan under s. 373.4595, the City of Key West Area of Critical State Concern as designated by the Administration Commission under s. 380.05, and the Florida Keys Area of Critical State Concern protection program under ss. 380.05 and 380.0552 in order to restore and conserve natural systems through the implementation of water management projects, including projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects, projects to protect water resources available to the Florida Keys, including wastewater management projects identified in the Keys Wastewater Plan, dated November 2007, and submitted to the Florida House of Representatives on December 4, 2007, is authorized in accordance with s. 11(e), Art. VII of the State Constitution.

(a) Everglades restoration bonds, except refunding bonds, may be issued only in fiscal years 2002-2003 through 2019-2020 and may not be issued in an amount exceeding \$100 million per fiscal year unless:

1. The Department of Environmental Protection has requested additional amounts in order to achieve cost savings or accelerate the purchase of land; or

2. The Legislature authorizes an additional amount of bonds not to exceed \$200 million, and limited to \$50 million per fiscal year, specifically for the purpose of funding the Florida Keys Area of Critical State Concern protection program and the City of Key West Area of Critical State Concern. Proceeds from the bonds shall be managed by the Department of Environmental Protection for the purpose of entering into financial assistance agreements with local governments located in the Florida Keys Area of Critical State Concern or the City of Key West Area of Critical State Concern to finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities or building projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects and projects to protect water resources available to the Florida Keys.

(b) The duration of Everglades restoration bonds may not exceed 20 annual maturities and must mature by December 31, ~~2047~~ 2040. Except for refunding bonds, a series of bonds may not be issued unless an amount equal to the debt service coming due in the year of issuance has been appropriated by the Legislature. Not more than 58.25 percent of documentary stamp taxes collected may be taken into account for the purpose of satisfying an additional bonds test set forth in any authorizing resolution for bonds issued on or after July 1, 2015. Beginning July 1, 2010, the Legislature shall analyze the ratio of the state's debt to projected revenues before authorizing the issuance of bonds under this section.

(7) If the South Florida Water Management District and the Department of Environmental Protection determine that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern but which were purchased to preserve and protect the potable water supply to the Florida Keys, are no longer needed for the purpose for which they were purchased, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each general purpose local government within the boundaries of which a portion of the land lies must agree to the disposal of lands within its boundaries and must be offered the first right to purchase those lands.

Section 4. Section 259.045, Florida Statutes, is amended to read:

259.045 Purchase of lands in areas of critical state concern; recommendations by department and land authorities.—Within 45 days after ~~of the designation by the Administration Commission designates of an area as an area of critical state concern under s. 380.05, and annually thereafter,~~ the Department of Environmental Protection shall consider the recommendations of the state land planning agency pursuant to s. 380.05(1)(a) relating to purchase of lands within an area of critical state concern or lands outside an area of critical state concern that directly impact an area of critical state concern, which may include lands used to preserve and protect water supply, ~~the proposed area~~ and shall make recommendations to the board with respect to the purchase of the fee or any lesser interest in any such lands that are: situated in such area of critical state concern as

- (1) Environmentally endangered lands; ~~or~~
- (2) Outdoor recreation lands;
- (3) Lands that conserve sensitive habitat;
- (4) Lands that protect, restore, or enhance nearshore water quality and fisheries;
- (5) Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or

(6) Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern if the acquisition of such lands fulfills a public purpose listed in s. 259.032(2).

The department, a local government, a special district, or and a land authority within an area of critical state concern ~~as authorized in chapter 380~~, may make recommendations with respect to additional purchases which were not included in the state land planning agency recommendations.

Section 5. Paragraph (b) of subsection (3) of section 259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(b) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. At a minimum, 3 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access. Beginning in the 2017-2018 fiscal year and continuing through the 2026-2027 fiscal year, at least \$5 million of the funds allocated pursuant to this paragraph shall be spent on land acquisition within the Florida Keys Area of Critical State Concern as authorized pursuant to s. 259.045.

Section 6. For the 2016-2017 fiscal year, the sum of \$5 million in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Environmental Protection to be distributed in accordance with the existing interlocal agreement among the Village of Islamorada, the Key Largo Wastewater Treatment District, the City of Marathon, the Monroe County/Florida Keys Aqueduct Authority, the City of Key West, and Key Colony Beach, for the purposes of constructing sewage collection, treatment, and disposal facilities; implementing stormwater collection and treatment systems; canal restoration and muck remediation projects; and projects that protect and enhance water supply in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern; or, for the purposes of land acquisition within the Florida Keys Area of Critical Concern as authorized pursuant to s. 259.045, Florida

Statutes, with increased priority given to those acquisitions that achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. A local government requesting disbursement pursuant to this appropriation shall provide the Department of Environmental Protection with such documentation as the department deems necessary to verify that the costs are properly incurred and work has been performed.

Section 7. Paragraph (i) of subsection (2) and paragraph (i) of subsection (7) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(1) and 403.086(10), as applicable.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; ~~and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.~~

Section 8. Subsection (3) of section 380.0666, Florida Statutes, is amended to read:

380.0666 Powers of land authority.—The land authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers, which are in addition to all other powers granted by other provisions of this act:

(3) To acquire and dispose of real and personal property or any interest therein when such acquisition is necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide affordable housing to families whose income does not exceed 160 percent of the median family income for the area, prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern, or provide access to management of acquired lands; to acquire interests in land by means of land exchanges; to contribute tourist impact tax revenues received pursuant to s. 125.0108 to its most populous municipality or the housing authority of such municipality, at the request of the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality; to contribute funds to the Department of Environmental Protection for the purchase of lands by the department; and to enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback arrangements. However, the land authority shall make an such acquisition or contribution only if:

(a) Such acquisition or contribution is consistent with land development regulations and local comprehensive plans adopted and approved pursuant to this chapter;

(b) The property acquired is within an area designated as an area of critical state concern at the time of acquisition or is within an area that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation; and

(c) The property to be acquired has not been selected for purchase through another local, regional, state, or federal public land acquisition program. Such restriction shall not apply if the land authority cooperates with the other public land acquisition programs which listed the lands for acquisition, to coordinate the acquisition and disposition of such lands. In such cases, the land authority may enter into contractual or other agreements to acquire lands jointly or for eventual resale to other public land acquisition programs; and

(d) The acquisition or contribution is not used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

Section 9. This act shall take effect July 1, 2016.

Approved by the Governor April 14, 2016.

Filed in Office Secretary of State April 14, 2016.