

**Constitution Revision Commission
Legislative Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: 46

Relating to: The manner of the distribution of funds that are deposited into the Land Acquisition Trust Fund.

Introducer(s): Commissioner Thurlow-Lippisch

Article/Section affected: Article X s. 28

Date: December 11, 2017

	REFERENCE	ACTION
1.	LE	_____
2.	GP	_____

I. SUMMARY:

Requires one-third of the Land Acquisition Trust Fund (LATF) funding to be transferred to the Florida Forever Trust Fund (FFTF) for land acquisition and other land management programs.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Land Acquisition Trust Fund

In 2014, Florida voters approved Amendment One, a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues derived from documentary stamp taxes be deposited into the Land Acquisition Trust Fund (LATF). Article X, s. 28 of the State Constitution requires that funds in the LATF be expended only for the following purposes:

As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge

for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.

To implement Art. X, s. 28 of the State Constitution, the Legislature passed ch. 2015-229 Laws of Florida. This act, in part, amended the following sections of law:

- Section 201.15, F.S., to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from documentary stamp taxes.
- Section 375.041, F.S., to designate the LATF within the Department of Environmental Protection (DEP) as the trust fund to serve as the constitutionally mandated depository for the required percentage of documentary stamp tax revenues.⁴⁸

Under s. 375.041, F.S., funds deposited into the LATF must be distributed in the following order and amounts:

- First, obligations relating to debt service, specifically:
 - First to payments relating to debt service on Florida Forever Bonds and Everglades restoration bonds; and
 - Then, to payments relating to debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District.
- Then, before funds are authorized to be appropriated for other uses:
 - A minimum of the lesser of 25 percent of the funds remaining after the payment of debt service or \$200 million annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan,⁴⁹ or the Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. From these funds, the following specified distributions are required:
 - \$32 million annually through the 2023-2024 Fiscal Year for the Long-Term Plan;
 - After deducting the \$32 million, the minimum of the lesser of 76.5 percent of the remainder or \$100 million annually through the 2025-2026 Fiscal Year for the CERP; and
 - Any remaining funds for Everglades projects under the CERP, the Long-Term Plan, or the NEEPP.
 - A minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million annually for spring restoration, protection, and management projects; and
 - Five million annually through the 2025-2026 Fiscal Year to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka.⁵⁰
 - Sixty-four million to the Everglades Trust Fund in the 2018-2019 Fiscal Year and each fiscal year thereafter, for the Everglades Agricultural Area reservoir project.
- Then, any remaining moneys are authorized to be appropriated for the purposes set forth in Art. X, s. 28 of the State Constitution.

The General Revenue Estimating Conference, in August of 2017, estimated that for the 2018-2019 Fiscal Year a total of \$2.62 billion would be collected in documentary stamp taxes. Thirty-three percent of the net revenues collected or approximately \$862.2 million must be deposited into the LATF in accordance with Art. X, s. 28 of the State Constitution.

Florida Forever

As a successor to Preservation 2000, the Legislature created the Florida Forever program in 1999 as the blueprint for conserving Florida's natural resources. The Florida Forever Act reinforced the state's commitment to conserve its natural and cultural heritage, provide urban open space, and better manage the land acquired by the state. Florida Forever encompasses a wide range of goals including: land acquisition; environmental restoration; water resource development and supply; increased public access; public lands management and maintenance; and increased protection of land through the purchase of conservation easements. The state has acquired more than 2.4 million acres since 1991 under the Preservation 2000 and the Florida Forever programs.

Under Florida Forever, the issuance of up to \$5.3 billion in Florida Forever bonds is authorized to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources, in urban and rural settings, for the purposes of restoration, conservation, recreation, water resource development, or historical preservation, and for capital improvements to lands and water areas which accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.

The Florida Forever Trust Fund was created to serve as the repository for Florida Forever bond proceeds to fund the Florida Forever program. The Florida Forever Trust Fund is administered by the Department of Environmental Protection (DEP) who is required to distribute revenues from the Florida Forever Trust Fund in accordance with section 259.105(3), F.S. That subsection sets forth the allocation of the proceeds of cash payments or bonds deposited into the Florida Forever Trust Fund

B. EFFECT OF PROPOSED CHANGES:

Proposal 46 would:

- Require one-third of Land Acquisition Trust Fund (LATF) funding to be transferred to the Florida Forever Trust Fund (FFTF) for land acquisition and other land management programs.
- Require the remaining two-thirds in LATF to be used solely for the acquisition of land.
- Add "as may be required" to Article X section 28, subsection 3, which may create inconclusive results regarding the requirement to pay debt service.

C. FISCAL IMPACT:

The proposal removes “and improvement” from funding eligibility through the LATF. The requirement for funds to be expended solely for land acquisition may require the state to identify alternative funding sources for programs not related to the acquisition of land that are currently funded through LATF. This may include the funding distributions established in section 375.041(3)(b), F.S. The potential distribution of funds deposited into the LATF are depicted on the graph below. The 1/3 allotment from the LATF to the FFTF may reduce the available funding for ongoing environmental programs.

This assumes current statutory provisions are unchanged and would be as follows:¹	(In Millions)
Estimated Doc. Stamp taxes in FY 19/20 per the General Revenue Estimating Conference (August 2017)	2,719.63
DOR Admin Cost	9.80
Remainder available for distribution	2,709.83
33% to be deposited into LATF	894.24
33% of the LATF funds transferred to Florida Forever	295.10
Available for distribution pursuant to 375.041(3)(b)	599.14
(1) Debt Service	
Florida Forever	142.77
Everglades	23.66
(2) Land Acquisition TF Distributions	
1. Everglades Projects	181.95
2. Spring Restoration	50.00
3. Lake Apopka	5.00
4. Debt Service/Bonds other	0
5. Everglades TF	64.00
6. Uncommitted Cash per statutory provisions	131.76
<i>Agencies that currently utilize the uncommitted cash to support their environmental programs (using appropriations for FY 17/18)</i>	
DEP	190.10
DACS	94.40
FWC	102.20
DOS	9.40
Potential Fiscal Impact of Proposed Revision:	(264.32)

¹ <http://edr.state.fl.us/Content/conferences/docstamp/docstampresults.pdf>

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None

B. Amendments:

None

C. Technical Deficiencies:

None

D. Related Issues:

None