# Agriculture and Environment Appropriations Committee

Thursday, February 23, 2006
9:00 a.m.
306 House Office Building

**Allan Bense**
**Speaker**

**Stan Mayfield**
**Chair**

# Florida House of Representatives

Fiscal Council
Agriculture & Environment Appropriations Committee

**Allan Bense**
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**Stan Mayfield**
Chair

Agenda for
Date: February 23, 2006
Location: 306 House Office Building, Tallahassee, FL
Time: 9:00 AM

I. Call to Order

II. Roll Call

III. HB 125 by Brown

IV. HB 265 by Evers

V. Presentation/Discussion of Alternative Water Supplies
- Doug Barr, Executive Director, Northwest Florida Water Management District
- David Still, Deputy Executive Director, Suwannee River Water Management District
- Michael Slayton, Deputy Executive Director, St. Johns Water Management District
- David Rathke, Community and Legislative Affairs Director, Southwest Florida Water Management District
- Carlyn Kowalsky, Director, Water Supply Department, South Florida Water Management District

VI. Presentation/Discussion of Lake Okeechobee and Everglades Projects
- Ernie Barnett, Director of Policy and Legislation, South Florida Water Management District

VII. Presentation on the Alternative Energy Research
- Mike Sole, Deputy Secretary, Regulatory Programs and Energy, Department of Environmental Protection
- Jay Levenstein, Deputy Commissioner, Department of Agriculture and Consumer Services
- Dr. Mary Duryea, Associate Dean for Research, UF/IFAS

VIII. Florida Apiary Association
- David Webb

221 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300 (850) 488-6204

- Bill Rhodes
- John Westerbelt
- David Mirsa

IX. Budget Workshop

X. Adjournment

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 125 CS Voter Registration
**SPONSOR(S):** Evers and others
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 208

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| 1) Ethics & Elections Committee | 8 Y, 2 N, w/CS | West | Mitchell |
| 2) Agriculture & Environment Appropriations Committee | | Davis | Dixon |
| 3) State Administration Council | | | |
| 4) | | | |
| 5) | | | |

## SUMMARY ANALYSIS


HB 125 CS requires commercial subagents of the Fish and Wildlife Conservation Commission (FWCC) that sell resident hunting, fishing, combination licenses or trapping permits to offer voter registration applications to those purchasing a license or permit. The subagents are prohibited from assisting people with the voter registration application or collecting completed applications.

The FWCC will be required to have a link to a voter registration application form on its agency website. Within seven days of receiving a request for an application, the Commission is required to provide, to the appropriate supervisor of elections, a list of the names and addresses of those people that would like to have a voter registration form sent to them. Providing Internet access to this information may satisfy these requirements.

County supervisors of elections must obtain, at least every five days, a list of persons who have requested voter registration applications in the course of applying for a hunting and fishing license and send them voter registration forms by mail. Similarly, providing Internet access to this information may satisfy this requirement.

HB 125 CS does not appear to have an impact on state revenues or expenditures.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

**Safeguard individual liberty**
This bill would require private company employees to distribute voter registration applications or face civil penalties. Because of personal belief, some individuals may not want to be involved in voter registration activities.

B. EFFECT OF PROPOSED CHANGES:

HB 125 CS enhances the opportunities of Florida residents to register to vote and keep their registration current. HB 125 CS requires commercial subagents of the FWCC that sell resident hunting, fishing, combination licenses or trapping permits to offer voter registration applications to persons who purchase a license or permit. Currently, there are 680 subagents that sell hunting, fishing or trapping licenses or permits in Florida. Of these, 174 are Wal-Mart stores.

County supervisors of elections would be responsible for sending the appropriate number of voter registration applications to the subagents. Supervisors would also be responsible for visiting the FWCC website and based upon a person's address, identifying persons to whom they are required to send a voter registration application. In the case where a zip code crosses a county boundary, the affected supervisors of both counties may send a voter registration application to someone requesting it through the FWCC website.

So long as FWCC subagents do not offer in any way to solicit or collect voter registration applications from an applicant, they will not be deemed a "third party voter registration organization" as provided in s. 97.027(36), F.S., or a "voter registration agency" as provided in s. 97.021(40)[1], F.S.

Two other states, Montana and Georgia, have recently considered similar legislation. In 2005, HB 712 was filed in Montana. The bill would have required any site where license fees were accepted to also provide voter registration applications, and would have exempted these sites from being considered voter registration agencies. HB 712 died in committee.

In Georgia, SB 541 was enacted and recently signed into law. The bill requires most places where fish and wildlife licenses are sold to also conduct voter registration. Georgia adopted an approach that is similar to Florida's approach with regard to voter registration at driver's licenses offices and motor voter. Under the new law, the additional information needed for voter registration is added to the fish and wildlife license application and if the person wants to register, this additional information is included. The information is then transmitted electronically or on the proper application to the Secretary of State on a daily basis. Persons selling licenses are considered deputy registrars and are subject to similar restrictions for political activity as voter registration agencies in Florida.

Except as otherwise provided therein, the bill is effective upon becoming a law.

C. SECTION DIRECTORY:

**Section 1.**

- Requires supervisors of elections to supply voter registration applications to the FWCC.

[1] Section 97.021(40), F.S., defines "voter registration agency" as "any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library."

**Section 2.**

- Requires places that sell hunting, fishing or trapping licenses or permits to make available voter registration applications.
- Clarifies that the FWCC and its subagents are not voter registration agencies or third-party registration organizations.

**Section 3.**

- Effective October 1, 2006.
- If a person indicates when buying a license that he or she would like a voter registration application, this information will be made available to the supervisor of elections who will then send a voter registration application to the person.
- The FWCC may meet its responsibility to provide voter registration applications by making registration information available to supervisors of elections on an internet website.
- Provides that the FWCC will include a link to a voter registration application on its website.

**Section 4.**

- Provides an effective date of upon becoming law except as otherwise expressly provided in the act.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See fiscal comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have an impact on local government revenues.

2. Expenditures:

   The bill does not appear to have an impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be minimal impact on the subagents that must provide the voter registration applications and training on voter registration. The extent of this impact may only be the storage space needed to house voter registration forms.

D. FISCAL COMMENTS:

There would be little, if any, extra expense to the Department of State or supervisors, as they are currently responsible for reaching out to citizens to educate them on voting and elections, and to enhance voter registration opportunities.

The FWCC has expressed its willingness and demonstrated adequate resources to develop the website and other items needed to implement this bill within its current budget and staffing.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to take action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill creates no new rule making authority for any of the affected agencies. It may require the FWCC to use its current authority to write new rules for the seamless implementation of this bill, pursuant to s. 371.561(8), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Ethics & Elections Committee adopted a strike-all amendment on January 25, 2006, which substantially modified the bill. The strike-all corrected many of the objections expressed by the Department of State and third parties regarding the bill as originally filed. This analysis reflects the changes incorporated in the committee substitute.

CHAMBER ACTION

1 The Ethics & Elections Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to voter registration; creating s.
7 97.05831, F.S.; requiring the supervisor of elections of
8 each county to send voter registration applications to the
9 Fish and Wildlife Commission and its subagents; amending
10 s. 372.561, F.S.; requiring voter registration
11 applications to be displayed at each location where
12 hunting, fishing, or trapping licenses or permits are
13 sold; requiring that applicants for hunting, fishing, or
14 trapping licenses or permits be asked if they would like a
15 voter registration application; requiring certain
16 information to be provided when a person applies for a
17 hunting, fishing, or trapping license or permit on the
18 Internet; providing effective dates.
19
20 Be It Enacted by the Legislature of the State of Florida:
21
22 Section 1. Section 97.05831, Florida Statutes, is created
23 to read:

24 97.05831 Voter registration applications made available to
25 the Fish and Wildlife Conservation Commission.--As required in
26 s. 372.561, each supervisor of elections shall supply voter
27 registration applications to the Fish and Wildlife Conservation
28 Commission and its subagents, as needed.
29 Section 2. Subsection (8) of section 372.561, Florida
30 Statutes, is renumbered as subsection (10), and new subsections
31 (8) and (9) are added to that section to read:
32 372.561 Recreational licenses, permits, and authorization
33 numbers to take wild animal life, freshwater aquatic life, and
34 marine life; issuance; costs; reporting.--
35 (8) At each location where hunting, fishing, or trapping
36 licenses or permits are sold, voter registration applications
37 shall be displayed and made available to the public. Subagents
38 shall ask each person who applies for a hunting, fishing, or
39 trapping license or permit if he or she would like a voter
40 registration application and may provide such application to the
41 license or permit applicant but shall not assist such persons
42 with voter registration applications or collect complete or
43 incomplete voter registration applications.
44 (9) When acting in its official capacity pursuant to this
45 section, neither the commission nor a subagent is deemed a
46 third-party registration organization, as defined in s.
47 97.021(36), or a voter registration agency, as defined in s.
48 97.021(40), and is not authorized to solicit, accept, or collect
49 voter registration applications or provide voter registration
50 services.

51 Section 3. Effective October 1, 2006, subsection (9) of
52 section 372.561, Florida Statutes, as created by this act, is
53 renumbered as subsection (11), subsection (10) of that section
54 is renumbered as subsection (13), and new subsections (9), (10),
55 and (12) are added to that section to read:
56 372.561 Recreational licenses, permits, and authorization
57 numbers to take wild animal life, freshwater aquatic life, and
58 marine life; issuance; costs; reporting.--
59 (9) Except as provided in subsections (8) and (12), each
60 person who applies for a hunting, fishing, or trapping license
61 or permit shall be asked if he or she would like the appropriate
62 supervisor of elections to provide a voter registration
63 application to the applicant at a later date. If at the time a
64 license is purchased the applicant indicates that he or she
65 would like to receive a voter registration application, the
66 commission shall, within 7 days, make the request available to
67 the appropriate supervisor of elections or voter registration
68 agency so that an application may be sent to the applicant.
69 Supervisors of elections shall mail an application to each
70 person requesting such application within 5 business days after
71 receipt of the request.
72 (10) The commission may satisfy the requirements of
73 subsection (9) by providing access to an Internet site with the
74 voter registration information included thereon.
75 (12) Each person who applies for a hunting, fishing, or
76 trapping license or permit on the Internet shall be provided a
77 link to the Department of State's online uniform statewide voter
78 registration application.

79 Section 4. Except as otherwise expressly provided in this
80 act, this act shall take effect upon becoming a law.

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 265 Hunting Lands
**SPONSOR(S):** Brown and others
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 430

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---|---|---|
| 1) Water & Natural Resources Committee | 8 Y, 0 N | Winker | Lotspeich |
| 2) Agriculture & Environment Appropriations Committee | | Davis | Dixon |
| 3) State Resources Council | | | |
| 4) | | | |
| 5) | | | |

## SUMMARY ANALYSIS


The bill prohibits the Fish and Wildlife Conservation Commission (FWCC) from making any land management decisions, including any decisions made by private land owners, to close hunting lands managed by the FWCC which will result in any net loss of habitat land acreage which is available for hunting on the effective date of the bill. The FWCC, other state agencies, and water management districts are required to cooperate and expeditiously identify and open lands for public hunting to compensate for any closure or loss of lands open for public hunting.

The bill contains reporting requirements for the FWCC and other state agencies and water management districts relating to the availability of hunting lands.

The bill has an indeterminate fiscal impact, depending on whether a loss of hunting land was to occur and replacement land needed to be obtained.

The bill is effective upon becoming law.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

**Promotes limited government** – The bill expands the current responsibilities of the FWCC to require FWCC to maintain lands open for public hunting at current acreage levels by replacing any lands that are removed from public hunting.

B. EFFECT OF PROPOSED CHANGES:

**Background Information**

**Current Law**
Section 372.002, F.S., provides legislative intent that the citizens of Florida have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law and by s. 9, Art. IV of the State Constitution which creates and specifies the authority of the Florida Fish and Wildlife Conservation Commission (FWCC).

Section 372.21, F.S., authorizes the FWCC, with the approval of the Governor, to acquire, in the name of the state, lands and waters suitable for the protection of game, fish, non-game birds, fur-bearing animals, or for hunting purposes by purchasing, leasing, receiving the land as a gift, or otherwise obtaining such land. Such lands acquired by FWCC are referred to as "state game lands." Section 372.21 also authorizes FWCC to erect fences and buildings necessary to properly maintain and protect the land for its intended purposes.

**Hunting Lands**
According to the FWCC, as of November 2005, there were approximately 5.6 million acres of land open for public hunting in the state's public hunting areas system. This total includes lands owned and/or managed by a variety of governmental agencies and private landowners. Private landowners may partner with the FWCC to have their land used for hunting by the public. Private land owners may also designate their land as private hunting land not open to the public.

*Public Hunting Lands*

Approximately 2.85 million acres in the public hunting area system are owned by the State of Florida. FWCC is the lead manager for about 1.1 million acres. The Department of Agriculture and Consumer Services' Division of Forestry is the lead manager for about 900,000 acres. The five Water Management Districts are lead manager and/or the owner of about 730,000 acres. Approximately 56,000 acres are managed by the State Armory Board, 53,000 acres are managed by the Department of Environmental Protection, and 16,000 acres are managed by the Department of Corrections.

Approximately 2.32 million acres in the state's public hunting area system are federally-owned property including 1.14 million acres managed by the U.S. Forest Service, 596,000 acres managed by the Department of Defense, 566,000 acres managed by the National Park Service, 8,000 acres managed by the Department of the U.S. Army Corps of Engineers, and 7,000 acres managed by the U.S. Fish and Wildlife Service.

*Private Hunting Lands*

The state's public hunting area system includes approximately 390,000 acres which are privately-owned, including about 200,000 acres owned by private timber and land companies including Plum Creek, St. Joe, Foley Land and Timber, and Rayonier, and about 190,000 acres owned by the Miccosukee Tribe of Indians.

## Concerns Regarding Loss of Public Access to Hunting Lands

According to the FWCC, there is concern among several FWCC stakeholder groups and hunters in general that lands currently open for public hunting are facing pressures (such as development, re-development, and urban encroachment), that may result in the loss of public access for hunting.[1]

A survey of Florida hunters conducted by FWCC in the spring of 2005 reflected strong concern about the loss of hunting opportunities and places to hunt. The main concern expressed by people surveyed who hunt on public lands, as reported by FWCC, was that these hunting lands are too crowded.[2]

According to FWCC, a factor that contributes to these concerns and the perception that public hunting lands are declining is the trend in recent years of privately-owned lands being withdrawn from the state's public hunting area system. Since the year 2000, approximately 315,000 acres of privately-owned land have been withdrawn from the public hunting area system and closed to public access. Most of this land has remained open for hunting under a private hunting lease program where the landowner can generate much higher revenues than is possible under the public hunting area system. The private hunting lease system is driven by demand and the market for quality hunting opportunities and is entirely a private sector activity.[3]

While privately–owned lands in the state's public hunting area system have declined significantly in recent years, the amount of state-owned land in the state's public hunting area system has increased. Since the year 2000, 10 new public hunting areas comprising about 200,000 acres have been established and added to the system. During the same period, approximately 250,000 acres of land have been acquired and added to existing public hunting areas across the state.[4]

According to a 2003 national survey report by Responsive Management conducted for a national organization called the Conservation Fund, Florida ranked 2nd in the nation in the percentage of lands leased for public hunting by the state and 9th in the nation in the total acres of state-owned hunting lands. In that same report, Florida ranked 40th in the nation in the percent of state-controlled hunting land that is owned by the state and 4th in the nation in the amount of leased state hunting land. When asked by the surveyors what percent of state-controlled land that FWCC anticipates will be available for hunting in five years, Florida (along with 24 other states) was ranked #1. As part of the survey, all the states were asked to rate themselves on a scale of 1 (poor) to 10 (excellent) on the geographical distribution of their hunting acres through out the state, the accessibility of the hunting acres, and the quality of the hunting acres. Florida rated these issues 5.80, 7.00, and 6.80 respectively.

## National Efforts on No-Net-Loss Hunting Land Laws

HB 265 is similar to legislation being introduced (and in a few states passed) as part of a proposal by the National Rifle Association's Institute for Legislative Action (NRA-ILA) and other hunting organizations. In a publication by the NRA-ILA, entitled "Will Darkness Fall on the Land?", bills similar to HB 265 have been filed in several states. No-net-loss hunting land legislation has passed in Illinois, Georgia, and Maryland, with Pennsylvania, Oregon, and Florida having such bills introduced.

In addition, legislation (Senate Bill 1522 – introduced July 28, 2005) has been filed at the federal level which requires that federal public land management decisions and action, should, to the maximum extent practicable, result in no net loss of land area available for hunting opportunities on federal public land. The bill would also require each federal agency with authority to manage federal public land on which recreational hunting occurs to submit to certain congressional committees a report describing any federal public land that was closed to hunting at any time during the preceding year, the reason for the closure, and which land was opened to hunting to compensate for the closure of other hunting land.

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[1] Personal communication with FWCC staff.
[2] Id.
[3] Id.
[4] Id.

**Effects of Proposed Changes**

The bill specifies that land management decisions and actions, including decisions made by private owners to close hunting land managed by the FWCC, shall not result in any net loss of habitat land acreage available for hunting opportunities on FWCC-managed lands that exists on the effective date of the bill. The bill also requires FWCC to expeditiously find replacement acreage for hunting to compensate for the closures of any existing hunting land.

The bill directs FWCC, other state agencies, and water management districts to maintain lands open for public hunting at current acreage levels and to replace any lands that are removed from public hunting.

The bill specifies that other state agencies and water management districts "shall assist, coordinate and cooperate with the Commission to allow hunting" if their lands are "determined by the Commission to be suitable for hunting." The bill also requires these agencies and water management districts to "cooperate with the Commission to open new, additional hunting lands to replace lost hunting acreage."

The bill requires FWCC to submit annual reports to the Legislature regarding lands closed to hunting and how the loss of such lands is compensated by opening replacement lands. The bill also requires other agencies and water management districts to submit annual reports by October 1st to the Commission and the Legislature regarding lands open for public hunting, lands not open for public hunting, and the location of these lands by county.

C. SECTION DIRECTORY

**Section 1:** Creates s. 372.0025, F.S., provides definitions; requires certain lands owned, managed, or leased by the Fish and Wildlife Conservation Commission to be used for hunting; requires the Commission to provide comparable acreage for hunting for any loss of existing hunting lands; requires agencies and water management districts to allow certain lands to be used for hunting; and requires the Commission to submit annual reports to the Legislature and for agencies and water management districts to submit annual reports to the Commission.

**Section 2:** Provides an effective date of upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate. See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There would be no fiscal impact or burden on private landowners who choose to remove their lands from the public hunting area system.

There are significant fiscal benefits for the private sector associated with maintaining lands open for public hunting. Public hunting lands have significant positive economic impacts on communities around public hunting areas, particularly in rural areas. Economic impacts are associated with the purchase of hunting supplies, camping supplies, lodging, vehicles, and fuel. Fiscal impacts, however, vary highly depending on the location of the area, size of the area, number of hunters using the area, and type of hunting among other factors.

D. FISCAL COMMENTS:

According to FWCC, estimates of the fiscal impacts HB 265 are unknown since any fiscal impact would vary greatly depending on how much acreage is lost to public hunting and what approach is necessary to replace the lost acreage. FWCC notes that the recent 5-year trend in the loss and gain of lands for public hunting indicates that more lands have been gained than lost due to state land acquisition programs adding lands to the public hunting area system. This trend is expected to continue in the near term, and would minimize any fiscal impact associated with HB 265.[5]

However, if significant hunting acreage is lost during a given year, FWCC would have to identify and open new lands for public hunting "expeditiously". Any fiscal impact would depend on comparing the cost of FWCC managing the lands that are lost from public hunting with the cost of managing new "replacement" lands that would be opened for public hunting.

For example, if it cost $5 per acre per year to manage a property that is removed from the public hunting area system, and it cost $10 per acre per year to manage the replacement property, the realized recurring fiscal impact would be an increased management cost of $5 per acre per year.

To make this assessment, FWCC has identified a number of factors which affect the costs of providing public hunting opportunities. According to FWCC, these costs may vary greatly depending on several factors. For example, the cost of providing public hunting is lower on properties that have suitable infrastructure (e.g., roads, fences, camp grounds, and check stations) compared to properties where this infrastructure must be developed. Another factor is the required level of habitat management (e.g., prescribed burning, mowing, and food plantings) and game population management (e.g., animal population surveys, harvest monitoring, and development of regulations).

Costs are higher if extensive habitat management or game population management is required for FWCC to maintain public hunting. Also, the intensity of public use is an important factor in the cost of providing public hunting. Management costs are lower on properties that are open for public hunting to a limited number of people on a limited basis such as a few weeks, compared to properties open to a large number of people for several months. Due to these varying factors, FWCC estimates that the cost of managing public hunting land can range from less than $1 per acre per year to over $30 per acre per year.

According to FWCC, there are three basic options for replacing lost hunting lands. These options are:

- FWCC coordinating with other governmental (state and federal) agencies to identify any publicly-owned lands that are not currently open for public hunting and are suitable for opening. The feasibility of this option may rely heavily on the availability of additional funding to cover the costs of providing public hunting opportunities on new cooperative public hunting areas. The cost of providing public hunting on lands where other agencies are cooperating with FWCC generally ranges between about $1 per acre per year to about $10 per acre per year.

- FWCC pursuing state acquisition of new lands through the Florida Forever program or a successor program. In the past 5 years, about 450,000 acres or about 90,000 acres per year have been

[5] Id.

purchased by the state and added to the public hunting area system. Given the current real estate market and the cost of land, this rate of acquisition is likely to slow down. The fiscal impacts of this option on FWCC would include any acquisition costs where FWCC uses In-holdings and Additions funds (currently $4.5 million annually from Florida Forever) to acquire additions to the public hunting area system. Under this option, FWCC would be the lead agency manager. Currently, the non-recurring startup costs for opening such lands for public hunting are approximately $30 per acre depending on the need for infrastructure such as roads and check stations to facilitate public hunting. The current recurring costs, including the cost of all land management activities, are approximately $30 per acre. Land management funding is allocated to FWCC for new lands acquired through the Florida Forever Program, but funding levels vary from year-to-year and according to FWCC, costs are increasing for the management for such lands.

- FWCC leasing privately-owned lands for public hunting through its recreational user permit (user pay) program pursuant to s. 372.57(8)(i)1, F.S. Under the user pay program, the FWCC leases privately-owned lands for public hunting by establishing direct user permit fees, selling the permits, and then transferring the resulting revenues to the landowner. The FWCC works with the landowner to set hunter quotas and user fees at levels that will generate a desired level of lease revenue for the landowner and provide suitable hunting opportunities for the public. Under this program, the landowner is responsible for managing the land and providing adequate infrastructure for public hunting. There are currently about 200,000 acres of land in the user pay program. The landowners currently in this program have worked with the FWCC to keep these hunting opportunities affordable for the public. According to FWCC, this program has slowed the loss of private lands from the public hunting areas system, but has not stopped the loss. Also, this option is not attractive to many private landowners primarily because they can get higher revenues from private hunting leases without involving the FWCC and without allowing public access to their lands. The current average lease rate for private lands in the user pay program is about $3 per acre per year. The current market value for private hunting leases can range from about $4 to $15 per acre per year depending on the location in the state, proximity to urban areas, and management history of the property among other things.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds. Nor does the bill reduce the authority that cities or counties have to raise revenues in the aggregate or reduce the percentage of a state tax shared with cities or counties.

2. Other:

When a legislative act requires FWCC action on the subject of fish or wildlife, there are potential legal implications as to whether such action conflicts with Article IV, Section 9, Florida Constitution that gives the Commission "...regulatory and executive powers of the state with respect to wild animal life...". However, that section of the Constitution also allows legislative acts which are "...in aid of the Commission, not inconsistent with..."

The bill states that "Commission-managed lands shall be open to access and use for hunting..." It does not appear that the objectives of the bill are inconsistent with the Commission's authority to regulate and manage hunting because the bill also has conditional language that allows the Commission to limit hunting when necessary for public safety, fish and wildlife management, homeland security or as otherwise limited by law. According to FWCC, this conditional language is worded broadly enough to allow the Commission adequate flexibility to decide where to allow hunting.

The provision in the bill that requires a no net loss of land for hunting may pose a potential conflict with Article IV, Section 9. It requires FWCC to maintain a minimum amount of state acreage for hunting, without consideration for game resources or factors beyond the control of FWCC, such as development and urban encroachment and the extent to which other agencies or water management districts are capable of or willing to open up land for hunting. According to FWCC, the primary legal concerns could be removed if the "shall" standard was changed to a permissive standard.

B. RULE-MAKING AUTHORITY:

Although not specified for in the bill, FWCC believes that the bill would potentially require rule-making by FWCC to establish and adopt regulations to allow public hunting on lands that are not currently open for hunting, but would be added to replace lands removed from public hunting.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments were provided by the FWCC:[6]

There could be limited opportunities for replacing acreage that may be removed from FWCC's public hunting area system. Approximately 80% of the acreage in the state's public hunting area system is not directly owned or managed by the FWCC. Such lands are referred to as "cooperator" lands where the FWCC administers public hunting on the property in cooperation with another state agency or landowner. The bill would place most of the responsibility for maintaining and replacing hunting lands on the FWCC, yet FWCC does not hold management or final decision-making authority for a majority of these lands.

At the present time, all lands suitable for public hunting under FWCC ownership or management are open for public hunting. To replace lost acreage, FWCC would need to either: locate lands managed by other agencies that are not currently open for public hunting and seek willingness from the agency to open such lands for hunting of those lands; identify potential hunting lands that are privately-owned and which could be leased through the FWCC's recreational user permit program pursuant to s. 372.57(8)(i)1, F.S., or pursue state acquisition of acreage to replace lost public hunting lands.

FWCC has worked with and will continue to work with other governmental agencies and private landowners to identify potential hunting lands for the public. This type of cooperation is currently occurring in many cases, but the bill would provide a statutory basis and direction for FWCC to make the determination regarding the suitability for public hunting on all state-owned lands.

There is currently no dedicated funding source for leasing additional private lands for public hunting, particularly at current market rates for leasing hunting lands.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[6] Id.

1 A bill to be entitled
2 An act relating to hunting lands; creating s. 372.0025,
3 F.S.; providing definitions; requiring certain lands
4 owned, managed, or leased by the Fish and Wildlife
5 Conservation Commission to be used for the purpose of
6 hunting; requiring the commission to support, promote, and
7 enhance hunting opportunities; requiring the commission to
8 provide comparable acreage for any loss of existing
9 hunting lands; requiring agencies and water management
10 districts to allow certain lands to be used for the
11 purpose of hunting; requiring annual reports to the
12 commission and Legislature; providing an effective date.
13
14 WHEREAS, section 372.002, Florida Statutes, protects the
15 right of citizens of this state to hunt, and
16 WHEREAS, access and availability of hunting lands is
17 essential to the exercise of that right, NOW, THEREFORE,
18
19 Be It Enacted by the Legislature of the State of Florida:
20
21 Section 1. Section 372.0025, Florida Statutes, is created
22 to read:
23 372.0025 No net loss of hunting lands.--
24 (1) As used in this section, the term:
25 (a) "Commission" means the Fish and Wildlife Conservation
26 Commission.
27 (b) "Commission-managed lands" means those lands owned by
28 the commission, those lands owned by the state over which the

29 commission holds management authority, or those privately owned
30 lands that are leased or managed by the commission.
31 (c) "Hunting" means the lawful pursuit, trapping,
32 shooting, capture, collection, or killing of wildlife or the
33 lawful attempt to pursue, trap, shoot, capture, collect, or kill
34 wildlife.
35 (2) Commission-managed lands shall be open to access and
36 use for hunting except as limited by the commission for reasons
37 of public safety, fish or wildlife management, or homeland
38 security or as otherwise limited by law.
39 (3) The commission, in exercising its authority under the
40 State Constitution and statutes, shall exercise its authority,
41 consistent with subsection (2), in a manner that supports,
42 promotes, and enhances hunting opportunities to the extent
43 authorized by state law.
44 (4) Commission land management decisions and actions,
45 including decisions made by private owners to close hunting land
46 managed by the commission, shall not result in any net loss of
47 habitat land acreage available for hunting opportunities on
48 commission-managed lands that exists on the effective date of
49 this act. The commission shall expeditiously find replacement
50 acreage for hunting to compensate for closures of any existing
51 hunting land.
52 (5) Any agency or water management district that owns or
53 manages state lands shall assist and coordinate and cooperate
54 with the commission to allow hunting on such lands if such lands
55 are determined by the commission to be suitable for hunting. To
56 ensure no net loss of land acreage available for hunting,

57 agencies and water management districts shall cooperate with the
58 commission to open new, additional hunting lands to replace lost
59 hunting acreage.
60 (6) By October 1 of each year, the executive director of
61 the commission shall submit to the Legislature a written report
62 describing:
63 (a) The acreage managed by the commission that was closed
64 to hunting during the previous fiscal year and the reasons for
65 the closures.
66 (b) The acreage managed by the commission that was opened
67 to hunting to compensate for closures of existing land pursuant
68 to subsection (4).
69 (7) By October 1 of each year, any agency or water
70 management district that owns or manages state lands shall
71 submit a written report to the commission and the Legislature
72 that includes:
73 (a) A list of properties that were open for hunting during
74 the previous fiscal year.
75 (b) A list of properties that were not open for hunting
76 during the previous fiscal year.
77 (c) The acreage for each property and the county where
78 each property is located.
79 Section 2. This act shall take effect upon becoming a law.