



# Constitutionally Mandated Land Purchases: A Flawed Approach to Environmental Protection

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## Abstract

*Signatures are currently being gathered to put a constitutional amendment on the 2014 ballot that would allocate a third of Florida's documentary stamp revenues to acquire and restore conservation and recreation lands. The amendment, however, would create a costly and inefficient procedure for protecting Florida's environmental amenities by requiring an unknown amount of money to be spent on conservation lands without any mechanism to evaluate the costs and benefits of the expenditures. The amendment would also divert money from general revenues and away from other programs that benefit all Floridians. State and local governments already own more than a quarter of Florida's land area, and even more of Florida's land is managed through various conservation programs. Moreover, the state currently faces challenges managing the conservation lands that are currently under its control. Mandating the purchase of more land will only enhance those challenges, raising serious questions about whether this is the best way to protect Florida's environmental amenities. Instead, the state should consider an alternative approach that identifies and targets those environmental and land use amenities that should be protected as a matter of state priority and implement an incremental approach to preserving those lands.*

An amendment to Florida's Constitution that would mandate that one-third of the revenues collected from documentary stamp taxes be used to purchase and maintain conservation lands has been proposed by an organization named Florida's Water and Land Legacy, Inc. The organization is now in the process of collecting signatures to place the amendment on the 2014 ballot. The proposed amendment has the title, "Water and Land Conservation – Dedicates funds to acquire and restore conservation and recreation lands." Few Floridians are opposed to conserving and restoring Florida's environmental amenities, but Floridians should be

opposed to this amendment. The proposed amendment would implement a costly and inefficient process for environmental preservation.

## High Costs & Uncertain Benefits

The proposed amendment would dedicate a fixed percentage of Florida's documentary stamp tax (doc stamp) to land preservation and conservation. In 2012, doc stamp revenues were \$1.6 billion, down from a high of \$4 billion in 2005. The collapse of Florida's real estate market had an obvious effect on doc stamp revenues, but even at the present level one-third of those revenues would raise

more than \$500 million a year. If the real estate market recovers to levels seen in the last decade, or has another boom, those revenues could easily exceed \$1 billion a year.

Currently, most doc stamp revenues go into the state's general operating budget, so revenues mandated to go into this new trust fund would take away from revenues now used for other state purposes. Thus, there is a clear cost to this amendment because it would divert funds away from other programs and toward an earmarked land preservation program.

Moreover, by mandating a fixed percentage of doc stamp funds go into the trust fund, there is no upper bound on the amount that might be allocated. The Constitution would mandate this expenditure, regardless of the quality of environmental resources that might be acquired or protected. Every Floridian wants to protect the state's natural amenities, but to do so by mandating that an uncertain amount be allocated for this purpose opens the door to the possibility of inefficient and inappropriate purchases. Short of amending the Constitution again, Floridians would not be able to decide that the amount allocated for this purpose is excessive, and because of the nature of the proposed mandate, nobody can know ahead of time how much money that mandate will represent.

The amendment does not identify which lands would be purchased or conserved, and there is no way to know ahead of time what purchases might make the most sense in a decade or two. In effect, the amendment writes a blank check for a program even though the benefits of the expenditures cannot be evaluated, and this is poor public policy.

## **Alternative Approaches to Land Preservation**

Environmental preservation is a worthy objective, and government ownership is one way to further that goal. Still, it is reasonable to question how much government ownership is desirable to further this goal. According to the *2010-2011 Florida Public Lands Inventory*, federal, state, and local governments own 9.7 million acres in the state, or 28 percent of Florida's total land area.<sup>1</sup> The state owns about a third of that land (3.3 million acres) and special districts own almost a quarter (2.4 million acres).

An even greater share of Florida's land area is being preserved in other ways, such as through conservation easements. According to the Florida Department of Environmental Protection, 9.9 million acres are managed for conservation in Florida.<sup>2</sup>

How much more in total land area should Floridians set aside for conservation? This is a core policy question that should inform land preservation policies, but the amendment sidesteps this question entirely.

A reasonable way to go about environmental preservation purchases is to identify critical parcels that the state has an interest in preserving, and then pursue preservation either through purchases or through other methods such as conservation easements. The focus should be on identifying and preserving important environmental amenities.

In contrast, the proposed constitutional amendment would appropriate money for preservation independently of any procedure for identifying what land might be worth preserving. The money would be allocated and spent regardless of the merit of the

purchases. While there may be additional critical parcels that should be preserved, there is no good argument that responsible environmental stewardship requires government to own more than a quarter of Florida's land area as it already does.

Alternatively, the state could acquire environmentally sensitive lands by selling off other properties it already owns that are not so environmentally sensitive or valuable. The goal of environmental preservation might be better accomplished if government owned less land but managed it more wisely. Locking the state into a fixed (but presently unknown) level of expenditures is fiscally irresponsible.

## **The Need for Efficient Public Land Management**

This points to the related issue of the ability of the state to maintain and preserve the land that it owns. A 2009 study published by the James Madison Institute documents problems the state currently has maintaining and preserving its conservation lands.<sup>3</sup> It would be irresponsible for the state to purchase additional conservation lands when it is already strained taking care of the land it presently owns.

Another issue with state purchases in general is that whether the land is purchased directly or rights are purchased through an easement, the land tends to remain under state ownership. While the state might divest itself of some land holdings, there are strong interests who oppose any divesting. In some cases, such as perpetual conservation easements, changing the conservation status of land may be difficult if not impossible.

While the idea of perpetual preservation is what many proponents of the amendment

have in mind, perpetuity is a long time and policy goals change over time. A century ago, Florida's policy was to drain swamps to rid them of mosquitos and other pests, and allow the land to be used for agriculture or urban development. Today those swamps have become wetlands and are considered valuable. Not only does current policy not drain them, the state wants to create more of them. It is easy to say we were wrong a century ago and have the correct policy today, but how confident can we be that if the best use of a parcel of land today is to conserve it, that will also be true a century from now, or 1,000 years from now?

Environmental organizations like the Nature Conservancy and the Audubon Society buy land for conservation purposes, but they also sell land when the money they get from sales can be better used for conservation purchases elsewhere. This is rarely true for government-owned land, because unlike environmental organizations, revenue from the sale of government land is not necessarily directed toward other environmental preservation projects. Therefore, environmental interests oppose any divestiture. So, land may remain locked up and undevelopable regardless of how policy goals change.

## **Policy Implications**

Floridians strongly favor preservation of the state's natural amenities, but the proposed constitutional amendment to allocate a third of documentary stamp revenues to that purpose is irresponsible public policy. The revenues would be allocated without any assessment of the costs and benefits, taking away money from Florida's general fund for environmental purchases that may be ineffective in preserving the environment. There is no way to know whether the expenditures

would be cost effective, because the amount of revenues that would be generated is unknown and depends on the value of future real-estate transactions, and because there is no way to forecast the environmental value of the land that would be purchased under the program.

More than a quarter of Florida's land area is owned by government, and more than a quarter of the state's land is being managed for conservation in one way or another. The state currently has difficulty maintaining and protecting the conservation lands it already owns. The proposed amendment promotes more state ownership of land irrespective of the public benefits and costs, rather than targeting environmental amenities that deserve protection. A more responsible conservation policy would target environmental amenities that should be protected, rather than instituting a program for the govern-

ment to simply buy up even more land. Buying more land as the amendment proposes is not a responsible or effective way to protect Florida's valuable environmental resources.

## Endnotes

<sup>1</sup> Florida Department of Environmental Protection, *2010-2011 Florida Public Lands Inventory*, Florida Resources and Environmental Analysis Center, Public Lands Research Program, Florida State University, February 2011, <http://www.floridpli.net>, last accessed January 8, 2014.

<sup>2</sup> Florida Forever, [http://www.dep.state.fl.us/lands/fl\\_forever.htm](http://www.dep.state.fl.us/lands/fl_forever.htm), last accessed January 8, 2014.

<sup>3</sup> Randall G. Holcombe, "Creating a Public/Private Partnership for Florida's Conservation Land Management," *Backgrounder No. 59*, The James Madison Institute, March 2009, <http://www.jamesmadison.org/pdf/materials/668.pdf>, last accessed January 8, 2014.

## About the Author

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