

**Item 8.d.
News Articles**

Amendment 1 Lawsuit Filed: Legislature Must Defend Its 'Land' Rationale

By NANCY SMITH

June 22, 2015 - 6:30pm

Insisting the Legislature has ignored Florida voters, environmental litigator Earthjustice filed suit Monday to compel lawmakers to comply with Amendment 1, Water and Land Legacy, in the state Constitution.

The suit (see attached document below) was filed in Leon County Circuit Court on behalf of the Florida Wildlife Federation, the St. Johns Riverkeeper, and the Environmental Confederation of Southwest Florida.

"The Legislature did not do what the amendment requires," said Manly Fuller, president of Florida Wildlife Federation. "Seventy-five percent of Florida voters approved this amendment last November, and they were clear that they want the state to buy conservation land. Instead, the Legislature took the money and used it for things it should not be spent on. This is a slap in the face to Florida voters, and it should not stand."

Fuller, with Earthjustice attorney David Guest and St. Johns Riverkeeper Lisa Rinaman, spoke with the press in a telephone conference after the suit was filed.

"The constitutional amendment is clear" said Guest. "A third of the tax on real estate deals is to be used to prevent every last inch of Florida land from getting chewed up by development. But most lawmakers are simply not listening. That's why we have to go to court."

Asked why the lawsuit was filed ahead of the governor's signature, Guest said the defendant is the Legislature, not the governor.

He said getting a temporary injunction was a consideration, but to do that, the plaintiffs would have to put up a bond in the tens of millions of dollars.

Guest emphasized that the lawsuit doesn't specify what lands should be bought or where. "We're not saying this is what you have to do, we're saying this is what you can't do," he said.

"We want the courts to identify what's permissible." The amendment is about management of qualifying lands, Guest said, not, for example, about maintenance of state forests, which were never part of the amendment. "There's tens of millions of dollars in salaries for the Department of Forestry (taken from Amendment 1 money)."

The Water and Land Conservation Amendment requires that, for the next 20 years, 33 percent of the proceeds from real estate documentary-stamp taxes go for land acquisition. For the upcoming year, the share of the real-estate tax is projected to bring in more than \$740 million.

"It's sad that a positive groundswell of popular support for conserving Florida's best places has come to this," said Rinaman. "It's a shame we have to go to court to force legislators to do what their constituents directed."

Becky Ayech of the Environmental Confederation of Southwest Florida did not participate in the conference call, but said this in a prepared release: "As a citizen who has worked her whole life to save what's left of our beautiful state, I was so happy to see Florida voters pass the Water and Land Conservation Amendment last fall by such a huge margin. And now, to see that victory get wrecked by a political bait-and-switch leaves me and so many other people outraged. We need the legal system to set this right."

In a statement issued Monday night, House Speaker Steve Crisafulli said, "The fact that the Legislature received news of the lawsuit from the media reveals much about the plaintiffs' motivation. The Legislature complied with both the spirit and the letter of the Constitution, and we look forward to defending against this politically motivated lawsuit."

According to the office of Senate President Andy Gardiner, these were the major environmental "issues" funded from the Land Acquisition Trust Fund (\$748.2 million) and other revenue sources and included in the budget sent to Gov. Rick Scott on Friday:

- Springs Protection – \$50 million (\$43.6 million LATF and \$6.4 million GR).
- Land Management Funding Increase \$77.4 million (\$1.8m GR, \$67.8m LATF and \$7.8m from other TF sources).
- Everglades Restoration \$81.8 million (\$22.9 million GR; \$58.9 million LATF).
- Beaches \$32.1 million (\$25 million LATF and \$7.1 million GR). State funds will leverage over \$100 million in local and federal funds.
- Land Acquisition \$55 million. This includes \$20 million for the Kissimmee River, \$32.4 million for Florida Forever programs, of that \$15 million for Rural and Family Lands, and \$2.6 million for other land purchases.
- Local Parks/FRDAP \$6 million.
- \$93.4 million for the Drinking Water and Wastewater Revolving Loan programs. State funds match federal funds, \$1 to \$5.
- Small County Wastewater grant program \$16 million; and

- Water Projects \$73.3 million (requests totaled over \$750 million).

The amendment did not provide new or additional revenue. Existing environmental programs were included with Amendment 1 documentary stamp tax revenue. Approximately 21 percent of current documentary stamp revenue supports environmental programs, and these expenditures were continued, according to the Senate president's office.

The constitutional amendment directed 33 percent to LATF. The General Revenue Fund, the fund that supports Florida's school system, health care, and other state needs was reduced \$174 million with implementation of Amendment 1.

Existing environmental programs supported from a documentary total \$482.4 million (\$473.2 million in the General Government Subcommittee programs and \$9.2 million for Historical Resources in the TED subcommittee). This is for existing debt obligations, almost \$200 million, and program base operations, such as Invasive Plant Control, Land Management (support for the State Park system, Forestry in the Department of Agriculture, Wildlife Management Areas and Lake Restoration in the Fish and Wildlife Commission), and Water Resource protection programs in DEP, Springs protection, Everglades, and the establishment of Total Maximum Daily Loads and Minimum Flows and Levels that protect water quality and quantity.

According to a memorandum dated May 13, 2013, from Florida's Water & Land Legacy, the amendment sponsors said they "see no legal reason why these dedicated revenues could not be used to fund" these purposes.

- See more at: http://www.sunshinestatenews.com/story/amendment-1-lawsuit-filed-legislature-must-defend-its-land-rationale?utm_source=Constant%20Contact&utm_medium=email&utm_campaign=Morning%20Lead&utm_source=June+23%2C+2015&utm_campaign=Morning+Lead+3%2F19&utm_medium=email#sthash.yn8woxbr.dpuf

Reach Nancy Smith at nsmith@sunshinestatenews.com or at 228-282-2423. Twitter: @NancyLBSmith

Subject: Fwd: TB Times: Environmentalists sue state over Amendment 1 conservation spending
From: Diane Salz <disalz@yahoo.com>
Date: Mon, Jun 22, 2015 4:38 pm
To: Nancy Smith <nsmith@wrwsa.org>, Richard Owen <richardowen@wrwsa.org>

Sent from my iPhone

Begin forwarded message:

From: Ryan Duffy <Ryan.Duffy@hkstrategies.com>
Date: June 22, 2015 at 4:33:41 PM EDT
To: Ryan Duffy <Ryan.Duffy@hkstrategies.com>
Subject: TB Times: Environmentalists sue state over Amendment 1 conservation spending

<http://www.tampabay.com/blogs/the-buzz-florida-politics/environmentalists-sue-state-over-amendment-1-conservation-spending/2234637>

Environmentalists sue state over Amendment 1 conservation spending

By Michael Auslen
Tampa Bay Times
June 22, 2015

Environmental group Earthjustice is suing the Florida Legislature and its leaders over their budget's use of money set aside for conservation by Amendment 1.

The lawsuit filed in Leon County on Monday against Senate President Andy Gardiner and House Speaker Steve Crisafulli alleges that almost half of the Amendment 1 money in the budget is being used for purposes that aren't permitted under state law.

"The Legislature did not do what the amendment requires," Florida Wildlife Federation president Manley Fuller said in a statement. "Seventy-five percent of Florida voters approved this amendment last November, and they were clear that they want the state to buy conservation land. Instead, the Legislature took the money and used it for things it should not be spent on. This is a slap in the face to Florida voters, and it should not stand."

The issue has drawn significant controversy since 75 percent of voters supported Amendment 1 last November. The amendment directs more than \$700 million to be spent on conservation.

The lawsuit was filed on behalf of the Florida Wildlife Federation, the St. Johns Riverkeeper, and the Environmental Confederation of Southwest Florida.

Subject: Fwd: H2O Coalition Clips, 6/22/15

From: Diane Salz <disalz@yahoo.com>

Date: Mon, Jun 22, 2015 11:53 am

To: Nancy Smith <nsmith@wrwsa.org>, Richard Owen <richardowen@wrwsa.org>

Sent from my iPhone

Begin forwarded message:

From: Ryan Duffy <Ryan.Duffy@hkstrategies.com>

Date: June 22, 2015 at 11:25:37 AM EDT

To: Ryan Duffy <Ryan.Duffy@hkstrategies.com>

Subject: H2O Coalition Clips, 6/22/15

<http://www.orlandosentinel.com/opinion/os-ed-water-land-funds-alan-hays-062115-20150619-story.html>

Column: State budget exceeds Amendment 1's requirements

By Alan Hays
Orlando Sentinel
June 21, 2015

In November 2014, 4.2 million Floridians, roughly 20 percent, or one in five of the nearly 20 million people who call our state home, voted in favor of the Water and Land Conservation Amendment (Amendment 1).

As stated in the ballot summary, the amendment dedicates 33 percent of documentary-stamp tax revenue to "acquire, restore, improve and manage conservation lands including wetlands and forests; fish and wildlife habitat; lands protecting water resources and drinking water sources, including the Everglades, and the water quality of rivers, lakes, and streams; beaches and shores; outdoor recreational lands; working farms and ranches; and historic or geologic sites," for 20 years.

The Legislature has worked diligently to implement this amendment, which will set aside \$741.8 million from existing revenue this year. It is projected to generate \$22.3 billion over the next 20 years.

The good news is the Legislature did not wait for the passage of Amendment 1 to renew its dedication to funding Florida's environment; nor did we limit funding for this purpose to the mandatory \$741.8 million.

Recovering from a recession that impacted every area of the budget, the Legislature last year appropriated well more than \$3 billion in funding for environmental programs, dedicating approximately 21 percent of documentary-stamp revenue as well as general revenue, federal grants and other state funds to conserve, protect and enhance the natural resources we Floridians treasure.

This tremendous level of funding demonstrates the long-term and broad-based commitment to conservation by our local, state and federal governments that has led to the purchase of more than 10 million total government-owned acres across Florida, a commitment clearly reflected in the balanced budget the Legislature passed on Friday.

The 2015-16 budget provides substantial funding for land acquisition, springs protection, recreational trails and restoration of the Everglades. The budget provides nearly \$200 million to pay for existing debt the state owes within Florida Forever, the Everglades and the Florida Keys. In addition to dedicating more than \$50 million toward the purchase of even more conservation land, the budget dedicates hundreds of millions to improve the management of and expand public access to lands the taxpayers already own.

We also dedicated tens of millions to nourish Florida's beaches, restore our lakes and protect rural and family lands from development. We set aside funds to protect endangered plants and to mitigate the harm caused by invasive species that threaten various habitats across Florida. We also allocated significant funding to improve the quality of our water resources.

As you can see, there is a whole lot more to being a conservationist than acquiring property.

And while the proponents of Amendment 1 would now like us to believe their purpose was to require the state to purchase more land, the ballot language above clearly shows there is no requirement to spend a specific portion solely on land acquisition. Neither does the language indicate the entire sum is to be used for new purchases.

Rather, the actual text of the amendment recognizes the broader responsibility in protecting and improving the state's natural resources. In fact, arguing in favor of Amendment 1 before its passage, proponents contended the amendment would not require cuts to other programs or increases in revenues since nothing in the amendment prevented the use of funds for existing programs, including operating expenses.

Some have compared Amendment 1 funding for the environment to the Florida Lottery funding dedicated to education. Let's be clear: The lottery generated new funding for the state. Amendment 1 does not generate any new funding. Rather, it mandates the allocation of an existing revenue stream now be set aside to fund environmental purposes. Currently, about 21 percent of doc-stamp revenue supports environmental programs, and these expenditures were continued. Amendment 1 required an increase to 33 percent, so the general revenue fund that supports our school system, health care and other state needs was reduced by \$174 million to implement the amendment.

Addressing Florida's environmental needs is a marathon, not a sprint. Our budget not only meets, but by every measure exceeds the requirements of Amendment 1, which, unlike the current rhetoric, recognizes that being good stewards of Florida's natural beauty means more than simply buying land.

Sen. Alan Hays represents District 11, which consists of parts of Lake, Marion, Orange and Sumter counties. He has served the last three terms as chair of the Senate Appropriations Subcommittee on General Government, which includes agriculture and natural resources.

<http://www.ocala.com/article/20150620/ARTICLES/150629997?Title=Unhappy-Amendment-1-backers-mull-their-next-move>

Unhappy Amendment 1 backers mull their next move

By Christopher Curry
Ocala Star-Banner
June 20, 2015

Some of driving forces behind Amendment 1 say the Legislature played the lottery and land conservation lost.

The political committee and others behind the water and land conservation constitutional amendment that passed with 75 percent support in November are drawing parallels between how the budget that lawmakers passed Friday spends the approximately \$742 million set aside by the measure and how the Legislature spent money generated by the Lottery following the 1986 voter referendum that approved over-the counter gambling in Florida.

The lottery was sold to voters as a way to enhance education funding but the money generated was quickly used as a substitute for general fund dollars and other sources in building the state education budget.

Representatives of Florida's Water & Land Legacy, the political action committee with members from more than a dozen environmental groups that formed to push Amendment 1, say the lawmakers are following that route again.

Aliki Moncrief with Florida's Water & Land Legacy estimated that nearly \$230 million of the money that the amendment put into the state's land acquisition trust fund will be used as a substitute for general fund dollars and other sources to fund existing environmental programs' operating and administrative costs instead of going to restore the spending on land conservation purchases that dried up in the wake of the recession.

"Clearly that was not the intent," Alachua County Commissioner Robert "Hutch" Hutchinson, the former executive director of the Alachua Conservation Trust and an Amendment 1 backer, said of the Legislature's spending plan. "It's a Lottery switcharoo."

Leaders in the Legislature say they're spending the money legally and properly.

"There's not one word in the text of the amendment that prohibits land acquisition trust fund dollars from being spent on existing environmental programs that are otherwise eligible for funding under the amendment," House Agriculture & Natural Resources Subcommittee Chair Ben Albritton R-Bartow, said in prepared comments on the House floor Thursday. "If the amendment was intended to restrict the use of funds to new programs only, it could have been easily written to do so."

Eventually, a court may decide if the Legislature is following the letter of the law.

Moncrief said the Water 7 Land Legacy committee is keeping all options open at this point and has not ruled out a lawsuit or decided to pursue one.

What is certain right now is that Florida Forever – the state's signature conservation land purchasing program and the focal point of the political campaign to pass the amendment – will receive a pittance compared to salaries and personnel costs.

The 2015-16 budget puts \$15.1 million in Amendment 1 monies and a total of \$17.4 million into Florida Forever, a far cry from the \$300 million a year heyday backers sought to see return.

By comparison, a review of the line items in the budget showed more than \$145 million going toward the salaries and benefits of employees in departments including the Florida Forest Service, the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services and the Florida Geological Survey.

Of that total, \$40.55 million will go to salaries and benefits of employees in the Florida Forest Service, \$28 million to state parks employees' salaries and benefits and \$11 million for boating law enforcement employees in the FWC.

Money will also flow to risk management insurance, some vehicle replacements, million in miscellaneous program expenses and to pay the state Department of Management Services for handling human resources services. In his comments on the House floor, Albritton defended those spending decisions.

"Government programs cannot function without the people and resources necessary to implement them," he said. "We cannot manage our conservation lands without well-equipped land managers or improve water quality in our lakes and rivers without scientists and technicians who work in the field with the resources to get the job done. That's one reason Land Acquisition Trust Fund dollars are used to pay the salaries and other expenses necessary to implement environmental programs authorized by the amendment."

Albritton went on to say that Amendment 1 authorized spending in a broad series of areas, not just on the purchase of conservation land, and the Legislature was implementing the "letter and spirit" of the measure.

Moncrief said the intent was to restore funding for programs gutted in recent years, to enhance spending to protect environmentally sensitive lands, springs and other water resources and add to the state's system of nature parks.

"When voters passed Amendment 1, they were not directing the Legislature to change how they do environmental bookkeeping," she said.

The ballot language for Amendment 1 says the measure will for 20 years direct one-third of the money raised by the state document stamp tax on real estate transactions to the land acquisition trust fund "to acquire, restore, improve, and manage conservation lands including wetlands and forests; fish and wildlife habitat; lands protecting water resources and drinking water sources, including the Everglades, and the water quality of rivers, lakes, and streams; beaches and shores; outdoor recreational lands; working farms and ranches; and historic or geologic sites."

The text of the constitutional amendment itself says the money will go "to finance or refinance the acquisition and improvement of land, water areas, and related property interests" including: conservation easements, wetlands, forests, fish and wildlife habitat; wildlife management areas; lands that protect water resources, drinking water sources, rivers, lakes, streams and springsheds; lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area; beaches and shores; outdoor recreational lands such as recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; and historic or geologic sites.

The money could also go to pay off the debt on prior conservation land purchases – and there is \$191 million going toward that – and toward the "management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands."

Of the money Amendment One directed to the land acquisition trust fund, nearly \$59 million goes to the Everglades restoration, more than \$38 million goes to springs restoration, \$25 million to beach renourishment, \$20 million to state parks improvements and \$15 million to conservation easements.

There's also funding for some programs that springs groups in this area have questioned as ineffective or as an improper use of public springs protection money.

There's nearly \$22 million to help agricultural businesses implement best management practices to reduce water use and pollution from things like nitrates. Of that, \$5 million is targeted toward operations near springs.

About \$10 million will go toward the state's total maximum daily loads (TMDL) program that sets caps on pollution and clean-up targets for water bodies. Money will also go toward setting the minimum flows and levels on water bodies at a time when area springs advocates say the MFLs recently set for the Ichetucknee and Lower Santa Fe rivers do not sufficiently protect rivers already deemed to have a reduced flow.

State Rep. Keith Perry R-Gainesville, noted that the House had sought to put more monies toward land conservation purchases but some leaders in the Senate opposed the plan to do so by issuing bonds.

"In the end, as with a lot of bills, to get something passed, it is a compromise," Perry said. "With the budget, and with every issue, someone is not going to be happy. One thing I can say it is is constitutional."

State Sen Rob Bradley R Fleming Island, whose district includes Alachua County, had pushed during the regular session to increase the flow of Amendment One monies toward conservation land purchases. Bradley says he's pleased about the money going toward springs restoration but he wants to see funding increased for the 2016-17 budget year.

"This was a unique session and the debate over health care took up a lot of air," Bradley said. "I look forward to having a more robust discussion about Amendment One and long-term decisions on that money next session."

<http://www.tampabay.com/news/politics/stateroundup/talk-of-big-legislative-session-for-environment-proved-wrong/2234478>

Talk of big legislative session for environment proved wrong

By Michael Auslen
Tampa Bay Times
June 20, 2015

TALLAHASSEE — Before a bitter dispute over health care funding ground the Legislature to a halt, this was going to be the year for water issues and the environment.

Four million voters had just passed Amendment 1, directing money to conservation. The new House speaker considered water policy among his top priorities, and economists projected a budget surplus. Plus, lawmakers pledged to pass legislation they said would protect springs and boost environmental spending.

"As our economy continues to improve, there will be huge increases of spending on environmental issues," House Speaker Steve Crisafulli, R-Merritt Island, said in January as he announced his joint agenda with the Senate president.

That never happened.

No meaningful environmental policy made its way into law, and the budget approved Friday by lawmakers during a special session includes \$48 million less in environmental spending than they included last year.

"The environmental part of the session wasn't a bang — it was a whimper," said Eric Draper, executive director of the Florida Audubon Society. "It started out with big expectations and didn't produce."

Draper and other conservation advocates point to what they say are serious lapses in the Legislature's handling of environmental issues.

"On the whole, it's just clear there's a war on the environment in this state in terms of the attitude and the hostility," said Clay Henderson, an Orlando lawyer who helped write Amendment 1.

Among the victories environmental groups consider when looking back on both the regular and special session is that lawmakers made no harmful changes to state law. They say the failure of Crisafulli's signature water bill could be counted as a win because it would have done little to protect the environment.

Those same groups say lawmakers actively ignored the will of voters by budgeting too little of the \$772 million set aside by Amendment 1 for buying new conservation lands and too much for salaries and agency operations. Half the money from the amendment will be spent on existing programs previously funded elsewhere in the budget.

"There is no way you can read that amendment to pay for those salaries," Draper said.

Republican lawmakers responsible for writing the budget agree that the state should buy more land so it can be conserved. Senate Budget Chairman Tom Lee, R-Brandon, said that he expects activists to be underwhelmed by the numbers and that "we can do better."

But Lee and others have countered claims that they ignored voters' intentions, and they've said environmentalists' critiques are unfair.

"We cannot manage our conservation lands without well equipped land managers or improve quality in our lakes and rivers without scientists and technicians who work in the field with the resources they need to get the job done," said Rep. Ben Albritton, R-Wauchula, the House's agriculture budget chairman, on Thursday.

Another top House policymaker on water and the environment, Rep. Matt Caldwell, R-North Fort Myers, called out those who have accused legislators of violating the Constitution, saying the claims are "spurious" and "obnoxious."

"It is the same to me as if you came and accused me of adultery on my wife," he said. "I am afraid people have become far too flippant when making that charge."

There's a clear divide between environmental groups and the elected officials who set conservation policy, especially in the case of Amendment 1, which was supported by three-quarters of voters.

It's not partisan, said Will Abberger, chairman of the Amendment 1 sponsor committee, though the House and Senate are controlled by Republicans.

Rather, it's a disagreement that stretches back a long time. Henderson, the lawyer who helped write Amendment 1, said much of the state's cleanup efforts today are the result of bad policies as the state grew rapidly in the past few decades.

Among the most sought-after cash in the budget is just over \$70 million devoted to fixing sewers and drainage in communities across the state. It's more money than the amount earmarked to buy land. Henderson said the problem is a lack of planning for the kind of infrastructure required for Florida to grow as quickly as it did.

"For years, we've just developed this state on the cheap," he said.

The clamor over water project money perplexes Draper, who said lawmakers should instead be fighting for money to buy new land that can be turned into state parks and wildlife preserves.

"Why does a legislator want to be able to brag about getting a sewer line, but they can't brag about getting a park?" Draper asked. "Can you imagine the mayor of St. Petersburg or the mayor of Tampa, if they had the opportunity to have a new park, would they be running away from it?"

Despite the acrimony, there are some areas where environmentalists and legislators can find common ground:

- In the budget that's now awaiting approval from Gov. Rick Scott, lawmakers set aside about \$50 million to restore and clean the state's freshwater springs. An additional \$81.8 million will be spent on preserving the Everglades.
- A proposed statewide network of trails will get \$25 million, and \$32.1 million will be used to clean up and preserve beaches.
- Debate over Crisafulli's water policy has forced the issue of clean water into discussions in the Capitol.

Those are victories that even the most critical environmental activists have lauded as important steps forward for Florida's natural resources and protecting water quality.

More changes could be coming soon.

Even before the special session ended, both groups started looking toward next year's session, when some issues that got dumped overboard this year could resurface.

Senate President Andy Gardiner, R-Orlando, said he wants to bring back the water and springs legislation. He also hopes to create more oversight over land purchases. Lee said he expects more Amendment 1 money to be freed up with each year's budget cycle, which could mean more funds for land acquisition.

"We need to take the long-term view," Lee said. "I'm sure the Legislature is going to get there. ... I think we can and I think we will do better over time."

Contact Michael Auslen at mauslen@tampabay.com. Follow @MichaelAuslen.

<http://www.heraldtribune.com/article/20150622/COLUMNIST/150619572/2127?Title=Robert-Martineau-Amendment-1-doesn-t-require-Legislature-to-fund-land-acquisition&tc=ar>

Column: Amendment 1 doesn't require Legislature to fund land acquisition

By ROBERT J. MARTINEAU
Sarasota Herald-Tribune
June 22, 2015

Florida newspapers have been nearly unanimous in condemning the Legislature for failing to carry out the will of the voters as expressed in Amendment 1, adopted last November, by not spending substantial funds to purchase or restore land for conservation purposes. The Herald-Tribune has published three editorials, a guest column, articles and letters to the editor, all claiming that the Legislature is violating at least the spirit of Amendment 1 to the state Constitution, adopted last fall by 75 percent of Florida voters, by not funding land purchases and restoration.

The amendment's ballot title read: "Water and Land Conservation-Dedicates funds to acquire and restore Florida conservation and recreation lands." The summary that appeared on the ballot began by stating: "Funds the Land Acquisition Trust Fund to acquire, restore, improve, and manage conservation lands. ..." Both the summary and the amendment, however, list 14 different types of properties covered in addition to conservation lands, including beaches and shores, farms and ranches, and historic and geologic sites. Thus the amendment includes not only acquiring conservation lands but other types of properties. It also included, in addition to acquisition, the restoring, improving, and managing of these properties and "enhancement of public access or recreational enjoyment of conservation lands."

To fund all of these activities, the amendment dedicated at least 33 percent of revenue from the excise tax on legal documents to be paid into the existing Land Acquisition Trust Fund. To prevent the Legislature from diverting the fund to other purposes, it prohibited transferring any of the fund into the state's general fund.

There are two main problems with the amendment. First, while it requires the documentary tax money to be put into the Land Acquisition Trust Fund, it does not require that any of the money be spent. It is simply there to be spent as provided in the budget adopted by the Legislature. There is no constitutional mandate to spend the money.

Second, given the broad description of the items that can be funded, the criticisms that the Legislature is violating the amendment by spending the fund on purposes other than the acquisition and restoration of conservation land are neither fair nor accurate. Unfortunately, Amendment 1 is so broadly written that it does not require the Legislature to use any of the fund for purchasing substantial amounts of — or even any — land for conservation purposes.

It allows the funds to be used not only to acquire and restore but to "improve and manage." It would have been difficult to have come up with broader words to allow for use of the funds for purposes other than land acquisition. Further, the range of properties included in the list — from beaches and historic or geologic sites to working farms and urban open spaces -- is virtually open-ended, going far beyond large areas of open land. Even worse, the inclusion of "enhancing public access and recreational enjoyment" of any of the types of properties that can be acquired or improved is limitless. It is not an exaggeration to say it includes not only bike and hiking paths but roads and bridges to beaches, beach renourishment, golf courses or even hotels. These are all within the meaning of improving public access and recreational enjoyment.

Another defect in the amendment is that it does not set a minimum percentage of the fund that can be used only for acquisition. If it required a third or half of the fund to be used solely to acquire conservation lands, particularly open, undeveloped land, the Legislature could not use it solely or primarily for improvements in access and enjoyment.

The amendment also lacks a procedure to bypass legislative refusal to carry out the properly expressed intent. If it had established a committee that included a broad range of interests to draw up a list of conservation land to be acquired with trust funds, the Legislature could not avoid using the fund as the voters intended.

The past unwillingness of the Legislature to fund the acquisition and restoration of conservation lands gave rise to the demand for a constitutional amendment to force it to do so. The overwhelming vote for Amendment 1 shows the people of Florida want that to happen. Unfortunately, Amendment 1 was so poorly drafted it does not accomplish its primary goal. The Legislature may be making a bad policy choice not to fund the purchase of conservation land, but it is not violating Amendment 1. The only realistic remedy is another initiative amendment in 2016 to correct the defects in Amendment 1.

Robert J. Martineau of Sarasota County is Distinguished Research Professor of Law (Emeritus), University of

Cincinnati. He taught legislative drafting for many years, is the author of three books on drafting laws including constitutional amendments in plain English, and has extensive legislative drafting experience.

<http://www.theledger.com/article/20150622/EDIT02/150629888>

Letter to the Editor: Lawmakers Should Be Lauded for Their Environmental Work

Lakeland Ledger
June 22, 2015

Florida lawmakers should be commended for their wise and forward-looking priorities reflected in their environmental appropriations agreed to recently. They recognized the Everglades for what it is: a state treasure worthy of additional funds (\$81.8 million) to enable critical restoration projects to move forward.

Additionally, the \$20 million allocated for land purchases for the purpose of bringing improvement to the Kissimmee River is a great compliment.

Targeting the restoration of natural springs, to the sum of \$47.5 million, will help areas all over the central and northern parts of our state. Also, considering more than 28 percent of Florida land is already in conservation, \$17.4 million apportioned for Florida Forever is an appropriate designation.

The legislature showed tremendous financial restraint by not bonding money and potentially sending our state into debt. While interest rates may be low, debt is debt.

With dedicated, recurring Amendment 1 revenue guaranteed for 20 years, it is good government policy to reject incurring additional debt unless absolutely necessary.

Amendment 1 called for money to be used: "to acquire, restore, improve and manage conservation lands ... including the Everglades..."

While some from the more extreme side of environmentalism will criticize these allocations because they insisted land buying should be the priority, Floridians who voted for Amendment 1 should be pleased that positive steps toward the intended purpose of the voter-approved funds will be taken.

Legislators have honored the will of the people and negotiated effectively for the good of our state.

DAN PETERSON

Director

Center for Property Rights

The James Madison Institute

Tallahassee