



State Senator
James R. Baumgart

State Capitol: P. O. Box 7882, Madison, WI 53707-7882 • Telephone (608) 266-2056
Toll-free: 1-888-295-8750 • E-Mail: sen.baumgart@legis.state.wi.us

FAX COVER SHEET

DATE: January 28, 2000
TO: Mary Rehwald
FAX #: (715) 682-1691
FROM: Senator Jim Baumgart
TELEPHONE #: 1-888-295-8750
NO. OF PAGES
INCLUDING COVER: 14

Enclosed is some background material on my "Dark Skies" legislation as well as information relating to light pollution in general. Please feel free to contact me with any questions.



Solid & Hazardous Waste Education Center

610 Langdon Street, Rm. 529
Madison, WI 53703
Phone: 608/262-0385 Fax: 608/262-6250

University of Wisconsin-Extension
UWEX

August 12, 1999

DARK SKY BILL

Chuck Cazalas
Manager, Public Affairs and Community Relations
CITGO Refining and Chemicals, Inc.
P.O. Box 9176
1802 Nueces Bay Blvd.
Corpus Christi, Texas 78469

Dear Mr. Cazalas:

I am writing to complain vigorously about the lighting of your new service bays. On a recent trip to Northern Wisconsin we were offended by the glare and high light levels emanating from two CITGO stations located in Minocqua, and at the intersection of Hwy 70 and County C. Not only did these installations create a hazard to night driving by compromising night vision, they created a skyglow that could be seen for miles in the otherwise pristine night sky.

Poor lighting design is to blame. First, fully recessed (or full cutoff) fixtures should be used to eliminate glare and light trespass. Secondly, illumination levels should be reduced to provide surface lighting at levels as specified by national lighting standards. Creating a bright, clean and safe environment can be accomplished without the excessive and poorly controlled lighting your company is using. Excess light is a waste of energy, an affront to neighbors and the environment, and a strong disincentive to potential customers.

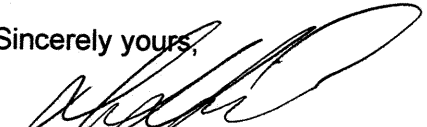
For more information on appropriate lighting design please see:

"Lighting for Exterior Environments" IESNA Recommended Practices RP-33-99
Illuminating Engineering Society of North America, <http://www.iesna.org>

International Darksky Association <http://www.darksky.org>

Light Information for Texans <http://www.limber.org/ida/lp.html>

Sincerely yours,


David S. Liebl

cc: Jim Baumgart, WI State Senator-Sheboygan





NEW CUSTOMER

A Solution to Canopy Overlighting

Information Sheet 151, June 1999



International Dark-Sky Association
3225 N. First Ave., Tucson, AZ 85719 U.S.A.
E-mail: ida@darksky.org
WWW: <http://www.darksky.org>

Summary

The Flagstaff and Coconino County outdoor lighting codes limit the amount of light, measured in initial raw output lumens, per net acre of development projects. The limits address the issues of excessive outdoor lighting, energy waste, the resulting sky glow from light reflected into the sky, and glare.

Lights used beneath canopies or under roof overhangs have a reduced impact on sky brightening compared to lights mounted on poles, since the canopy or overhang prevents some of the light reflecting off the ground from reaching the sky. Because of this effect, such lighting counts less toward the lumen per acre caps in these codes. Luminaires located on poles or under a canopy and within five feet of the canopy or overhang edge count fully toward the cap; those located between five and ten feet count at one-quarter, and those further than ten feet count at one-tenth (for a discussion of canopy uplight impacts, see IDA Information Sheet 150, Uplight Impacts of Canopy Lighting).

Using these factors, lighting is included toward the lumens per acre caps in approximate proportion to the amount of light they direct into the sky ("uplight"), without requiring an involved analysis for each installation.

Another obtrusive aspect of canopy lighting, not addressed by uplight considerations described above, is the excessive illumination levels that are increasingly seen under service station canopies. Illumination levels exceeding ten and even twenty times the level recommended by professional lighting designers are becoming common. Such overlighting with its attendant glare, besides contributing unnecessarily to the brightening of our night skies and wasting substantial amounts of energy resources, can interfere with the safe use of adjacent property and safe operation of motor vehicles on nearby roadways, particularly for those entering and leaving these areas.

To address this issue, the amount of light permitted under service station canopies is capped at a level consistent with Illuminating Engineering Society of North America (IESNA) recommendations of five and ten footcandles. (See publication IESNA RP-33-99, *Recommended Practice for Lighting for Exterior Environments*, and IDA Information Sheet 152 describing this publication and how to obtain it.) To achieve this goal without requiring planning staff to evaluate lighting designs in detail or measurement of actual average illumination levels, an approach parallel to the overall lumens per acre cap for outdoor lighting in the Flagstaff and Coconino lighting codes is taken. Limits of 40 initial raw lamp output lumens per square foot of canopy lead to initial illuminance of 15 to 20 footcandles (fc), which will dim to about 9-11 fc average when the lamps are old. Half this amount, or 20 initial raw output lumens per square foot of canopy, will give an average illuminance of about 10 fc initially, dimming to 5 fc.

Calculations for the Model

Illumination under service station canopies has been modeled using a commercially available software package (POINT Version 7, by Lighting Analysts, Inc.) and photometric information for five flat-glass (fully shielded) luminaires appropriate for canopy illumination. The summarized designs assume luminaire heights of fifteen feet, 175 watt metal halide lamps, and the canopy dimensions and luminaire positions shown in Figure 1. Eight 175 watt metal halide lamps, with initial lamp outputs of 15,000 lumens each, give a total lumen budget of 120,000 lumens; for the 55 x 55 foot canopy, this is just

under 40 lumens per square foot of canopy. Designs to achieve the lower value of 20 lumens per square foot can be achieved either by using four 175 watt lamps, or by using a design including sixteen 50 watt metal halide lamps with 3450 initial lumens each.

The five luminaires listed in Table 1 were evaluated, and the average initial and end-of-life illuminances and uniformity ratios are shown in Table 2. The two values for the average illuminance reflect the fact that metal halide lamps become dimmer as they age, due principally to deterioration in the lamps and dirt accumulation within the luminaire. A conservative estimate for these effects will bring the lamp intensity at "end of life" to 60% of the initial value, and this figure is used to show the lowest level that should be encountered during the lifetime of the lamps. Uniformity ratios are not affected by this deterioration.

Table 1: Luminaires Analyzed

Manufacturer / Model	Photometric Specification	Table 2 Abbreviation
Spaulding Huntington-I	HTI-M175-FG	HTI
JPL 8 Surface Luminaire	JPL8-M-2-V-R-C73	JPL8
JPL 9 Surface Luminaire	JPL9-M-7-V-R-C73	JPL9
General Electric SCM-175	SCMM17M0A1GMCS	GE
Pappi MiniSquare	MSQL-MH-208-VR-LG	MSQL

Table 2: Illumination Summary

Luminaire	Ave fc initial	Ave fc end of life	Uniformity Ave/Min
HTI	19	11	4.6
JPL8	18	11	3.9
JPL9	20	12	3.6
GE	18	11	2.8
MSQL	15	9	2.3

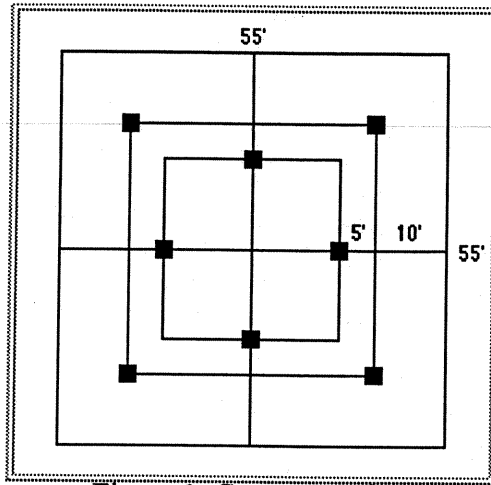


Figure 1: Canopy Design

Written by Christian B. Luginbuhl
U.S. Naval Observatory Flagstaff Station
25 November 1998

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[Go back to the IDA homepage](#)



August 12, 1999

*DARK SKY
AUG 13 1999*

Regent Frederic Mohs
Mohs, MacDonald, Widder & Paradise
Attorneys At Law
20 N. Carroll St.
Madison, WI 53703

Dear Fred:

Thank you for sending me a copy of your letter to Nancy Ives about the Dark Sky movement articles in the newspaper.

You'll be happy to know that avoiding light pollution has been a major factor in our outside lighting designs since the early 90's. Of course a primary factor is the need for security lighting, but we've tried hard to design the lighting to avoid light pollution without compromising security concerns.

One of the earliest projects with that focus was the lighting of McClimon Track in 1992. More recently, the lighting around the Kohl Center including all access roads and parking emphasized the downward directed lighting. We are working with the City to coordinate our design efforts so that street and area outside lights have a similar character. Also, all of the new projects on the west side of campus, both inside and outside of such buildings as Pharmacy and the Waisman Center are designed to minimize glare and coordinate similar security lighting fixtures.

Efforts are being made to replace existing outside globe type fixtures with downward directed lights and to use metal halide rather than incandescent fixtures. We have a ways to go yet because we need to do many of these things as we have project funding available. But I thought you would want to know that we're heading the right direction.

Sincerely,

A handwritten signature in cursive script that reads "Bruce B. Braun".

Bruce B. Braun
Assistant Vice Chancellor

Cc: Mr. Jonathan Barry
Ms. Carolyn Beebe
Ms. Nancy Ives
Mr. David Liebl
Senator James Baumgart

Facilities Planning & Management
Assistant Vice Chancellor

Henderson, Patrick

From: McHugh [tdhugh@itis.com]
Sent: Friday, July 30, 1999 4:08 PM
To: Sen.Baumgart@legis.state.wi.us
Subject: energy shortage

Saw you quoted in the State Journal today on the energy crisis. Couldn't agree with you more. This heat is very hard on those with health problems and the elderly.

David Giroux from Alliant was quoted as saying (WI State Journal, Thursday, 7/30/99) that the power shortage was due to a 2-3% increase in demand for energy due to the growing economy. I believe it is the utilities job to be able to anticipate and meet customer needs. I know nothing about utilities but I believe I could have forecasted a 2-3% demand.

Thanks for your action in this matter.

tom mchugh

KEEP IN DARK SKY LML

MOHS, MACDONALD, WIDDER & PARADISE

ATTORNEYS AT LAW

20 N. CARROLL STREET

MADISON, WISCONSIN 53703

FREDERIC E. MOHS
DANIEL A. MACDONALD
THEODÓRE C. WIDDER III
GREGORY J. PARADISE
JOHN W. VAN NOTE

608-256-1978
FAX 608-257-1106

July 27, 1999

Ms. Nancy Ives
Assistant Vice President
University of Wisconsin System
Division of Capital Budget &
Architectural/Engineering Services
780 Regent Street
P.O. Box 8010
Madison, WI 53708-8010

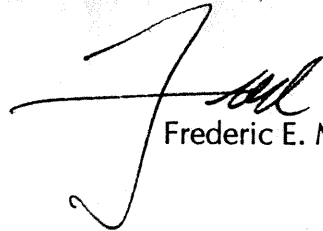
PAT:
KEEP FOR DARK
SKYS FILE
Jim

Dear Nancy:

I am enclosing a copy of The Dark-Sky movement article that was in the *Wisconsin State Journal* this weekend. I want you to know that I totally agree with this concept and I hope that we can do whatever possible to make sure that the University's outdoor lighting complies with the International Dark-Sky Association's guidelines.

Sincerely,

MOHS, MACDONALD, WIDDER & PARADISE



Frederic E. Mohs

FEM:kjr
Enclosure

Cc: Mr. Bruce Braun (with enclosure)
Mr. Jonathan Barry (with enclosure)
Ms. Karolyn Beebe (with enclosure)
Mr. David Liebl (with enclosure)
Senator James Baumgart (with enclosure)

Henderson, Patrick

From: Mark Rhodes [paradox@elknet.net]
Sent: Thursday, April 08, 1999 10:25 AM
To: Sen. Baumgart
Subject: Light Pollution

4-7-99
pat put us with list
our help us
E-mail back
Thanks
APR 08 1999

Dear Sen. Baumgart

My name is Mark Rodes and I live in Walworth county in southeastern Wisconsin. I was informed that you are the spearhead behind trying to establish lighting legislation. I would like to be of help to you in this effort.

I am a member of a small group of people here who also are interested in this issue and we are growing in numbers every week. We will be meeting again the 17 or the 24 of April at Yerkes Observatory and would like to pass along some encouraging words from you. Of course you are welcome to attend if you so choose. I will email you of the date when it is confirmed.

We most likely will call our group WisELAMP or Wisconsin Enviromental Lighting And Meteorological Protection.

As of Tuesday APRil 6, New Mexico's governor signed into Law House Bill #39 which is a light pollution law. To my Knowledge this is the third state to do so. Arizona ans Maine being the first two.

I also wrote the Governor that light legislation would aid in the current power shortage but as of yet have recieved no response.

Please take the time to inform us of your efforts.

Sincerely

Mark Rhodes
3319 State Highway 67
Lake Geneva WI
53147

Henderson, Patrick

From: Mark Rhodes [paradox@elknet.net]
Sent: Wednesday, March 24, 1999 11:18 AM
To: Sen.Baumgart
Subject: light pollution

Senator Baumgart-

A growing number of us in Walworth County have banded together to put forth the effort to curtail lighting pollution, trespass and other issues associated with excess light. Some of us are astronomers both professional and amateur. Some of us are trying to retain some of the traditional rural ways of life. Some of us seek to preserve energy resources. What matters is that we have banded together for a common purpose, to have legislation passed which will curtail the use of outdoor lighting.

I was informed by Dan Koehler that you are the man to speak with as you are currently drafting yet another attempt at legislation concerning this issue. Please inform me/us of any developments or how we may be of service to you. My email is paradox@elknet.net

Thank you
Mark Rhodes
3319 State Highway 67
Lake Geneva WI
53147



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522
REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

March 19, 1999

Senator James Baumgart
306 South, State Capitol

Dear Senator Baumgart:

You asked about laws in other states providing state funds for land preservation. We found several examples of state open space or land trust funds, as listed below. Copies of the laws are enclosed for your use.

Arizona. Section 41-511.23, Arizona Revised Statutes, "The Growing Smarter Act".

Colorado. Article XXVII, Colorado Constitution, "Great Outdoors Colorado Program".

Connecticut. Sections 7-131a through 7-131r, General Statutes of Connecticut.

Florida. Sections 259.01 and 375.045, Florida Statutes, "Florida Preservation 2000 Act" and "Florida Preservation 2000 Trust Fund".

Maine. Chapter 353 (Title 5, Sections 6200-6211), Maine Revised Statutes, "Land for Maine's Future Fund".

Maryland. Natural Resources Code, Sections 5-9A-01 through 5-9A-09, Maryland Statutes, "Rural Legacy Program".

New Jersey. Article VII, Section II, Paragraph 7, New Jersey Constitution.

North Carolina. Sections 113-77.6 through 113-77.9. North Carolina General Statutes, "Natural Heritage Trust Program".

Rhode Island. Chapter 31, Public Laws 1998.

We hope this information is useful.

Sincerely,

Robert A. Paolino
Legislative Analyst
(608) 264-6982

RAP:lm1

Enclosure

[L99Baumgart3/19]

**SENATE CONCURRENT
RESOLUTION No. 66**

**STATE OF NEW JERSEY
208th LEGISLATURE**

INTRODUCED JUNE 25, 1998

Sponsored by:

Senator DONALD T. DIFRANCESCO

District 22 (Middlesex, Morris, Somerset and Union)

Senator ROBERT J. MARTIN

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

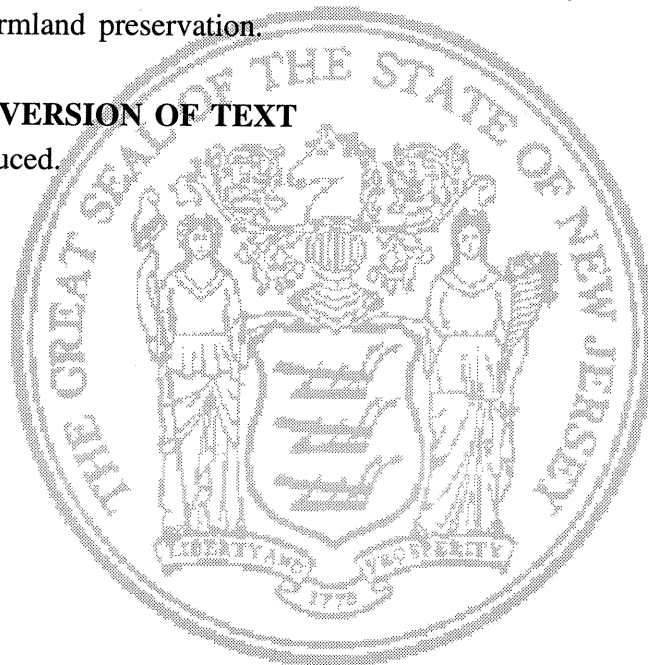
Senator Bennett

SYNOPSIS

Amends Constitution to dedicate \$92 million annually for funding of open space and farmland preservation.

CURRENT VERSION OF TEXT

As introduced.



1 **A CONCURRENT RESOLUTION** proposing to amend Article VIII,
2 Section II, of the Constitution of the State of New Jersey.

3
4 **BE IT RESOLVED** by the Senate of the State of New Jersey (the
5 General Assembly concurring):

6
7 1. The following proposed amendment to the Constitution of the
8 State of New Jersey is agreed to:

9
10 **PROPOSED AMENDMENT**

11 Amend Article VIII, Section II, by the addition of a new paragraph
12 7 to read as follows:

13 7. Commencing on July 1 following the approval by the voters of
14 this constitutional amendment, \$92,000,000 shall be credited in each
15 fiscal year to a special account in the General Fund, provided however,
16 that the dedication and use of such moneys shall be subject and
17 subordinate to (a) all appropriations of revenues from taxes made by
18 laws enacted prior to the effective date of this paragraph in accordance
19 with Article VIII, Section II, Paragraph 3 of the State Constitution in
20 order to provide the ways and means to pay the principal and interest
21 on bonds of the State presently outstanding or authorized to be issued
22 under such laws, or (b) any other use of those revenues enacted into
23 law prior to the effective date of this paragraph. The amounts credited
24 pursuant to this paragraph shall be dedicated and shall be appropriated
25 from time to time by the Legislature only for providing funding,
26 including loans or grants, for the planning, acquisition, preservation
27 and administration of open space and farmland in this State. All
28 moneys derived from repayments of any loan issued from the amounts
29 dedicated pursuant to this paragraph shall be credited to the special
30 account and shall be dedicated and shall be appropriated from time to
31 time by the Legislature only for the purposes authorized pursuant to
32 this paragraph. The dedication of moneys derived from loan
33 repayments shall not expire. All investment income derived from the
34 investment of moneys in the special account shall be credited to the
35 special account, and shall be dedicated and shall be appropriated from
36 time to time by the Legislature only for the purposes authorized
37 pursuant to this paragraph.

38 It shall not be competent for the Legislature, under any pretense
39 whatever, to borrow, appropriate, or use the amount credited to the
40 special account pursuant to this paragraph, or any portion thereof, for
41 any purpose or in any manner other than as enumerated in this
42 paragraph. It shall not be competent for the Legislature, under any
43 pretense whatever, to borrow, appropriate, or use the amount credited
44 to the special account pursuant to this paragraph, or any portion
45 thereof, for the payment of the principal or interest on any general

1 paragraph becoming part of this Constitution.

2

3 2. When this proposed amendment to the Constitution is finally
4 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
5 shall be submitted to the people at the next general election occurring
6 more than three months after the final agreement and shall be
7 published at least once in at least one newspaper of each county
8 designated by the President of the Senate, the Speaker of the General
9 Assembly and the Secretary of State, not less than three months prior
10 to the general election.

11

12 3. This proposed amendment to the Constitution shall be
13 submitted to the people at that election in the following manner and
14 form:

15 There shall be printed on each official ballot to be used at the
16 general election, the following:

17 a. In every municipality in which voting machines are not used, a
18 legend which shall immediately precede the question, as follows:

19 If you favor the proposition printed below make a cross (X), plus
20 (+), or check (T) in the square opposite the word "Yes." If you are
21 opposed thereto make a cross (X), plus (+) or check (T) in the square
22 opposite the word "No."

23 b. In every municipality the following question:

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	YES	<p>ANNUAL DEDICATION OF \$92 MILLION FROM THE STATE GENERAL FUND FOR OPEN SPACE AND FARMLAND PRESERVATION</p> <p>Shall the amendment to Article VIII, Section II, of the Constitution of the State of New Jersey, agreed to by the Legislature, to dedicate annually \$92,000,000 from the State General Fund for the planning, acquisition, preservation and administration of open space and farmland, be approved?</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>Approval of this constitutional amendment would dedicate \$92 million from State General Fund each year to provide a permanent source of funding for the planning, acquisition, preservation and administration of open space and farmland.</p>

STATEMENT

This concurrent resolution would propose an amendment to the Constitution of the State of New Jersey to dedicate annually \$92 million for open space and farmland preservation.

North Carolina General Statutes

Natural Heritage Trust Program.

§ 113-77.6. Definitions.

*As used in this Article:

*(1) "Appraised value" means the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the uses to which the property is adapted and for which it is capable of being used.

*(2) "Fund" means the Natural Heritage Trust Fund created pursuant to this Article.

*(3) "Land" and "lands" mean real property and any interest in, easement in, or restriction on real property.

*(4) "Secretary" means the Secretary of Environment, Health, and Natural Resources.

*(5) "Trustees" means the trustees of the Natural Heritage Trust Fund. (1987, c. 871, s. 1; 1989, c. 86, s. 1; c. 727, s. 218(56); 1993 (Reg. Sess., 1994), c. 772, s. 3.)

§ 113-77.7. Natural Heritage Trust Fund.

*(a) There is established a Natural Heritage Trust Fund in the State Treasurer's office that shall be used to finance the Natural Heritage Trust Program authorized by this Article.

*(b) The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chairman of the Board of Trustees.

*(c) When the State acquires land pursuant to this Article, the Chairman of the Board of Trustees shall direct a request to the State Treasurer to set aside an amount from the Fund not to exceed twenty percent (20%) of the appraised value of the land acquired, or the land affected if less than a fee interest was acquired, to be placed in a special stewardship account in the Fund. The special stewardship account shall be a nonlapsing account, and income derived from investment of the account shall be credited to the account. The special stewardship account shall be used for the management of land acquired pursuant to this Article, as directed by the Trustees, so long as such land remains in the Trust. (1987, c. 871, s. 1; 1989, c. 86, s. 1; 1993 (Reg. Sess., 1994), c. 772, s. 3.)

§ 113-77.8. Natural Heritage Trust Fund Board of Trustees.

*(a) Expenditures from the Fund shall be authorized by a nine-member Board of Trustees. Three members shall be appointed by the Governor, three by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and three by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. Persons appointed shall be knowledgeable in the acquisition and management of natural areas. Each appointing officer shall designate one of his initial appointments to serve a two-year term, one to serve a four-year term, and one to serve a six-year term. Thereafter, all appointments shall be for six years, subject to reappointment. All initial appointments shall be made on or before January 1, 1988. The Governor shall appoint one Trustee to serve as Chairman of the Board. The Secretary shall provide the Trustees with staff support and meeting facilities using expenditures from the Fund. The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution.

*(b) The Trustees shall meet at least once each year and may hold special meetings at the call of the Chairman or a majority of the members.

*(c) The Trustees shall receive the per diem allowed for other members of boards and commissions of the State as fixed in the Biennial Appropriations Act, and, in addition, the Trustees shall receive subsistence

and travel expenses as fixed by statute for such purposes. Travel and subsistence expenses shall be allowed while going to or from any place of meeting or when on official business. Per diem payments shall include necessary time spent in traveling to and from their places of residence to any meeting place or while traveling on official business. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund. (1987, c. 871, s. 1; 1989, c. 86, s. 1; 1993 (Reg. Sess., 1994), c. 772, s. 3; 1995, c. 490, s. 37(a).)

§ 113-77.9. Acquisition of lands from the Natural Heritage Trust Fund.

*(a) From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, and the Commissioner of Agriculture shall propose to the Trustees lands to be acquired from the Fund. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, and the Commissioner of Agriculture shall provide the Trustees with the following information:

*(1)The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives;

*(2)Any rare or endangered species on or near the land;

*(3)Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon;

*(4)Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature;

*(5)The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas;

*(6)Other sources of funds that may be available to assist in acquiring the land;

*(7)The State department or division that will be responsible for managing the land;

*(8)What assurances exist that the land will not be used for purposes other than those for which it is being acquired; and

*(9)Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

*(b) The Trustees may authorize expenditures from the Fund to acquire:

*(1)Land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes.

*(2)Land as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the public.

*(3)Subject to the limitations of subsection (b1), land that contributes to the development of a balanced State program of historic properties.

The Trustees may designate managers or managing agencies of the lands so acquired to receive grants from the Fund's stewardship account. In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Trustees

shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, and the Commissioner of Agriculture in their proposals made pursuant to subsection (a), above.

*(b1) The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b). No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b).

*(c) The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas by the Secretary's Natural Heritage Program conducted pursuant to Chapter 113A, Article 9A, of the General Statutes.

*(d) The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. State agencies with management responsibilities for lands acquired pursuant to this Article may enter into management agreements in the form of leases with counties, cities, and towns to aid in managing the lands, and such lease agreements shall be executed by the Department of Administration pursuant to G.S. 143-341.

*(d1) In any county in which real property was purchased pursuant to subsection (d) of this section as additions to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

*(e) The Secretary shall maintain and annually revise a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee and to each House of the General Assembly after each revision.

*(f) No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article. (1987, c. 871, s. 1; 1989, c. 86, s. 1; 1991, c. 689, s. 339; 1991 (Reg. Sess., 1992), c. 1044, s. 66; 1993 (Reg. Sess., 1994), c. 772, s. 3.)



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

QUESTION 3: ENVIRONMENTAL MANAGEMENT BONDS

\$15,000,000

(CHAPTER 31 - PUBLIC LAWS 1998)

Approval of this question will authorize the State of Rhode Island to issue its general obligation bonds, refunding bonds and temporary notes, in an amount not to exceed \$15,000,000 for environmental and recreational purposes, specifically for the acquisition and development of greenways to be allocated as follows:

- a. \$5,000,000 to provide funds for the Department of Environmental Management to purchase or otherwise permanently protect, through the purchase of development rights, conservation easements and public recreation easements, greenways and other open space, agricultural land, forested lands and for the purchase of development rights by the Agricultural Land Preservation Commission to preserve farmland throughout the State consistent with the "Greenways, Greenspace" element of the State Guide Plan and the Department of Environmental Management Land Protection Plan. The Director of the Department of Environmental Management may award up to \$2,500,000 to communities and local land trusts, conservation commissions and other environmental non-profit organizations to provide matching funds for acquisitions, easements, development rights, etc. on land consistent with the State Guide Plan.
- b. \$10,000,000 to provide funds for the development and promotion of bike paths throughout the State. Funding would be distributed as follows: (i) \$5,000,000 to provide matching funds for Department of Transportation and Federal Highway Administration funding for the design and construction of the following regional bikeways: the Blackstone Bikeway, the Washington Secondary/Coventry Greenway/Trestle Trail, and the South County Bikeway; and (ii) \$5,000,000 to provide funds to the Department of Environmental Management for the design and construction of local bikeways and recreational greenways. Local bikeways and recreational greenways are primarily off-road facilities that connect areas such as State and local parks, open space, regional bikeways, municipal and business centers, and other greenways consistent with the Greenspace Element of the State Guide Plan. At the discretion of the Director of the Department of Environmental Management, funds would be used to provide grants to local communities on a matching basis, for design and construction of local bikeways and recreational greenways.

EXPLANATION FOR QUESTION 3: ENVIRONMENTAL MANAGEMENT

PURPOSE: What will the Environmental Management Bonds do?

Approval and issuance of these bonds will provide funds to the Department of Environmental Management for the purchase of land, development rights, and easements to protect the State of Rhode Island's natural and recreational resources, for the acquisition and development of greenways, and for the purchase of development rights by the Agricultural Land Preservation Commission to preserve farmland throughout the State. Approval and issuance of these bonds will also provide funds for the development and promotion of bikeways and recreational greenways throughout the State.

EXPLANATION: How will the money be spent?

\$5,000,000 would be used by the Department of Environmental Management to purchase or otherwise permanently protect greenways and other open space, agricultural land, and forested lands through the purchase of development rights, conservation easements and public recreation easements. Funds would also

be used by the Agricultural Land Preservation Commission for the purchase of development rights to preserve farmland throughout the State.

"Development rights," "conservation easements" and "public recreation easements" are restrictions on the use of a land or water area which protect the State's natural and recreational resources while permitting the owner of the area to retain ownership of the property. The purchase of land, development rights and easements would be consistent with the "Greenways and Greenspace for Rhode Island's Future" November 1994 element (the "Greenways Element") of the State Guide Plan and the Department of Environmental Management Land Protection Plan. "Local bikeways" and "recreational greenways" are primarily off-road facilities that connect areas such as State and local parks, open space, regional bikeways, municipal and business centers and other greenways consistent with the Greenways Element of the State Guide Plan.

The Director of the Department of Environmental Management may award up to \$2,500,000 of the funds to communities and local land trusts, conservation commissions and other environmental non-profit organizations to provide matching funds for acquisitions of land, easements, development rights, and similar interests in land consistent with the State Guide Plan.

\$10,000,000 would be used for the development and promotion of bike paths and recreational greenways throughout the State. Of this amount, \$5,000,000 would be used to provide matching funds for Federal Highway Administration funding provided through the Rhode Island Department of Transportation for the design and construction of the Blackstone Bikeway, the Washington Secondary/Coventry Greenway/Trestle Trail, and the South County Bikeway.

The Blackstone Bikeway would extend approximately 17.2 miles, commencing in the City of Pawtucket, extending northerly through five (5) communities Central Falls, Cumberland, Lincoln, North Smithfield and Woonsocket along the Blackstone Canal Towpath, through Lincoln Woods State Park and the Blackstone Linear Park, and ending in the Town of North Smithfield where it will connect with the Massachusetts bike path which will connect to the City of Worcester, Massachusetts.

The Washington Secondary/Coventry Greenway/Trestle Trail would be the longest bike path in the State's system, extending approximately 25 miles commencing on the Cranston/Providence line and moving west through the communities of Cranston, Warwick, West Warwick, and Coventry to the Connecticut state line. At the state line the bike path would join with the State of Connecticut bike path to form a link in the national trail system known as the East Coast Greenways.

The South County Bikeway would extend approximately 8 miles commencing at Kingston Railroad Station in South Kingstown and following the Narragansett Pier Railway southerly adjacent to the Great Swamp Management area and ending at Sprague Park in Narragansett.

The remaining \$5,000,000 would be used by the Department of Environmental Management for local bikeways and recreational greenways.

At the discretion of the Director of the Department of Environmental Management, funds will be used to provide grants to local communities on a matching basis, for design and construction of local bikeways and recreational greenways.

PROJECT TIMETABLE: Acquisition of land, development rights and easements is expected to commence in July, 2000 and be completed by June, 2005.

The design and construction of bikeways and greenways is expected to commence in July, 1999 and be completed by June, 2005.

USEFUL LIFE: Land, development rights, and easements have an indefinite useful life. The Department of Environmental Management estimates the useful life of the bikeways to be approximately 15 to 20 years, depending on the type of improvements made.

Questions & Answers

On

Governor Lincoln Almond's Open Space Conservation Initiative

August 31, 1998

Q: How is Governor Almond accelerating the State's objectives for Open Space protection and outdoor recreation in Rhode Island?

A: Governor Almond is calling for a greater State commitment to the protection of Rhode Island's remaining Open Space and declares that the existing State goal of an additional 35,000 acres of protected Open Space by 2020 should be achieved, instead, by 2010.

Q: What is the State's current Open Space goal?

A: Both the State Greenspace and Greenways Plan (1994) and the Department of Environmental Management's Land Protection Plan (1996) call for the State, other public agencies, and nonprofit conservation organizations to protect 35,000 more acres of high priority parkland, forests, and other Open Space by the year 2020. This additional 35,000 acres would augment the current approximately 87,000 acres that are protected through ownership by the State, other public agencies, land trust, or other nonprofit environmental organizations.

The target of 35,000 acres of Open Space was derived in the State Greenspace and Greenways Plan by determining the "critical geographical areas supporting essential greenspace values" (including forests, agriculture, biodiversity and wildlife, recreation and culture, and water supply) and the extent of both presently developed land and existing protected Open Space.

Governor Almond endorses the target of an additional 35,000 acres, but believes that this strategy must be accelerated and realized by 2010 -- in 12 years, rather than 22 years.

Q: How does Governor Almond propose to increase State funding for the protection of Open Space and outdoor recreation?

A: Governor Almond proposes a new \$50 million Open Space bond issue for the November 2000 statewide ballot. The bond -- which will result in \$5 million to be spent in each of the ten years following 2000 -- will support rural land protection, urban recreational land protection, and the creation of greenways between the two. These objectives are fully consistent with the existing State Open Space strategy, which includes conservation and expansion of State and local parks, State management areas, urban greenways, outdoor recreational development, and working farmland.

The Governor's bond will be pursued as a fully cooperative partnership with other public and nonprofit Open Space campaigns, i.e. cities and towns, The Nature Conservancy, Audubon Society of Rhode Island, U.S. Fish & Wildlife Service and other Federal agencies, etc. By leveraging funding from other sources, thus, the Governor's bond may provide matching non-State funding for Open Space on a ratio of 1:1 or better. Thus, the Governor's Open Space initiative may result in a total of \$100 million or more for Open Space protection over 10 years.

The bond will have to be approved for the statewide ballot by the General Assembly and then approved by the voters in November 2000.

Q: How are the revenues from the Governor's Open Space bond measure to be allocated?

A: The \$50 million raised by the bond will be allocated as follows:

State Land Acquisition	\$25,000,000
Local Land Acquisition (75/25 State/local match required)	\$15,000,000
Local Recreation Development (50/50 State/local match required)	\$7,000,000
Future State Park Development and Improvements	\$3,000,000
TOTAL	\$50,000,000

The affordability of this bond authority, and its future expenditure, will be assured through careful capital programming by the State Budget Office in collaboration with the Department of Environmental Management. The State will retain the flexibility necessary to determine annual amounts of expenditure depending on the condition of the State budget and other factors.

Q: How does the Governor's new \$50 million bond measure for November 2000 relate to the \$15 million already on the November 1998 ballot?

A: Governor Almond initiated both Open Space bond measures, and they are fully complementary of each other.

This year's \$15 million bond measure, which is specifically dedicated for the creation of bikeways and greenways and the protection of Open Space, will ensure that DEM has funding necessary for these objectives in the next three years. With this funding DEM will initiate the design and construction of the greenway recreational connections to the State's existing parks, management areas, and other public Open Spaces.

The new \$50 million bond measure, to be voted on in November 2000, builds on this year's bond measure and provides a long-term stream of funding for Open Space and park development by DEM and Open Space and park development by local governments. The increased amount of the 2000 bond recognizes the need to increase the rate of Open Space protection and to do so by encouraging other Open Space efforts by offering State matching funds.

Q: What are the Governor's Open Space achievements on which his new initiative builds?

A: This new Open Space initiative would build on Governor Almond's existing achievements in greenway/bikepath creation, land acquisition, and urban land re-use.

Bikepaths and Greenways. Governor Almond has made a high priority of the implementation of the 1994 State Greenways Plan, especially the design and construction of public bikeways, making Rhode Island a leader in the creation of the regional East Coast Greenway. In 1995, through an Executive Order, the Governor created the State Greenways Council and charged it with implementing the 1994 Plan. Significant portions of three new bikeways -- Blackstone Valley, Washington Secondary, and South County -- will be dedicated by the Governor and opened to the public this fall.

Land Acquisition. Since the Governor's inauguration in 1995, DEM has protected -- through partnerships with other parties in the purchase of land outright or easements over land -- approximately 900 acres annually. In addition, the Governor initiated and gained General Assembly approval of the \$15 million bond measure for open space and bikepath construction that will appear on the statewide ballot in November. This year the Governor directed DEM to undertake the first round of grant making to localities for Open Space and park development since 1992.

Brownfields. The reuse of previously contaminated and vacated urban land reduces the demand for the development of open space. Since Governor Almond initiated the State's aggressive program to clean up and reuse such urban land in 1996 and 1997, the State has witnessed the completion of 26 Brownfields settlement agreements covering more than 180 urban acres. Additionally, about 850 new jobs have been created, and \$3 million in tax revenue has been realized by the State.

Land Use Assistance. DEM provides technical assistance to towns and cities on land conservation. DEM worked with the Scituate Reservoir watershed communities to develop flexible-zoning techniques to protect the water supply and the towns' rural character. This type of technical assistance has been extended recently to the towns of the Wood-Pawcatuck watershed. DEM has also collaborated on manuals on non-point source pollution and watershed protection for use by planning boards and conservation commissions.

Q: How much Open Space is disappearing in Rhode Island?

A: The increased rates of loss of forests, farmland, and other Open Space in Rhode Island are dramatic.

- o Since 1985, while Rhode Island's population has remained at approximately one million, an additional 26,000 acres have been developed for residential and commercial purposes.
- o The number of single-family building permits issued by Rhode Island cities and towns is at its highest in eight years. In the first six months of 1998, a total of 1,196 permits had been issued -- a 17% increase over the first six months of 1997 and the highest level since 1990.
- o The projected population growth in South County alone from 1970 to 2020 is 70%, and comparable growth is projected for the East Bay and Northern Rhode Island.
- o In 1950, more than 50% of Rhode Island's population lived in Providence, Pawtucket, Central Falls, and Woonsocket. In 1995, less than 30% of Rhode Islanders live in these four cities and their combined population declined by more than 100,000 between 1950 and 1995.

Q: What is the need faced by cities and towns for State Open Space funding?

A: There is a strong demand from cities and towns throughout Rhode Island for funding for Open Space and local park development. In early 1998, Governor Almond directed DEM to make available to communities matching grants for land acquisition and recreational development. The funding for these local grants comes from past bond measures, and this is the first such round of local Open Space grant-making by DEM since 1992. DEM has available a total of \$5.2 million for this round of DEM local government grants. Yet, the total of applications submitted by communities is over \$12 million. (Governor Almond and DEM will announce the recipients of those grants in September.)

The need for Open Space funding for local communities is also evident in the dramatic growth in and activity of local land trusts (both nonprofit and public). The number of these locally based land protection non-profits has grown from about a dozen in the mid-1980s to approximately 40 in virtually every Rhode Island community today. Land trusts work closely with their city and town governments to prioritize and implement land acquisition and conservation.

Q: Who will actually spend the revenue raised through the Governor's new bond measure?

A: The Governor's Open Space initiative will be undertaken by the Department of Environmental Management and in close collaboration with, and consistent with the goals of, the State Greenways Council and other State entities. Among the entities with which DEM will also work collaboratively, and from which other Open Space funding can be leveraged, are all Rhode Island cities and towns, U.S. Fish and Wildlife Service, The Nature Conservancy, Audubon Society of Rhode Island, other non-profits and foundations, and others.

The Open Space partners will also work to develop an improved Geographic Information System representation of the State's Open Space strategies and an improved State Greenways Map.

Q: Who else will help Governor Almond implement this initiative?

A: Governor Almond will create and name an "green ribbon" advisory task force on Open Space. The mission of the Task Force, which will advise both the Governor and the Greenways Council, will be to: 1) review and revise as necessary the Governor's new, accelerated target for Open Space protection -- 35,000 additional acres by 2010, and 2) recommend reform and/or creation of additional, long-term Open Space funding mechanisms as appropriate to augment bond funding.

Q: What is the history of Open Space bond measures in Rhode Island?

A: Bond funding for the acquisition of fee title to land, conservation easements, and/or development rights has been an essential component of the Rhode Island's Open Space efforts for over 30 years. Then Governor Chafee initiated the State's modern efforts to protect land with his Green Acres program, including bond measures, in the 1960s.

Between 1985 and 1989, the State's voters approved four separate, major bond measures for Open Space, totaling \$133 million. The most recent Open Space bond measure occurred in 1996, a \$4 million bond measure.

Since 1985, DEM has utilized Open Space acquisition bond funds matched with other funding sources to successfully protect over 10,000 acres of Open Space including forest land, farmland, watershed property, and recreational lands.

-- END --



NEW LANGUAGE APPEARS LIKE THIS

Stricken language appears like this

Remaining language appears like this

Reference Title: conserving open space; technical correction

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE VOTERS A MEASURE RELATING TO LAND USE AND CONSERVATION APPROPRIATIONS.

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Under the power of the referendum, as vested in the Legislature, the following measure, relating to land use and conservation appropriations, is enacted to become valid as a law if approved by the voters, and if the initiative styled "The Citizens Growth Management Act" fails to be approved by the voters, at the general election held November 3, 1998:

AN ACT

AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES; RELATING TO LAND USE AND CONSERVATION APPROPRIATIONS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. The growing smarter act; description; intent

A. The legislature has enacted "The Growing Smarter Act" consisting of comprehensive municipal, county and state land department land use planning and zoning reforms, providing for the acquisition and preservation of open spaces and establishing a program for continuing study and consideration of pertinent issues relating to public land use policies.

B. This proposition presents to the voters a key component of the Growing Smarter Act. It funds grants of money from existing state revenues to conserve open spaces in or near urban areas and other areas experiencing high growth pressures. Combined with more specific and more detailed community plans, greater public participation in creating and amending community plans, mandatory rezoning conformity with adopted plans, state trust land planning and an urban and rural growth study commission, this funding furthers the best interests of our citizens by protecting our natural heritage and wisely managing the growth of our communities.

C. These comprehensive reforms conflict with the initiative styled "The Citizens Growth Management Act" which mandates the establishment of urban growth areas, growth management plans and limits the expansion of public services. The proposals in The Citizens Growth Management Act are inconsistent with state funded acquisition and preservation of open space within urban growth areas and with providing affordable housing and other urban land use needs. Moreover, local tax bases may be eroded by the acquisition of urban open space property by government entities under this act unless local governments are allowed to continue to annex new territory.

D. The voters are thus presented a clear choice in the direction they want counties and municipalities to follow in planning and managing the growth that is inevitable in this state. The Growing Smarter Act and the Citizens Growth Management Act are not compatible. This proposition, the Growing Smarter Act, can take effect and work successfully only if the Citizens Growth Management Act is not approved by the voters and does not become effective.

Sec. 2. Section 41-511.23, Arizona Revised Statutes, is amended to read:

41-511.23 . Conservation acquisition board; land conservation fund; conservation donation and public conservation accounts; exemption from lapsing

A. The conservation acquisition board is established, as an advisory body to the Arizona state parks board, consisting of the following members who are appointed by the governor, at least one of whom shall be experienced in soliciting money from private sources:

1. One state land lessee.
2. One member who is qualified by experience in managing large holdings of private land for income production or conservation purposes.
3. One member of the state bar of Arizona who is experienced in the practice of private real estate law.
4. One real estate appraiser who is licensed or certified under title 32, chapter 36.
5. One member who is qualified by experience in marketing real estate.
6. One representative of a conservation organization.
7. One representative of a state public educational institution.

B. The governor shall designate a presiding member of the board. The term of office is five years except that initial members shall assign themselves by lot to terms of one, two, three, two members for four and two members for five years in office.

C. The conservation acquisition board shall:

1. Solicit donations to the conservation donation account.
2. Consult with entities such as private land trusts, state land lessees, the state land department, the Arizona state parks board and others to identify conservation areas reclassified pursuant to section 37-312 that are suitable for funding.
3. Recommend to the Arizona state parks board appropriate grants from the land conservation fund.

D. The land conservation fund is established consisting of the following accounts:

1. The conservation donation account consisting of monies received as donations. Monies in the account are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

2. The public conservation account consisting of monies appropriated *by the legislature* from the state general fund. ***Subject to legislative appropriation, IN FISCAL YEARS 2000- 2001 THROUGH 2010- 2011, THE SUM OF TWENTY MILLION DOLLARS IS APPROPRIATED EACH FISCAL YEAR FROM THE STATE GENERAL FUND TO THE PUBLIC CONSERVATION ACCOUNT IN THE LAND CONSERVATION FUND FOR THE PURPOSES OF THIS SECTION.*** Beginning in fiscal year 1998-1999, each expenditure of monies from the public conservation account shall be matched by an equal expenditure of monies from the conservation donation account and any amount that is so appropriated in a fiscal year and that is not matched at the end of the fiscal year reverts to the state general fund. The matched monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. Monies in the public conservation account, with matching monies from the conservation donation account, are appropriated to the Arizona state parks board for the exclusive purpose of granting monies to the state or any of its political subdivisions for the purchase or lease of state trust lands that are classified as suitable for conservation purposes pursuant to section 37-312. ***If the legislature fails to appropriate monies to the public conservation account in a fiscal year, the Arizona state parks board may either grant nothing from the fund in that year or, on recommendation by the conservation acquisition board, grant available monies in the conservation donation account for purposes authorized in this paragraph.***

E. The Arizona state parks board shall administer the land conservation fund. On notice from the board, the state treasurer shall invest and divest monies in either account in the fund as provided by section 35-313, and monies earned from investments shall be credited to the appropriate account in the fund.

Sec. 3. Prohibited urban growth management requirements

A. There shall not be a state mandate that a city, charter city, town or county:

1. Adopt by ordinance or otherwise any "growth management" plan, however denominated, containing any provisions relating to such issues as mandatory development fees, mandatory air and water quality controls and street and highway environmental impacts, and requiring that, before adoption, the growth management plan, amendments and exceptions be automatically referred to the voters for approval.

2. Establish or recognize, formally or informally, urban growth boundaries, however denominated, that effectively prevent new urban development and extension of public services outside those boundaries.

3. Apply or attempt to apply urban growth management restrictions or boundaries to lands owned or held in trust by this state, unless specifically authorized by act of the legislature.

B. There shall not be a state mandate that the attorney general file any action in any court in this state against any local government or official to enforce any provision prohibited by this section. Sec. 4. Conditional repeal

Section 2 of this act is repealed if the initiative styled "The Citizens Growth Management Act" and designated by the secretary of state as 12-I-98 is approved by the voters at the general election held November 3, 1998 and becomes effective pursuant to article IV, part 1, section 1, Constitution of Arizona.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article IV, part 1, section 1, Constitution of Arizona.

PASSED THE HOUSE MARCH 5, 1998.

PASSED THE SENATE MAY 20, 1998.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 1998.

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Section 1. Great Outdoors Colorado Program. (1) The people of the State of Colorado intend that the net proceeds of every state-supervised lottery game operated under the authority of Article XVIII, Section 2 shall be guaranteed and permanently dedicated to the preservation, protection, enhancement and management of the state's wildlife, park, river, trail and open space heritage, except as specifically provided in this article. Accordingly, there shall be established the **Great Outdoors Colorado Program** to preserve, protect, enhance and manage the state's wildlife, park, river, trail and open space heritage. The **Great Outdoors Colorado Program** shall include:

(a) Wildlife program grants which:

(I) Develop wildlife watching opportunities;

(II) Implement educational programs about wildlife and wildlife environment;

(III) Provide appropriate programs for maintaining Colorado's diverse wildlife heritage;

(IV) Protect crucial wildlife habitats through the acquisition of lands, leases or easements and restore critical areas;

(b) Outdoor recreation program grants which:

(I) Establish and improve state parks and recreation areas throughout the State of Colorado;

(II) Develop appropriate public information and environmental education resources on Colorado's natural resources at state parks, recreation areas, and other locations throughout the state;

(III) Acquire, construct and maintain trails and river greenways;

(IV) Provide water for recreational purposes through the acquisition of water rights or through agreements with holders of water rights, all in accord with applicable state water law;

(c) A program to identify, acquire and manage unique open space and natural areas of statewide significance through grants to the Colorado Divisions of Parks and Outdoor Recreation and Wildlife, or municipalities, counties, or other political subdivision of the State, or non-profit land conservation organizations, and which will encourage cooperative investments by other public or private entities for these purposes; and

(d) A program for grants to match local investments to acquire, develop and manage open space, parks, and environmental education facilities, and which will encourage cooperative investments by other public or private entities for these purposes.

Enacted by the People November 3, 1992 -- Effective upon proclamation of the Governor, January 14, 1993. (For the text of the initiated measure and the votes cast thereon, see L. 93, p. 2169.)

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Section 2. Trust Fund created. A fund to be known as the **Great Outdoors Colorado Trust Fund**, referred to in this article as the "Trust Fund," is hereby created and established in the Treasury of the State of Colorado.

Enacted by the People November 3, 1992 -- Effective upon proclamation of the Governor, January 14, 1993. (For the text of the initiated measure and the votes cast thereon, see L. 93, p. 2169.)

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Section 3. Moneys allocated to Trust Fund. (1) Beginning with the proceeds from the fourth quarter of the State's Fiscal Year 1992-1993, all proceeds from all programs, including Lotto and every other state-supervised lottery game operated under the authority of Article XVIII, Section 2 of the Colorado Constitution, whether by the Colorado Lottery Commission or otherwise (such programs defined hereafter in this Article as "Lottery Programs"), net of prizes and expenses of the state lottery division and after a sufficient amount of money has been reserved, as of the end of any fiscal quarter, to ensure the operation of the lottery for the ensuing fiscal quarter (such netted proceeds defined hereafter in this Article as "Net Proceeds") are set aside, allocated, allotted, and continuously appropriated as follows, and the Treasurer shall distribute such proceeds no less frequently than quarterly, as follows:

(a) For each quarter through the fourth quarter of the State's Fiscal Year 1997-1998:

(I) to the Conservation Trust Fund and the Division of Parks and Outdoor Recreation in the amounts allocable thereto under statute as amended through January 1, 1992;

(II) to the State's Capital Construction Fund for payment of debt service due from and including September 1, 1993, to and including November 30, 1998, on the obligations described in Subsection (1)(c) of this Section 3, but only to the extent such debt service is due during such period according to the terms of the documents originating such obligations, and only if such debt service has not been prepaid or other moneys have not been dedicated or set aside for such debt service payments as of January 1, 1992, or thereafter; provided, however, that such obligations may be refunded and debt service from and including September 1, 1993, or the date of such refunding, if later, on any such refunding obligation shall be payable from Net Proceeds, even if payable after November 30, 1998, to the extent the debt service on such refunding obligation does not exceed the total amount of debt service payable on the applicable refunded obligation from and including September 1, 1993, or from the date of such refunding, if later, to and including November 30, 1998, according to the terms of the documents originating the applicable refunded obligation; and

(III) The State Treasurer shall deposit all remaining Net Proceeds, if any, in trust for the Board of the Trust Fund.

(b) For each quarter including and after the first quarter of the State's Fiscal Year 1998-1999:

(I) Forty percent to the Conservation Trust Fund for distribution to municipalities and counties and other eligible entities for parks, recreation and open space purposes;

(II) Ten percent to the Division of Parks and Outdoor Recreation for the acquisition, development and improvement of new and existing state parks, recreation areas and recreational trails; and

(III) All remaining Net Proceeds in trust to the Board of the Trust Fund, provided, however, that in any state fiscal year in which the portion of the Net Proceeds which would otherwise be given in trust to the State Board of the Trust Fund exceeds the amount of \$35 million, to be adjusted each year for changes from the 1992 Consumer Price Index-Denver, the Net Proceeds in excess of such amount or adjusted amount shall be allocated to the General Fund of the State of Colorado.

(c) (I) The people intend that debt service on the following obligations shall continue to be payable from Lottery Program Net Proceeds to the extent allowed in Section 3(1)(a) above:

(A) State of Colorado Certificates of Deposit (1979); Wheat Ridge, Colorado Project, in the original principal amount of \$6,895,000 (Issue A); Pueblo, Colorado Project, in the original principal amount of \$5,320,000 (Issue B); Grand Junction, Colorado Project in the original principal amount of \$4,735,000 (Issue C);

(B) Original principal amount of \$36,495,000 Colorado Health Facilities Authority Certificates of Deposit (1986) (Youth Services, Developmental Disabilities Projects);

(C) Original principal amount of \$36,000,000 Colorado Convention Center Contract with the City and County of Denver (1987);

(D) Original principal amount of \$63,025,000 State of Colorado Certificates of Deposit (1988) Master Lease Purchase Agreement (Correctional Facilities Project);

(E) Original principal amount of \$66,894,861.85 State of Colorado Certificates of Deposit (1989) Master Lease Purchase Agreement (Various Projects); and

(F) Original principal amount of \$28,635,000 State of Colorado Certificates of Deposit (1990) Master Lease Purchase Agreement (Additional Projects).

(II) Except to the extent allowed in Section 3(1)(a) above for refunding obligations, debt service on obligations originated on or after January 1, 1992, shall not be payable from Net Proceeds.

(d) Notwithstanding the provisions of Section 3(1)(a) above, the Board of the Trust Fund in its sole discretion may authorize payment of Net Proceeds for additional amounts of interest above the amounts authorized by Section 3(1)(a) for the refunding of any of the obligations listed above in Section 3(1)(c).

(e) Nothing in this Section 3 shall prohibit the General Assembly from appropriating additional amounts from sources other than Net Proceeds or the Trust Fund for payment of the obligations listed above in Section 3(1)(c)(I) if Net Proceeds set aside, allocated, allotted, and continuously appropriated for such purpose by this Article are less than amounts needed for debt service on such obligations. Debt service payable prior to September 1, 1993, according to the terms of the documents originating such obligations shall not be paid from Net Proceeds allocated pursuant to this Article.

(2) From July 1, 1993, the following sums of money and property, in addition to Net Proceeds as set forth in Section 3(1) above, are set aside, allocated, allotted, and continuously appropriated in trust to the Board of the Trust Fund:

- (a) All interest derived from moneys held in the Trust Fund;
- (b) Any property donated specifically to the State of Colorado for the specific purpose of benefitting the Trust Fund, including contributions, grants, gifts, bequests, donations, and federal, state, or local grants; and
- (c) Such other moneys as may be allocated to the Trust Fund by the General Assembly.

Enacted by the People November 3, 1992 -- Effective upon proclamation of the Governor, January 14, 1993. (For the text of the initiated measure and the votes cast thereon, see L. 93, p. 2169.)

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Section 4. Fund to remain inviolate. All moneys deposited in the Trust Fund shall remain in trust for the purposes set forth in this article, and no part thereof shall be used or appropriated for any other purpose, nor made subject to any other tax, charge, fee or restriction.

Enacted by the People November 3, 1992 -- Effective upon proclamation of the Governor, January 14, 1993. (For the text of the initiated measure and the votes cast thereon, see L. 93, p. 2169.)

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Section 5. Trust Fund expenditures. (1) (a) Expenditures from the Trust Fund shall be made in furtherance of the Great Outdoors Colorado Program, and shall commence in State Fiscal Year 1993-94. The Board of the Trust Fund shall have the duty to assure that expenditures are made for the purposes set forth in this section and in section 6, and that the amounts expended for each of the following purposes over a period of years be substantially equal:

(I) Investments in the wildlife resources of Colorado through the Colorado Division of Wildlife, including the protection and restoration of crucial wildlife habitats, appropriate programs for maintaining Colorado's diverse wildlife heritage, wildlife watching, and educational programs about wildlife and wildlife environment, consistent with the purposes set forth in Section 1 (1)(a) of this article;

(II) Investments in the outdoor recreation resources of Colorado through the Colorado Division of Parks and Outdoor Recreation, including the State Parks System, trails, public information and environmental education resources, and water for recreational facilities, consistent with the purposes set forth in Section 1(1)(b) of this article;

(III) Competitive grants to the Colorado Divisions of Parks and Outdoor Recreation and Wildlife, and to counties, municipalities or other political subdivisions of the state, or non-profit land conservation organizations, to identify, acquire and manage open space and natural areas of statewide significance, consistent with the purposes set forth in Section 1(1)(c) of this article; and

(IV) Competitive matching grants to local governments or other entities which are eligible for distributions from the conservation trust fund, to acquire, develop or manage open lands and parks, consistent with the purposes set forth in Section 1 (1)(d) of this article;

(b) Provided, however, that the State Board of the Great Outdoors Colorado Trust Fund shall have the discretion (a) to direct that any portion of available revenues be reinvested in the Trust Fund and not expended in any particular year, (b) to make other expenditures which it considers necessary and proper to the accomplishment of the purposes of this amendment.

(2) All funds provided to state agencies from the Trust Fund shall be deemed to be custodial in nature, and the expenditure of those funds shall not be subject to legislative appropriation or restriction.

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Section 6. The State Board of the Great Outdoors Colorado Trust Fund. (1) There shall be established a State Board of the Great Outdoors Colorado Trust Fund. The Board shall consist of two members of the public from each congressional district, a representative designated by the State Board of Parks and Outdoor Recreation, a representative designated by the Colorado Wildlife Commission, and the Executive Director of the Department of Natural Resources. The public members of the Board shall be appointed by the Governor, subject to the consent of the Senate, for terms of four years - provided, however, that when the first such members are appointed, one of the public members from each congressional district shall be appointed for a two-year term, to assure staggered terms of office thereafter. At least two members shall reside west of the Continental Divide. At least one member shall represent agricultural interests. The public members of the board shall be entitled to a reasonable per diem compensation to be determined by the Board plus their actual expenses for each meeting of the Board or a committee of the Board. The Board's composition shall reflect, to the extent practical, Colorado's gender, ethnic and racial diversity, and no two of the representatives of any one congressional district shall be members of the same political party. Members of the Board shall be subject to removal as provided in Article IV, Section 6 of this constitution.

(2) The Board shall be responsible for, and shall have the power to undertake the following actions:

(a) To direct the Treasurer to disburse expendable income from the Trust Fund as the Board may determine by resolution, and

otherwise to administer the Trust Fund, provided, however, that the Board shall not have the power to acquire any interest in real property other than (I) temporarily to hold real property donated to it and (II) to acquire leased office space;

(b) To promulgate rules and regulations as are necessary or expedient for the conduct of its affairs and its meetings and of meetings of any committees and generally for the administration of this article, provided, however, that such rules and regulations shall give the public an opportunity to comment on the general policies of the Board and upon specific grant proposals before the Board;

(c) To cause to be published and distributed an annual report, including a financial report, to the citizens, the Governor and the General Assembly of Colorado, which will set out the Board's progress in administering the funds appropriated to it, and the Board's objectives and its budget for the forthcoming year, and to consult with the General Assembly from time to time concerning its objectives and its budget;

(d) To administer the distribution of grants pursuant to Sections 1(1)(c), 1(1)(d), 5(1)(a)(III), and 5(1)(a)(IV) of this article, with the expense of administering said grants to be defrayed from the funds made available to the program elements of said sections;

(e) Commencing July 1, 1993, to determine what portions, if any, of moneys allocated to the Trust Fund should be invested in an interest-bearing Trust Fund account by the Treasurer of the State of Colorado, to remain in the Trust Fund and available for expenditure in future years;

(f) To employ such staff and to contract for such office space and acquire such equipment and supplies and enter into such other contracts as it may consider necessary from time to time to accomplish its purposes, and to pay the cost thereof from the funds appropriated to the Board under this article, provided, however, that to the extent it is reasonably feasible to do so the Board shall (I) contract with the Colorado Department of Natural Resources or other state agency for necessary administrative support and (II) endeavor to keep the level of administrative expense as low as may be practicable in comparison with its expenditures for the purposes set forth in Section 1 of this article, and the Board may contract with the State Personnel Board or any successor thereof for personnel services.

(3) The Board shall be a political subdivision of the state, and shall have all the duties, privileges, immunities, rights, liabilities and disabilities of a political subdivision of the state, provided, however, that its organization, powers, revenues and expenses shall not be affected by any order or resolution of the general assembly, except as provided in this constitution. It shall not be an agency of state government, nor shall it be subject to administrative direction by any department, commission, board, bureau or agency of the state, except to the extent provided in this constitution. The Board shall be subject to annual audit by the state auditor, whose report shall be a public document. The Board shall adopt rules permitting public access to its meetings and records which are no less restrictive than state laws applicable to state agencies, as such laws may be amended from time to time. The Board members, officers and directors of the Board shall have no personal liability for any actions or refusal to act by the Board as long as such action or refusal to act did not involve willful or intentional malfeasance or gross negligence.

Enacted by the People November 3, 1992 -- Effective upon proclamation of the Governor, January 14, 1993. (For the text of the initiated measure and the votes cast thereon, see L. 93, p. 2169.)

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Section 7. No effect on Colorado water law. Nothing in this article shall affect in any way whatsoever any of the provisions under Article XVI of the State Constitution of Colorado, including those provisions related to water, nor any of the statutory provisions related to the appropriation of water in Colorado.

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Section 8. No substitution allowed. The people intend that the allocation of lottery funds required by this article of the constitution be in addition to and not a substitute for funds otherwise appropriated from the General Assembly to the Colorado Department of Natural Resources and its divisions.

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Section 9. Eminent domain. No moneys received by any state agency pursuant to this article shall be used to acquire real property by condemnation through the power of eminent domain.

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- Sec. 7-105. Oath of assessors, board of assessment appeals and tax collectors.
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- Sec. 7-106. Oath of grand jurors.
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- Sec. 7-109. Destruction of documents.
- Sec. 7-110. Official publications of towns, cities and boroughs to be filed in State Library.
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- Sec. 7-125a. Appropriations to improvement associations for road maintenance.
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Sec. 7-137b. Establishment of industrial park.

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Sec. 7-137d. Lien for benefits assessed for water main extension.

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Sec. 7-131a. Conservation commissions.

(a) Any town, city or borough, by vote of its legislative body, may establish a conservation commission for the development, conservation, supervision and regulation of natural resources, including water resources, within its territorial limits. The commission shall consist of not fewer than three nor more than eleven members and not more than three alternates, to be appointed by the chief executive officer of the municipality, to serve for terms to be designated by the legislative body establishing the commission. Such alternate members shall, when seated, have all the powers and duties of a member of the commission. The chief executive officer may remove any member or alternate for cause and may fill any vacancy.

(b) A conservation commission shall conduct research into the utilization and possible utilization of land areas of the municipality and may coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare and distribute books, maps, charts, plans and pamphlets as necessary for its purposes. It may propose a greenways plan for inclusion in the plan of conservation and development of the municipality prepared pursuant to section 8-23. It may inventory natural resources and formulate watershed management and drought management plans. Such plans shall be consistent with water supply management plans prepared pursuant to section 25-32d. It shall keep an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information on the proper use of such areas, and may from time to time recommend to the planning commission or, if none, to the chief executive officer or the legislative body plans and programs for the development and use of such areas. It may make recommendations to zoning commissions, planning commissions, inland wetlands agencies and other municipal agencies on proposed land use changes. It may, with the approval of such legislative body, acquire land and easements in the name of the municipality and promulgate rules and regulations, including but not limited to the establishment of reasonable charges for the use of land and easements, for any of its purposes as set out in this section. It may supervise and manage municipally-owned open space or park property upon delegation of such authority by the entity which has supervisory or management responsibilities for such space or property. It shall keep records of its meetings and activities and shall make an annual report to the municipality in the manner required of other agencies of the respective municipalities. The commission may receive gifts in the name of the municipality for any of its

Sec. 7-139. Notice of assessment of benefits.

Sec. 7-140. Assessment a lien; foreclosure.

Sec. 7-141. Notice of hearing on municipal assessments.

Sec. 7-142. Appeal from municipal assessments.

Sec. 7-143. Completion of improvement pending appeal from appraisal of damages.

Sec. 7-144. Assessment on estate of decedent.

Sec. 7-145. Correction of assessments.

Sec. 7-146. Clearing of waterways.

Sec. 7-147. Regulation of obstructions in waterways.

purposes and shall administer the same for such purposes subject to the terms of the gift. (c) A commission may exchange information with the Commissioner of Environmental Protection, and said commissioner may, on request, assign technical personnel to a commission for assistance in planning its overall program and for coordinating state and local conservation activities. (d) Any town, city or borough may appropriate funds to such commission.

(1961, P.A. 310; 1963, P.A. 490, S. 7; 1969, P.A. 284, S. 1; 1971, P.A. 872, S. 403; P.A. 73-293; P.A. 79-84; P.A. 93-270; P.A. 95-335, S. 10, 26.)

History: 1963 act amended Subsec. (b) to provide for making recommendations to the planning commission only, if one exists, rather than to the chief executive, legislative body or planning commission; 1969 act included supervision and regulation of resources in duties of conservation commission, required approval of legislative body for acquisition of land and easements and gave power to make regulations, including charges for use of land and easements; 1971 act substituted commissioner of environmental protection for commissioner of agriculture and natural resources in Subsec. (c); P.A. 73-293 changed maximum number of commission members from seven to eleven in Subsec. (a); P.A. 79-84 added provisions for alternate members in Subsec. (a); P.A. 93-270 amended Subsec. (b) to add provisions authorizing commissions to inventory natural resources, formulate watershed management and drought management plans and to make recommendations on proposed land use changes and to supervise and manage municipal open space or park property; P.A. 95-335 amended Subsec. (b) to authorize the commission to propose a greenways plan to be included in the municipal plan of conservation and development, effective July 1, 1995.

Cited. 160 C. 71. Subsec. (b): Cited. 35 CA 594, 598.

Sec. 7-131b. Acquisition of open space land and easements.

Revaluation of property subject to easement. (a) Any municipality may, by vote of its legislative body, by purchase, condemnation, gift, devise, lease or otherwise, acquire any land in any area designated as an area of open space land on any plan of development of a municipality adopted by its planning commission or any easements, interest or rights therein and enter into covenants and agreements with owners of such open space land or interests therein to maintain, improve, protect, limit the future use of or otherwise conserve such open space land. (b) Any owner who encumbers his

property by conveying a less than fee interest to any municipality under subsection (a) of this section shall, upon written application to the assessor or board of assessors of the municipality, be entitled to a revaluation of such property to reflect the existence of such encumbrance, effective with respect to the next-succeeding assessment list of such municipality. Any such owner shall be entitled to such revaluation, notwithstanding the fact that he conveyed such less than fee interest prior to October 1, 1971, provided no such revaluation shall be effective retroactively. (c) Any owner aggrieved by a revaluation under subsection (b) of this section may appeal to the board of assessment appeals in accordance with the provisions of sections 12-111 and 12-112 and may appeal from the decision of the board of assessment appeals in accordance with the provisions of section 12-117a. (1963, P.A. 490, S. 6; 1971, P.A. 73; P.A. 95-283, S. 24, 68.)

History: 1971 act added Subsecs. (b) and (c) re revaluation of property; P.A. 95-283 amended Subsec. (c) to replace board of tax review with board of assessment appeals and made technical changes, effective July 6, 1995.

See Secs. 12-107a and 12-107b re open space land. Cited. 178 C. 295, 297, 303.

Sec. 7-131c. Open space land.

Definitions. As used in sections 7-131c to 7-131k, inclusive: (a) "Recreational and conservation purposes" means use of lands for agriculture, parks, natural areas, forests, camping, fishing, wetland preservation, wildlife habitat, reservoirs, hunting, golfing, boating, swimming, snowmobiling, historic and scenic preservation and other purposes as set forth in section 7-131b; (b) "Land" or "lands" means real property, including improvements thereof and thereon, and all estates, interests and rights therein of any kind or description, including, but not limited to, easements, rights-of-way and water and riparian rights; (c) "Open space land" refers to any land acquired under the provisions of sections 7-131c to 7-131k, inclusive; (d) "Municipality" means any town, city or borough, or other political subdivision of the state, or public authority authorized by law to acquire and hold land for recreational and conservation purposes whose territorial limits or jurisdiction is not wholly contained within the territorial limits of a town, city or borough. (1963, P.A. 649, S. 1; February, 1965, P.A. 368, S. 1; 574, S. 3; 1971, P.A. 842, S. 1; P.A. 90-239, S. 3; P.A. 92-206, S. 1.)

History: 1965 acts added to definition of "municipality" political subdivisions of the state and public authorities authorized to acquire and hold land and corrected internal reference; 1971 act included swimming, snowmobiling and sanitary landfill uses in definition of "recreational and conservation purposes"; P.A. 90-239 redefined "recreational and conservation purposes" to include subsurface septic system adjacent to municipally owned building; P.A. 92-206 amended Subsec. (a) to delete sanitary landfills and subsurface septic systems from the definition of "recreational and conservation purposes".

Cited. 168 C. 466.

Sec. 7-131d. Grant-in-aid for open space land acquisition or development.

Any municipality or group of contiguous municipalities may apply to the Commissioner of Environmental Protection for a grant-in-aid of a program established to preserve or restrict to conservation or recreation purposes the use of open space land. Such grant shall be used for the acquisition of land, or easements, interests or rights therein, or for the development of such land, or easements, interests or rights therein, for purposes set forth in section 7-131c, or both, in accordance with a plan of development adopted by the municipal planning commission of the municipality within which the land is located. Any application for a grant-in-aid relating to land located beyond the territorial limits of the applying municipality shall be subject to approval of the legislative body of the municipality within whose territorial limits the land is located. A municipality applying for aid under sections 7-131c to 7-131k, inclusive, may designate its conservation commission as its agent to make such application.

(1963, P.A. 649, S. 2; February, 1965, P.A. 367, S. 1; 1971, P.A. 842, S. 2; 872, S. 404; P.A. 78-359, S. 1, 8.) History: 1965 act added requirement that grant-in-aid application concerning land beyond municipality's territory be approved by municipality where land lies and specified plan of development be in accordance with plan adopted by planning commission of municipality within which land is located, deleting restriction that municipalities may apply only for grant involving the use of land in their own towns; 1971 acts included improvement of land, easements, etc. for purposes of Sec. 7-131c in uses of grants and substituted commissioner of environmental protection for council on agriculture and natural resources; P.A. 78-359 substituted use of grants for "development" rather than "improvement" of land, easements, etc.

Sec. 7-131e. Applications for grant.

(a) Open space grants-in-aid shall be approved by the Commissioner of Environmental Protection. (b) Said commissioner shall prescribe an application form and may require supporting maps, data, title searches and appraisals as he so determines. (c) All applications shall be approved by local planning agencies and conservation commissions, where they exist, prior to submission. All applications shall be submitted to the regional planning agency, if any, whose area of operation includes the location of the land for which open space grant-in-aid is requested. The regional planning agency shall study the application and render an advisory report of its findings and recommendations thereon to the applicant who shall submit such regional planning agency report with its application to the commissioner. The regional planning agency shall have thirty days to render such report. If it fails to report or if there is no regional planning agency, the applicant shall so note to the commissioner. The regional planning agency may designate its executive

committee to act for it under this section or may establish a committee for this purpose.

(1963, P.A. 649, S. 5; 1969, P.A. 628, S. 16; 1971, P.A. 872, S. 405.)

History: 1969 act clarified provisions regarding preliminary approval, reports concerning and disposition of applications; 1971 act substituted commissioner of environmental protection for council on agriculture and natural resources.

Sec. 7-131f. Considerations in approving grants.

In making grants-in-aid for open space land acquisition or development the Commissioner of Environmental Protection shall: (a) Seek to achieve a reasonable balance among all parts of the state in the relative adequacy of present areas devoted to recreational and conservation purposes and the relative anticipated future needs for additional areas devoted to recreational and conservation purposes; (b) give due consideration to the special park requirement needs of urban areas; (c) wherever possible, give priority to land which will be utilized for multiple recreational and conservation purposes; (d) give due consideration to coordination with the plans of departments of the state and regional planning agencies with respect to land use or acquisition and (e) give primary consideration to the needs of municipalities that have formed local housing partnerships pursuant to the provisions of section 8-336f.

(1963, P.A. 649, S. 4; 1971, P.A. 872, S. 406; P.A. 79-607, S. 7; P.A. 88-305, S. 2, 4.)

History: 1971 act substituted commissioner of environmental protection for council on agriculture and natural resources; P.A. 79-607 included grants for development; P.A. 88-305 added Subdiv. (e) re consideration of needs of municipalities that have formed local housing partnerships.

Sec. 7-131g. Amount of grant.

(a) Subject to the provisions of sections 7-131c to 7-131k, inclusive, the Commissioner of Environmental Protection may (1) where a federal grant is also made, approve grants to municipalities in an amount not to exceed one-half of the nonfederal share of open space land acquisition or development costs, (2) where a federal rehabilitation or innovation grant is made to a municipality under the Urban Park and Recreation Recovery Act of 1978 (P.L. 95-625, 92 Stat. 3538), approve a grant to such municipality not to exceed fifteen per cent of the total project cost of such development or rehabilitation and (3) where a federal grant is not made, may approve grants to municipalities in an amount not to exceed forty per cent of such land acquisition or development costs. (b) The cost of land, for determination of a state grant hereunder, shall be determined by one or more appraisals made or obtained by the state and shall not include incidental costs, such as surveying and closing costs or costs of development thereof. When a municipality receives a gift of land as a portion of the total value of the property, the appraised value of said gift of land shall be subtracted from the

nonfederal share for determination of a state grant. Such information as may be required for determination of any such grant with respect to development costs shall be submitted in accordance with regulations prescribed by said commissioner. (c) Any application for a grant-in-aid under sections 7-131c to 7-131k, inclusive, which was received and approved by the Commissioner of Environmental Protection prior to July 1, 1978, shall be administered in accordance with the terms and conditions of the open space statutes in effect prior to that date. (1963, P.A. 649, S. 3; 1967, P.A. 739, S. 1; 1969, P.A. 190, S. 1; 1971, P.A. 63, S. 1; 872, S. 407; 1972, P.A. 21, S. 1; P.A. 78-359, S. 2, 8; P.A. 79-607, S. 8; June Sp. Sess. P.A. 83-33, S. 14, 17; P.A. 92-206, S. 2.)

History: 1967 act amended Subsec. (a) to differentiate between cases where federal grants made and where not made and required that land cost be determined by state-obtained appraisals in Subsec. (b); 1969 act added Subsec. (c) re applications prior to January 1, 1968; 1971 acts amended Subsec. (b) to allow state to make appraisals and substituted commissioner of environmental protection for council on agriculture and natural resources; 1972 act amended Subsec. (b) by specifying "one or more" appraisals; P.A. 78-359 changed "shall" to "may" in Subsec. (a), included grants for development costs, added provision re information required for determining development cost grant in Subsec. (b) and in Subsec. (c) changed applicable date to January 1, 1968, and replaced reference to council with commissioner of environmental protection; P.A. 79-607 added provision concerning grants under Urban Park and Recreation Recovery Act in Subsec. (a); June Sp. Sess. P.A. 83-33 amended Subsec. (b) to include language regarding determination of the treatment of gifts to municipalities; P.A. 92-206 amended Subsec. (a) to change the specification re the amount of certain grants authorized under this section.

Sec. 7-131h. Charges by municipality.

Reasonable charges may be made by a municipality, when necessary, to aid in the proper maintenance of recreational facilities developed on land acquired under sections 7-131c to 7-131k, inclusive.

(1963, P.A. 649, S. 6.)

Sec. 7-131i. Municipal use of open space land.

Land acquired or developed by any municipality, for which a state grant was awarded under sections 7-131c to 7-131k, inclusive, shall not be conveyed other than to another municipality or to the state for use for recreation or conservation or converted to any use other than recreation or conservation, except with the approval of the Commissioner of Environmental Protection, provided a municipality may use such land for a subsurface sewage disposal system if such system is adjacent to a municipally-owned building. If such grant was awarded for acquisition of land, such approval by said commissioner shall be conditioned on the agreement of the municipality to provide comparable land to be devoted to recreation or conservation, the full proceeds of

any sale of land to be applied to such purpose and, if such proceeds exceed the amount required for such land acquisition, the balance shall revert to the state General Fund. If the municipality is unable to acquire comparable land, it shall pay to the state (1) if the land is sold, the same percentage of the proceeds of the sale as that granted by the state for the purchase of the land, or (2) if the land is not sold, such percentage of the fair market value of the land at the time of conversion to another use. (1963, P.A. 649, S. 7; February, 1965, P.A. 369, S. 1; 1971, P.A. 872, S. 408; P.A. 78-359, S. 3, 8; P.A. 92-206, S. 3.)

History: 1965 act specified that land shall not be conveyed "other than to another municipality or to the state for use for recreation or conservation"; 1971 act substituted commissioner of environmental protection for council on agriculture and natural resources; P.A. 78-359 included land developed through grant; P.A. 92-206 authorized use of land acquired or developed by a municipality under Secs. 7-131c to 7-131k, inclusive, for subsurface sewage disposal systems under certain circumstances.

Sec. 7-131j. Taking of land by state or public service company.

If the state or any public service company, as defined in section 16-1, takes any land, for highway or other purposes, which is restricted for conservation or recreation use in accordance with an established open space program, whether or not a state grant was awarded under sections 7-131c to 7-131k, inclusive, to the municipality in which the land is located, the state or such company shall provide comparable land to be included in such program or shall grant or pay to the municipality sufficient funds to be used for such purpose; provided, before the state takes such land for highway or other purposes, it shall hold a public hearing in addition to the public hearing required by section 13a-58 or by any other section of the general statutes. At such public hearing and in the notice thereof, as provided for herein, the state shall set forth the description of the land proposed to be taken and the proposed use of such land, together with any reasons for the proposed taking of the open space land rather than other land. The state shall give notice of the time and place of such hearing by publication in a newspaper having a substantial circulation in each town, city or borough affected, at least twice, at intervals of not less than two days, the first not more than fifteen nor less than ten days and the second not less than two days before such hearing and such hearing shall be held within a period of not more than thirty and not less than fifteen days after any other public hearing required by section 13a-58 or by any other section of the general statutes. If the governing body of the municipality owning such land and the governing body of the municipality in which such land is located and the Commissioner of Transportation agree that a combination of the hearing required by section 13a-58 and the hearing required by this section will best serve the interests of the state and the municipality concerned, such combined hearing may be held after giving notice of such combined hearing in the

manner provided in section 13a-58. At such combined hearing the state shall comply with the requirements of section 13a-58 and this section in regard to the information to be presented and the opportunity for all persons concerned to be heard. Except as hereinafter provided the state shall not take, for highway or other purposes, any such land unless the governing body of the municipality in which the land is located has, by majority vote of all its members, approved the proposed taking. If such governing body does not approve such proposed taking within ninety days after the public hearing provided for herein, the state may apply to the Superior Court, or to any judge thereof when said court is not in session, for an order permitting the state to take such land for highway or other purposes, notwithstanding the failure of the governing body of the municipality to approve the proposed taking. The state shall serve upon the municipality a copy of such application not less than thirty days prior to the hearing thereon. Said court or judge shall hold a hearing on the application, at which hearing any interested citizen may be heard. If said court or judge, after consideration of all the facts and of the public policy of this state that open space land shall be preserved, finds that no land other than the land proposed to be taken will serve the purpose of such taking, it or he shall issue the order applied for.

(1963, P.A. 649, S. 8; February, 1965, P.A. 119; 609; 1969, P.A. 176, S. 1.)

History: 1965 acts added, in first sentence, reference to the taking of land by public service companies, reference to payment to municipality and the proviso, and added specific provisions re procedure for taking land; 1969 act provided for combined hearings.

General state power of condemnation, except for necessity to comply with this section, adequate to permit taking of municipal park property. 154 C. 691. Insures that sufficient damages will be awarded to finance replacement for condemned facility. 165 C. 766. Section requires application of "substitute facilities" doctrine in cases of taking entire tract of parkland but where there is partial taking, section requires state to grant sufficient funds to condemnee to replace land condemned only and parkland is treated as having monetary value equal to its replacement cost just prior to taking. 169 C. 655661.

Sec. 7-131k. Acceptance of federal funds.

Any municipality may accept federal funds for open space land acquisitions or development.

(1963, P.A. 649, S. 9; P.A. 78-359, S. 4, 8.)

History: P.A. 78-359 authorized acceptance of federal funds for "development".

See Sec. 22a-22(c) re receipt and disbursement of federal funds for planning, acquisition and development of state forest, park, fish and game facilities and for acquisition and development of lands by municipalities.

Sec. 7-131l. Development of watershed areas for recreation and fish and wildlife sites.

Any town, city or borough may enter into agreements with the Commissioner of Environmental Protection or

any federal or state agency concerned with watershed protection projects for the purposes of developing, maintaining and operating recreation and fish and wildlife sites in the watershed areas of projects provided for in sections 22a-318 to 22a-322, inclusive. Any town, city or borough may appropriate funds, receive gifts of land or money and allocate funds as its share of the cost of such recreational or fish and wildlife site development, maintenance and operation.

(1963, P.A. 350; 1971, P.A. 872, S. 409.)

History: 1971 act substituted commissioner of environmental protection for council on agriculture and natural resources.

Sec. 7-131m. Combined conservation and recreational commission.

(a) Unless otherwise provided by special act, any town may by ordinance or vote of its legislative body designate its conservation commission or its recreational authority as the conservation and recreational commission for such town, and such commission shall thereupon have all the powers and duties of both a conservation and a recreational authority and shall supersede any previous conservation commission or recreational authority, as the case may be. Such ordinance or vote shall establish the number of members to comprise such conservation and recreational commission which shall consist of not less than five nor more than nine members who shall be appointed in accordance with section 7-130c. (b) Any town which has designated its conservation commission or recreational authority as the conservation and recreation commission in accordance with the provisions of subsection (a) of this section may, by ordinance or by vote of its legislative body, reverse such designation and do anything to conform to the provisions of sections 7-130a to 7-130w, inclusive, and 7-131a, provided no such reversal, unless otherwise stated, shall be construed to affect the continuity of conservation or recreation programs in such town.

(1969, P.A. 284, S. 2, 3; P.A. 90-271, S. 3, 24.)

History: P.A. 90-271 corrected an internal reference.

Sec. 7-131n. Taking of land previously intended for use as park or for other recreational or open space purposes.

If any municipality takes any land, for highway or other purposes, which land was purchased for park or other recreational or open space purposes, or for which bonds were issued for such purposes, or which had been dedicated for such purposes, such municipality shall provide comparable replacement land at least equal in value and per unit area size to the value and per unit area size of the land taken; provided before such municipality takes such land for highway or other purposes it shall hold a public hearing in addition to any public hearing required by section 13a-58 or by any other section of the general statutes or by any special act or city charter. At such public hearing and in the notice thereof, the municipality shall set forth the description of the land proposed to be taken and the proposed use of such land,

any reasons for the proposed taking of the parkland rather than other land and the description of the replacement land to be provided. The municipality shall give notice of the time and place of such hearing by publication in a newspaper having a substantial circulation in such municipality, such notice to be given at least twice, at intervals of not less than two days, the first not more than fifteen days nor less than ten days and the second not less than two days before such hearing and such hearing shall be held within a period of not more than thirty and not less than fifteen days after any other public hearing required by section 13a-58 or by any other section of the general statutes. For purposes of this section "municipality" means any town, city or borough, or other political subdivision of the state.

(P.A. 75-534; P.A. 77-172.)

History: P.A. 77-172 required that description of replacement land be provided at public hearing.

Secs. 7-131o and 7-131p. Reserved for future use.

Sec. 7-131q. Agricultural Land Preservation Fund.

(a) As used in this section, "municipality" means any city, town, borough, district or association with municipal powers; "agricultural land" means any land in the state suitable by reference to soil types, existing and past use of such land for agricultural purposes and other relevant factors for the cultivation of plants for production of human food and fiber or production of other useful and valuable plant products and for the production of animals, livestock and poultry useful to man and the environment, and land capable of providing economically profitable farm units, and may include adjacent pastures, wooded land, natural drainage areas and other adjacent open areas; "development rights" means the rights of the fee simple owner of agricultural land to develop, construct on, sell, lease or otherwise improve the agricultural land for uses that result in rendering such land no longer agricultural land, but shall not be construed to include: (1) The uses defined in subsection (q) of section 1-1, (2) the rights of the fee owner of agricultural land to develop, construct on, sell the property in its entirety, lease or otherwise improve the agricultural land to preserve, maintain, operate or continue such land as agricultural land, including, but not limited to, construction thereon of residences for persons directly incidental to farm operation and buildings for animals, roadside stands and farm markets for sale to the consumer of food products and ornamental plants, facilities for the storing of equipment and products or processing thereof or such other improvements, activities and uses thereon as may be directly or incidentally related to the operation of the agricultural enterprise, as long as the acreage and productivity of arable land for crops is not materially decreased and due consideration is given to the impact of any decrease in acreage or productivity of such arable land upon the total farm operation, except that new construction or modification of an existing farm building necessary to the operation of a farm on prime farmland, as defined by the United States Department of

Agriculture, of which the state has purchased development rights shall be limited to not more than five per cent of the total of such prime farmland, (3) the rights of the fee owner to provide for the extraction of gravel or like natural elements for purposes directly or incidentally related to the operation of the agricultural enterprise or (4) the existing water and mineral rights, exclusive of gravel, of the fee owner. (b) Any municipality, by vote of its legislative body, may establish a special fund, which shall be known as the Agricultural Land Preservation Fund. There shall be deposited in said fund (1) all moneys received by the municipality, from whatever source and by whatever means, as gifts for agricultural land preservation purposes; (2) all moneys received by the municipality, from whatever source and by whatever means, as grants or loans for agricultural land preservation purposes, and (3) all moneys appropriated to said fund by the municipality. (c) Said fund shall be in the custody of the treasurer or other officer in charge of funds of the municipality. All or any part of the moneys in said fund may, from time to time, be invested in any securities in which public funds may lawfully be invested. All income derived from such investments shall be paid into the fund and become a part thereof. The moneys so invested shall at all times be subject to withdrawal from such investment for use as provided in subsection (e). (d) Annually, the treasurer or other officer having custody of said fund shall submit to the legislative body of the municipality a complete and detailed report of the condition of said fund, which report shall be made a part of the annual municipal report. (e) Upon authorization of the body in such municipality having the power of appropriation, the moneys in said fund may be used by the municipality for the acquisition in its name of

the development rights of agricultural land and for any expenditure incurred for the preservation of agricultural land, provided (1) the development rights have been voluntarily offered for sale to the municipality by the owner and (2) the land has been designated for preservation purposes by the municipality in an open space plan, municipal plan of conservation and development or farmland preservation plan. (P.A. 84-184; P.A. 86-135, S. 2; P.A. 95-335, S. 12, 26.) History: P.A. 86-135 amended Subsec. (e) by adding provisos specifying that development rights must be offered voluntarily and that land has been formally designated for preservation purposes; P.A. 95-335 amended Subsec. (e) to change "plan of development" to "plan of conservation and development", effective July 1, 1995.

See chapter 422a re state program for the preservation of agricultural land.

Sec. 7-131r. Land Acquisition Fund.

Any municipality, by vote of its legislative body, may establish a special fund, which shall be known as the Land Acquisition Fund. There shall be deposited in said fund, annually, an amount, not to exceed the amount which would be generated by the imposition of a tax of two mills against the property subject to tax in such municipality pursuant to chapter 203, as may be appropriated by the municipality. Such fund shall be used by the municipality for the acquisition of land to be used for open space, recreation or housing. Such fund shall not lapse at the close of the municipal fiscal year. (P.A. 89-370, S. 5, 15.)

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259.101 Florida Preservation 2000 Act.--

(1) **SHORT TITLE.**--This section may be cited as the "Florida Preservation 2000 Act."

(2) **LEGISLATIVE FINDINGS.**--The Legislature finds and declares that:

(a) The alteration and development of Florida's natural areas to accommodate its rapidly growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of recreation space, and the diminishment of wetlands and forests.

(b) Imminent development of Florida's remaining natural areas and continuing increases in land values necessitate an aggressive program of public land acquisition during the next decade to preserve the quality of life that attracts so many people to Florida.

(c) Acquisition of public lands, in fee simple or in any lesser interest, should be based on a comprehensive assessment of Florida's natural resources and planned so as to protect the integrity of ecological systems and to provide multiple benefits, including preservation of fish and wildlife habitat, recreation space, and water recharge areas. Governmental agencies responsible for public land acquisition should work together to purchase lands jointly and to coordinate individual purchases within ecological systems.

(d) One of the purposes of the Florida Communities Trust program is to acquire, protect, and preserve open space and recreation properties within urban areas where pristine animal and plant communities no longer exist. These areas are often overlooked in other programs because of their smaller size and proximity to developed property. These smaller parcels are, however, critically important to the quality of life in these urban areas for the residents who live there as well as to the many visitors to the state. The trust shall consider projects submitted by local governments which further the goals, objectives, and policies of the conservation, recreation and open space, or coastal elements of their local comprehensive plans or which serve to conserve natural resources or resolve land use conflicts.

(e) South Florida's water supply and unique natural environment depend on the protection of lands buffering the East Everglades and the Everglades water conservation areas.

In addition, the Legislature recognizes the conflicting desires of the citizens of this state to prosper through economic development and to preserve the natural areas of Florida that development threatens to claim. The Legislature further recognizes the urgency of acquiring natural areas in the state for preservation, yet acknowledges the difficulty of ensuring adequate funding for accelerated acquisition in light of other equally critical financial needs of the state. It is the Legislature's desire and intent to fund the implementation of the Florida Preservation 2000 Act for each of the 10 years of the program's duration and to do so in a fiscally responsible manner.

1(3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.

--Less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, the proceeds of bonds issued pursuant to this act shall be deposited into the Florida Preservation 2000 Trust Fund created by s. 375.045. Ten percent of the proceeds of any bonds deposited into the Preservation 2000 Trust Fund shall be distributed by the Department of Environmental Protection to the Department of Environmental Protection for the purchase by the South Florida Water Management District of lands in Dade, Broward, and

Palm Beach Counties identified in s. 7, chapter 95-349, Laws of Florida. This distribution shall apply for any bond issue for the 1995-1996 fiscal year. For the 1997-1998 fiscal year only, \$20 million per year from the proceeds of any bonds deposited into the Florida Preservation 2000 Trust Fund shall be distributed by the Department of Environmental Protection to the St. Johns Water Management District for the purchase of lands necessary to restore Lake Apopka. The remaining proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(a) Fifty percent to the Department of Environmental Protection for the purchase of public lands as described in s. 259.032. Of this 50 percent, at least one-fifth shall be used for the acquisition of coastal lands.

(b) Thirty percent to the Department of Environmental Protection for the purchase of water management lands pursuant to s. 373.59, to be distributed among the water management districts as provided in that section. Funds received by each district may also be used for acquisition of lands necessary to implement surface water improvement and management plans approved in accordance with s. 373.456 or for acquisition of lands necessary to implement the Everglades Construction Project authorized by s. 373.4592.

(c) Ten percent to the Department of Community Affairs to provide land acquisition grants and loans to local governments through the Florida Communities Trust pursuant to part III of chapter 380. From funds allocated to the trust, \$3 million annually shall be used by the Green Swamp Land Authority specifically for the purchase through land protection agreements, as defined in s. 380.0677(5), of lands, or severable interests or rights in lands, in the Green Swamp Area of Critical State Concern. From funds allocated to the trust, \$3 million annually shall be used by the Monroe County Comprehensive Plan Land Authority specifically for the purchase of any real property interest in either those lands subject to the Rate of Growth Ordinances adopted by local governments in Monroe County or those lands within the boundary of an approved Conservation and Recreation Lands project located within the Florida Keys or Key West Areas of Critical State Concern; however, title to lands acquired within the boundary of an approved Conservation and Recreation Lands project may, in accordance with an approved joint acquisition agreement, vest in the Board of Trustees of the Internal Improvement Trust Fund. Of the remaining funds allocated to the trust after the above transfers occur, one-half shall be matched by local governments on a dollar-for-dollar basis. To the extent allowed by federal requirements for the use of bond proceeds, the trust shall expend Preservation 2000 funds to carry out the purposes of part III of chapter 380.

(d) Two and nine-tenths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks. For the purposes of this paragraph, "state park" means all real property in the state under the jurisdiction of the Division of Recreation and Parks of the department, or which may come under its jurisdiction.

(e) Two and nine-tenths percent to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions pursuant to s. 589.07.

(f) Two and nine-tenths percent to the Game and Fresh Water Fish Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife.

(g) One and three-tenths percent to the Department of Environmental Protection for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trails systems pursuant to chapter 260, including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail.

Local governments may use federal grants or loans, private donations, or environmental mitigation funds, including environmental mitigation funds required pursuant to s. 338.250, for any part or all of any local match required for the purposes described in this subsection. Bond proceeds allocated pursuant to paragraph (c) may be used to purchase lands on the priority lists developed pursuant to s. 259.035. Title to lands purchased pursuant to paragraphs (a), (d), (e), (f), and (g) shall be vested in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands, or rights or interests therein, acquired by either the Southwest Florida Water Management District or the St. Johns River Water Management District in furtherance of the Green Swamp Land Authority's mission pursuant to s. 380.0677(3), shall be vested in the district where the acquisition project is located. Title to lands purchased pursuant to paragraph (c) may be vested in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands, or rights or interests therein, acquired by either the Southwest Florida Water Management District or the St. Johns River Water Management District in furtherance of the Green Swamp Land Authority's mission pursuant to s. 380.0677(3), shall be vested in the district where the acquisition project is located. This subsection is repealed effective October 1, 2000. Prior to repeal, the Legislature shall review the provisions scheduled for repeal and shall determine whether to reenact or modify the provisions or to take no action.

(4) PROJECT CRITERIA.--

(a) Proceeds of bonds issued pursuant to this act and distributed pursuant to paragraphs (3)(a) and (b) shall be spent only on projects which meet at least one of the following criteria, as determined pursuant to paragraphs (b) and (c):

1. A significant portion of the land in the project is in imminent danger of development, in imminent danger of loss of its significant natural attributes, or in imminent danger of subdivision which will result in multiple ownership and may make acquisition of the project more costly or less likely to be accomplished;

2. Compelling evidence exists that the land is likely to be developed during the next 12 months, or appraisals made during the past 5 years indicate an escalation in land value at an average rate that exceeds the average rate of interest likely to be paid on the bonds;

3. A significant portion of the land in the project serves to protect or recharge groundwater and to protect other valuable natural resources or provide space for natural resource based recreation;

4. The project can be purchased at 80 percent of appraised value or less;

5. A significant portion of the land in the project serves as habitat for endangered, threatened, or rare species or serves to protect natural communities which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities; or

6. A significant portion of the land serves to preserve important archeological or historical sites.

(b) Each year that bonds are to be issued pursuant to this act, the Land Acquisition and Management Advisory Council shall review that year's approved Conservation and Recreation Lands priority list and shall, by the first board meeting in February, present to the Board of Trustees of the Internal Improvement Trust Fund for approval a listing of projects on the list which meet one or more of the criteria listed in paragraph (a). The board may remove projects from the list developed pursuant to this paragraph, but may not add projects.

(c) Each year that bonds are to be issued pursuant to this act, each water management district governing board shall review the lands on its current year's Save Our Rivers 5-year plan and shall, by January 15, adopt a listing of projects from the plan which meet one or more of the criteria listed in paragraph (a).

(d) In the acquisition of coastal lands pursuant to paragraph (3)(a), the following additional criteria shall also be considered:

1. The value of acquiring coastal high-hazard parcels, consistent with hazard mitigation and postdisaster redevelopment policies, in order to minimize the risk to life and property and to reduce the need for future disaster assistance.

2. The value of acquiring beachfront parcels, irrespective of size, to provide public access and recreational opportunities in highly developed urban areas.

3. The value of acquiring identified parcels the development of which would adversely affect coastal resources.

When a nonprofit environmental organization which is tax exempt pursuant to s. 501(c)(3) of the United States Internal Revenue Code sells land to the state, such land at the time of such sale shall be deemed to meet one or more of the criteria listed in paragraph (a) if such land meets one or more of the criteria at the time the organization purchases it. Listings of projects compiled pursuant to paragraphs (b) and (c) may be revised to include projects on the Conservation and Recreation Lands priority list or in a water management district's 5-year plan which come under the criteria in paragraph (a) after the dates specified in paragraph (b) or paragraph (c). The requirement of paragraph (3)(a) regarding coastal lands is met as long as an average of one-fifth of the cumulative proceeds allocated through fiscal year 1999-2000 pursuant to that paragraph is used to purchase coastal lands.

(e) The Legislature finds that the Florida Preservation 2000 Program has provided financial resources that have enabled the acquisition of significant amounts of land for public ownership in the first 7 years of the program's existence. In the remaining years of the Florida Preservation 2000 Program, agencies that receive funds are encouraged to better coordinate their expenditures so that future acquisitions, when combined with previous acquisitions, will form more complete patterns of protection for natural areas and functioning ecosystems to better accomplish the intent of paragraph (2)(c).

(f) The Legislature intends that, in the remaining years of the Florida Preservation 2000 Program, emphasis be given to the completion of projects in which one or more parcels have already been acquired and to the acquisition of lands containing ecological resources which are either not represented or underrepresented on lands currently in public ownership. The Legislature also intends that future acquisitions under the Florida Preservation 2000 Program be limited to projects on the current project lists, or any additions to the list as determined and

prioritized by the study, or those projects that can reasonably be expected to be acquired by the end of the Florida Preservation 2000 Program.

(g) In determining the remaining needs and priorities for the Florida Preservation 2000 Program and to ensure that future acquisitions preserve those resources in the greatest need of protection, the Land Acquisition and Management Advisory Council and each water management district governing board shall commission a study to determine:

1. What ecological resources are inadequately represented in the state's and each district's public land inventory and which approved projects can best fill the needs identified.
2. Significant natural areas and watersheds which can be conserved by the use of conservation easements or other less-than-fee techniques.
3. For projects in which an acquisition has been completed, the minimal lands needed to be acquired for resource protection and effective management.
4. Projects with significant historical or archeological importance.
5. The best method of completing the Florida Preservation 2000 Program to ensure that the program achieves its mission, pursuant to subsection (2).

These studies shall be completed by October 1, 1997. No acquisition shall be initiated for any project on a current acquisition list which has not had an initial acquisition until the study is complete, unless a significant portion of the land in the project is in imminent danger of development and a significant portion of the land in the project serves as habitat for endangered, threatened, or rare plant species and serves to protect natural plant communities which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare.

(5) Any funds received by the Division of Forestry from the Preservation 2000 Trust Fund pursuant to paragraph (3)(e) shall be used only to pay the cost of the acquisition of lands in furtherance of outdoor recreation and natural resources conservation in this state. The administration and use of any funds received by the Division of Forestry from the Preservation 2000 Trust Fund will be subject to such terms and conditions imposed thereon by the agency of the state responsible for the issuance of the revenue bonds, the proceeds of which are deposited in the Preservation 2000 Trust Fund, including restrictions imposed to ensure that the interest on any such revenue bonds issued by the state as tax-exempt revenue bonds will not be included in the gross income of the holders of such bonds for federal income tax purposes. All deeds or leases with respect to any real property acquired with funds received by the Division of Forestry from the Preservation 2000 Trust Fund shall contain such covenants and restrictions as are sufficient to ensure that the use of such real property at all times complies with s. 375.051 and s. 9, Art. XII of the 1968 Constitution of Florida; and shall contain reverter clauses providing for the reversion of title to such property to the Board of Trustees of the Internal Improvement Trust Fund or, in the case of a lease of such property, providing for termination of the lease upon a failure to use the property conveyed thereby for such purposes.

(6) DISPOSITION OF LANDS.--

(a) Any lands acquired pursuant to paragraph (3)(a), paragraph (3)(c), paragraph (3)(d), paragraph (3)(e), paragraph (3)(f), or

paragraph (3)(g), if title to such lands is vested in the Board of Trustees of the Internal Improvement Trust Fund, may be disposed of by the Board of Trustees of the Internal Improvement Trust Fund in accordance with the provisions and procedures set forth in 2s. 253.034(5), and lands acquired pursuant to paragraph (3)(b) may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land can be determined to be of no further benefit to the public as required by 2s. 253.034(5), or to be no longer required for its purposes under s. 373.056(4), whichever may be applicable, there shall first be a determination by the Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, by the owning water management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands, provided such lands obtained in an exchange are described in the same paragraph of subsection (3) as the lands disposed.

(c) Notwithstanding paragraphs (a) and (b), no such disposition of land shall be made if such disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the Florida Preservation 2000 Act to lose their exclusion from gross income for purposes of federal income taxation. Any revenue derived from the disposal of such lands may not be used for any purpose except for deposit into the Florida Preservation 2000 Trust Fund for recredit to the share held under subsection (3), in which such disposed land is described.

(7) ALTERNATE USES OF ACQUIRED LANDS.--

(a) The Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to subsection (3), for any governmental use permitted by s. 17, Art. IX of the State Constitution of 1885, as adopted by s. 9(a), Art. XII of the State Constitution, and any other incidental public or private use that is determined by the board or the owning water management district to be compatible with the purposes for which such lands were acquired.

(b) Any existing lease, easement, or license acquired for incidental public or private use on, under, or across any lands acquired pursuant to subsection (3) shall be presumed not to be incompatible with the purposes for which such lands were acquired.

(c) Notwithstanding the provisions of paragraph (a), no such lease, easement, or license shall be entered into by the Department of Environmental Protection or other appropriate state agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, as described in s. 375.045(4).

(8) PLAN FOR DISPOSAL AND USE OF LANDS.--The Board of Trustees of the Internal Improvement Trust Fund may adopt a plan for a specific geographic area authorizing the disposal and use of lands acquired pursuant to subsection (3) which meets the requirements of subsections (6) and (7).

(9)(a) The Legislature finds that, with the increasing pressures on the natural areas of this state, the state must develop creative techniques to maximize the use of acquisition and management moneys. The Legislature also finds that the state's environmental land-buying agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. The Legislature also finds that using alternatives to fee simple acquisition by public land-buying agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes at less expense using public funds.
2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.
3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of the land, where appropriate.

Therefore, it is the intent of the Legislature that public land-buying agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It also is the intent of the Legislature that the department and the water management districts spend a portion of their shares of Preservation 2000 bond proceeds to purchase eligible properties using alternatives to fee simple acquisition. Finally, it is the intent of the Legislature that public agencies acquire lands in fee simple for public access and recreational activities. Lands protected using alternatives to fee simple acquisition techniques shall not be accessible to the public unless such access is negotiated with and agreed to by the private landowners who retain interests in such lands.

(b) The Land Acquisition Advisory Council and the water management districts shall identify, within their 1997 acquisition plans, those projects which require a full fee simple interest to achieve the public policy goals, along with the reasons why full title is determined to be necessary. The council and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For the purposes of this subsection, the term "alternatives to fee simple acquisition" includes, but is not limited to: purchase of development rights; conservation easements; flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; land protection agreements; fee simple acquisitions with reservations; or any other acquisition technique which achieves the public policy goals listed in paragraph (a). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. Life estates and fee simple acquisitions with leaseback provisions shall not qualify as an alternative to fee simple acquisition under this subsection, although the department and the districts are encouraged to use such techniques where appropriate.

(c) Beginning in fiscal year 1996-1997, the department and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. These initiatives shall include at least two acquisitions a year by the department and each water management district utilizing alternatives to fee simple.

(d) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.

(e) The public agency which has been assigned management responsibility shall inspect and monitor any less-than-fee-simple interest according to the terms of the purchase agreement relating to such interest.

(f)1. Pursuant to subsection (3) and beginning in fiscal year 1999-2000, that portion of the unencumbered balances of each program described in paragraphs (3)(c), (d), (e), (f), and (g) which has been on deposit in such program's Preservation 2000 account for more than two fiscal years shall be redistributed equally to the Department of Environmental Protection, Division of State Lands P2000 sub account for the purchase of State Lands as described in s. 259.032 and Water Management District P2000 sub account for the purchase of Water Management Lands pursuant to ss. 373.456, 373.4592 and 373.59. For the purposes of this subsection, the term "unencumbered balances" means the portion of Preservation 2000 bond proceeds which is not obligated through the signing of a purchase contract between a public agency and a private landowner, except that the program described in paragraph (3)(c) may not lose any portion of its unencumbered funds which remain unobligated because of extraordinary circumstances that hampered the affected local governments' abilities to close on land acquisition projects approved through the Florida Communities Trust program. Extraordinary circumstances shall be determined by the Florida Communities Trust governing body and may include such things as death or bankruptcy of the owner of property; a change in the land use designation of the property; natural disasters that affected a local government's ability to consummate the sales contract on such property; or any other condition that the Florida Communities Trust governing board determined to be extraordinary. The portion of the funds deposited in the Water Management Lands Trust Fund shall be distributed to the water management districts as provided in 3s. 373.59(7).

2. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

(g) If the department or any water management district is unable to spend the funds it receives pursuant to paragraph (f) within the same fiscal year, the unspent funds shall be carried forward to the subsequent fiscal year.

(h) This subsection is repealed July 1 of the year following the final authorization of Preservation 2000 bonds.

History.--s. 1, ch. 90-217; s. 2, ch. 91-62; s. 7, ch. 91-80; s. 1, ch. 91-192; s. 5, ch. 92-288; s. 64, ch. 93-206; s. 3, ch. 94-115; s. 3, ch. 94-212; s. 17, ch. 94-240; s. 104, ch. 94-356; s. 1, ch. 95-334; s. 4, ch. 95-349; s. 6, ch. 96-389; s. 37, ch. 97-153; ss. 9, 10, ch. 97-164; s. 13, ch. 98-336.

1Note.--Section 15, ch. 98-336, provides that:

"(1) Notwithstanding chapters 253 and 259, Florida Statutes, the Board of Trustees of the Internal Improvement Trust Fund shall under chapters 93-184 and 95-275, Laws of Florida, convey the lands located in Walton County specifically identified as the New Town, consistent with the Walton County Comprehensive

Plan, to Walton County at a price not to exceed the price paid by the board for the lands plus any applicable interest, if the disposition of the land would not have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the Florida Preservation 2000 Trust Act to lose their exclusion from gross income for purposes of federal income taxation. Any revenue derived from the disposal of the lands may not be used for any purpose except for deposit into the Florida Preservation 2000 Trust Fund for recredit to the share held under section 259.101(3), Florida Statutes, in which the disposed of land is described.

"(2) The New Town Center shall be developed consistent with the October 31, 1996, South Walton New Town Master Plan of Development, incorporated in its entirety into the Walton County Comprehensive Plan and Land Development Code.

"(3) If any lands acquired by Walton County pursuant to subsection (1) are resold to private interests, they must be sold at fair market value and the proceeds from such resale must be used exclusively for development of the New Town Center, including its infrastructure and related school facilities."

2Note.--Redesignated as s. 253.034(6) by s. 3, ch. 97-164.

3Note.--Redesignated as subsection (8) by s. 17, ch. 96-389.

375.045 Florida Preservation 2000 Trust Fund.--

(1) There is created the Florida Preservation 2000 Trust Fund to carry out the purposes of ss. 259.032, 259.101, and 375.031. The Florida Preservation 2000 Trust Fund shall be held and administered by the Department of Environmental Protection. Proceeds from the sale of revenue bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a), not to exceed \$3 billion, shall be deposited into this trust fund to be distributed as provided in s. 259.101(3). The bond resolution adopted by the governing board of the Division of Bond Finance may provide for additional provisions that govern the disbursement of the bond proceeds.

(2) The Department of Environmental Protection shall distribute revenues from the Florida Preservation 2000 Trust Fund only to programs of state agencies or local governments as set out in s. 259.101(3). Such distributions shall be spent by the recipient within 90 days after the date on which the Department of Environmental Protection initiates the transfer.

(3) Any agency or district which acquires lands using Preservation 2000 funds, as distributed pursuant to this section and s. 259.101(3), shall manage the lands to make them available for public recreational use, provided that the recreational use does not interfere with the protection of natural resource values. Any such agency or district may enter into agreements with the Department of Environmental Protection or other appropriate state agencies to transfer management authority to or to lease to such agencies lands purchased with Preservation 2000 funds, for the purpose of managing the lands to make them available for public recreational use. The water management districts and the Department of Environmental Protection shall take action to control the growth of nonnative invasive plant species on lands they manage which are purchased with Preservation 2000 funds.

(4) The Department of Environmental Protection shall ensure that the proceeds from the sale of revenue bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a) shall be

administered and expended in a manner that ensures compliance of each issue of revenue bonds that are issued on the basis that interest thereon will be excluded from gross income for federal income tax purposes, with the applicable provisions of the United States Internal Revenue Code and the regulations promulgated thereunder, to the extent necessary to preserve the exclusion of interest on such revenue bonds from gross income for federal income tax purposes. The Department of Environmental Protection shall have the authority to administer the use and disbursement of the proceeds of such revenue bonds or require that the use and disbursement thereof be administered in such a manner as shall be necessary to implement strategies to maximize any available benefits under the applicable provisions of the United States Internal Revenue Code or regulations promulgated thereunder, to the extent not inconsistent with the purposes identified in s. 259.101(3).

Upon a determination by the Department of Environmental Protection that proceeds being held in the trust fund to support distributions outside the Department of Environmental Protection are not likely to be disbursed in accordance with the foregoing considerations, the Department of Environmental Protection shall petition the Governor and Cabinet to allow for the immediate disbursement of such funds for the acquisition of projects approved for purchase pursuant to the provisions of chapter 259.

History.--s. 4, ch. 90-217; s. 19, ch. 94-240; s. 285, ch. 94-356.

Maryland

Natural Resources

§ 5-9A-01.

(a) The General Assembly declares that:

(1) Sprawl development and other modifications to the landscape in Maryland continue at an alarming rate, consuming land rich in natural resource, agricultural, and forestry value, adversely affecting water quality, wetlands and habitat, threatening resource-based economies and cultural assets, and rending the fabric of rural life;

(2) Current State, county, and local land conservation programs help to limit the effect of sprawl development but lack sufficient funding and focus to preserve key areas before escalating land values make their protection impossible or the land is lost to development; and

(3) A grant program that leverages available funding, focuses on preservation of strategic resources, including those resources threatened by sprawl development, streamlines real property acquisition procedures to expedite land preservation, and promotes a greater level of natural and environmental resources protection than is provided by existing efforts, will establish a rural legacy for future generations.

(b) (1) A Rural Legacy Program is established to enhance natural resource, agricultural, forestry, and environmental protection as provided in subsection (a) of this section, while maintaining the viability of resource-based land usage and proper management of tillable and wooded areas through accepted agricultural and silvicultural practices for farm production and timber harvests.

(2) The Program provides funds to the local governments and land trusts to purchase interests in real property from willing sellers, including easements and fee estates, focused in designated Rural Legacy Areas.

(3) The Program shall encourage partnerships among the federal, State, and local governments, and nonprofit land trust organizations and encourage local land conservation initiatives.

(4) The Program is administered by a Rural Legacy Board in the Department of Natural Resources, an advisory committee, and existing State staff.

(c) The Program is funded:

(1) Pursuant to § 13-209 of the Tax - Property Article and § 5-903(a)(2)(iii) of this article; and

(2) By the proceeds from the sale of general obligation bonds as provided in § 5-9A-09 of this subtitle.

(d) When negotiating and awarding grants, the Board shall encourage sponsors to utilize zero coupon bonds in the implementation of the Rural Legacy Plan in order to reduce the utilization of general obligation bonds in funding the grants.

§ 5-9A-02.

(a) In this subtitle the following words have the meanings indicated.

(b) "Application" means an application to the Rural Legacy Board to designate a Rural Legacy Area.

(c) "Board" means the Rural Legacy Board.

(d) "BPW" means the Maryland State Board of Public Works.

(e) "Grant agreement" means an agreement between the Board and a sponsor to implement a Rural Legacy Plan in a designated Rural Legacy Area.

(f) "Land trust" means a qualified conservation organization that:

(1) Is a qualified organization under § 170(h)(3) of the Internal Revenue Code and regulations adopted under § 170(h)(3); and

(2) Has executed a cooperative agreement with the Maryland Environmental Trust.

(g) "Program" means the Rural Legacy Program established by this subtitle.

(h) "Rural Legacy Area" means a region within or outside a metropolitan area designated by the Board as rich in a multiple of agricultural, forestry, natural, and cultural resources.

(i) "Rural Legacy Plan" means a plan accepted by the Board for acquisition of easements and fee interests in Rural Legacy Areas.

(j) "Sponsor" means a local government, group of local governments, or a land trust.

§ 5-9A-03.

- (a) There is a Rural Legacy Board established in the Department of Natural Resources to administer the Rural Legacy Program.
- (b) The Board consists of the following members:
 - (1) The Secretary of Agriculture;
 - (2) The Secretary of Natural Resources; and
 - (3) The Director of the Office of Planning.
- (c) The Secretary of Natural Resources shall serve as Chairman of the Board.
- (d)
 - (1) The Department of Natural Resources shall provide staff to the Board.
 - (2) The Department of Agriculture and the Office of Planning may provide additional staff.

§ 5-9A-04.

- (a) The Board has and may exercise all powers necessary to carry out the purposes of this subtitle.
- (b)
 - (1) The Board may adopt regulations to implement the purposes of this subtitle, including procedures for expediting acquisitions.
 - (2) The authority granted under this subsection may not be construed to permit adoption of a regulation applicable to land that is not subject to an easement under this subtitle.
- (c)
 - (1) The Board shall establish a method for appraisal of real property interests acquired under this subtitle.
 - (2) Any method for appraisal established by the Board may not include a value for any resource used or reserved by the owner for private economic benefit.
- (d) The Board and sponsors may enter into agreements with other governmental agencies, including the Maryland Agricultural Land Preservation Foundation and the Maryland Environmental Trust, for the purpose of establishing partnerships to carry out this Program.

§ 5-9A-05.

- (a) A sponsor may file an application to designate a Rural Legacy Area in accordance with a schedule established by the Board. A local government may not apply for or approve an application for a Rural Legacy Area designation inside another jurisdiction's boundaries without that jurisdiction's approval.
- (b) The application shall describe the proposed Rural Legacy Area, include a Rural Legacy Area Plan, identify existing protected lands, state the anticipated level of initial landowner participation in the Program and the amount of the grant requested, and comply with the criteria set forth below.
- (c) The Board shall evaluate and compare applications in accordance with the following criteria in order to select those that best carry forward the goals and objectives of the Program set forth in § 5-9A-01 of this subtitle:
 - (1) The significance of the agricultural, forestry, and natural resources proposed for protection, including:
 - (i) The degree to which proposed fee or easement purchases will protect the location, proximity, and size of contiguous blocks of lands, green belts or greenways, or agricultural, forestry, or natural resource corridors;
 - (ii) The nature, size, and importance of the land area to be protected, such as farmland, forests, wetlands, wildlife habitat and plant species, vegetative buffers, or bay or waterfront access; and
 - (iii) The quality and public or economic value of the land;
 - (2) The degree of threat to the resources and character of the area proposed for preservation, as reflected by patterns and trends of development and landscape modifications in and surrounding the proposed Rural Legacy Area;
 - (3) The significance and extent of the cultural resources proposed for protection through fee simple purchases, including the importance of historic sites and significant archaeological areas;
 - (4) The economic value of the resource-based industries or services proposed for protection through land conservation, such as agriculture, forestry, recreation, and tourism;
 - (5) The overall quality and completeness of the Rural Legacy Plan, including:
 - (i) The degree to which existing planning, zoning, and growth management policies contribute to land conservation and the protection of cultural resources;
 - (ii) The degree to which the proposed plan is consistent with the applicable local comprehensive plan, including protection of sensitive areas and mineral resources;

- (iii) How well existing or new conservation programs are coordinated with the proposed acquisition plan;
 - (iv) How well the plan will maximize acquisition of real property interests in contiguous blocks of land within the Rural Legacy Area while providing for protection of isolated acquisitions important to the plan;
 - (v) Provisions for protection of resources, such as voluntarily granted or purchased easements, fee estate purchases, or gifts of lands;
 - (vi) How the sponsor plans to manage, prioritize, and sequence easement and land acquisitions;
 - (vii) Methodology for prioritizing and valuing or appraising easements;
 - (viii) Proposed titleholders for easement or fee estate acquisitions; and
 - (ix) The quality of the proposed stewardship program for holding and monitoring of easement restrictions in perpetuity;
- (6) The strength and quality of partnerships created for land conservation among federal, State, and local governments and land trusts for implementing the plan, including:
- (i) Financial support;
 - (ii) Dedication of staff and resources; and
 - (iii) Commitment to and development of local land conservation policies, such as changes in zoning and use of transferable development rights;
- (7) The extent to which federal or other grant programs will serve as a funding match; and
- (8) A sponsor's ability to carry out the proposed Rural Legacy Plan and the goals and objectives of the Program.
- (d) The Board:
- (1) Shall review applications and may request additional information from a sponsor;
 - (2) Shall submit applications to appropriate State agencies and to the advisory committee established by this subtitle and consider any recommendations made regarding the applications; and
 - (3) May negotiate the terms of an application and proposed Rural Legacy Area and plan with a sponsor.
- (e) (1) A sponsor shall assure adequate public participation in the development of an application and provide the Board with a summary of that participation.
- (2) (i) If an application proposes a Rural Legacy Area be located within 1 mile of the boundary of a municipal corporation, the municipal corporation shall have 45 days to review and comment on the application before the application is submitted to the Board.
- (ii) The sponsor shall submit to the Board with the completed application a summary of the comments from the municipal corporation.
- (f) (1) A land trust shall consult with a local government prior to filing an application.
- (2) The Board may not approve or amend an application without local government approval.
- (g) The right of public access may not be required under a conservation easement.
- (h) A land trust may not hold exclusive title to real property interests acquired under this subtitle.
- (i) An easement acquired under this subtitle is perpetual and may not be extinguished or released.
- (j) With the approval of a landowner, funds under this Program may be used to purchase a development right as part of an easement or fee estate acquisition. A development right shall be held by the titleholder and the Board and may be sold only within the same jurisdiction pursuant to local law.
- (k) All easement acquisitions must be recorded among the land records where the real property is located.
- (l) State or local condemnation authority may not be used to acquire real property interests under this Program.
- (m) Funds may be used for the protection of historic sites or significant archeological areas that otherwise meet the goals of this Program only if the sponsor is acquiring real property interests through a fee simple purchase.
- (n) A land or mineral owner who participates in this Program may reserve mineral rights for extraction in accordance with applicable law and the terms of the easement or fee acquisition.

§ 5-9A-06.

- (a) The Board may designate a Rural Legacy Area and accept a Rural Legacy Plan in accordance with the criteria set forth in this subtitle and the overall goals and objectives of the Program.

- (b) (1) The Board may award a grant to a sponsor of a designated Rural Legacy Area in an amount determined by the Board and pursuant to the terms of a grant agreement.
- (2) A portion of the grant may be used to pay for:
 - (i) Administrative costs, not to exceed 3% of the grant amount; and
 - (ii) Program compliance costs for monitoring easements, as stated in the grant agreement.
- (3) The Board may establish time limitations on the use of grant funds.
- (c) (1) The Board's actions in subsections (a) and (b) of this section are subject to approval by the Board of Public Works.
- (2) BPW approval encumbers the grant funds.
- (d) The Board shall encourage local governments to reflect rural legacy plans in their comprehensive land use plans as updated and revised.

§ 5-9A-07.

- (a) The Board and the sponsor of a designated Rural Legacy Area shall execute a grant agreement.
- (b) The sponsor shall comply with the terms of the grant agreement, carry out the Rural Legacy Plan, and adhere to regulations adopted by the Board.
- (c) If a sponsor violates any provision of the grant agreement or ceases to meet the requirements of this subtitle, the Board may exercise any remedy provided by the agreement or by law.
- (d) (1) The sponsor shall submit to the Board for approval contracts for easement or fee estate acquisitions.
- (2) The Board may accept a contract subject to approval by the Board of Public Works.
- (e) Upon BPW approval, the State shall pay the sponsor for the acquisition.
- (f) The sponsor shall submit an annual report to the Rural Legacy Board.
- (g) The Board shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly before November 1 of each year on:
 - (1) The financial status of the Program for the preceding fiscal year, including the amount of grants encumbered and disbursed;
 - (2) The number of applications received;
 - (3) The number and location of Rural Legacy Areas designated; and
 - (4) The Program's progress in contributing to land preservation efforts.

§ 5-9A-08.

- (a) (1) There is an Advisory Committee to the Board in the Department of Natural Resources.
- (2) The Committee is established to review applications for Rural Legacy Areas, make recommendations for Rural Legacy Area designations to the Board, and consider such other matters as requested by the Board.
- (b) The Committee has 11 members as follows:
 - (1) A trustee of the Maryland Agricultural Land Preservation Foundation;
 - (2) A trustee of the Maryland Environmental Trust;
 - (3) A representative of the agriculture industry;
 - (4) A representative of a nonprofit land conservation organization;
 - (5) A representative of a nonprofit environmental organization;
 - (6) A representative of the forest industry;
 - (7) A representative of a county government department of parks and recreation;
 - (8) A representative of a business organization;
 - (9) A private land owner;
 - (10) A representative of the mineral resources industry; and
 - (11) A representative of a municipal corporation.
- (c) (1) Committee members are appointed by the Governor with the advice and consent of the Senate.
- (2) The terms of members are staggered as required by the terms provided for members of the Committee on July 1, 1997.
- (3) The Governor shall solicit nominees from industries and groups which are represented on the Committee.
- (4) The members shall represent geographically and ethnically diverse areas.
- (d) (1) The term of membership is 3 years.