

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

FLORIDA WILDLIFE FEDERATION, INC.;
ST. JOHNS RIVERKEEPER, INC.;
ENVIRONMENTAL CONFEDERATION OF
SOUTHWEST FLORIDA, INC.; AND
MANLEY FULLER,

Plaintiffs,

Case No.:

v.

ANDY GARDINER, as President of the
Florida Senate; STEVE CRISAFULLI, as
Speaker of the Florida House of Representatives;
AND THE FLORIDA LEGISLATURE,

Defendants.

_____ /

**COMPLAINT FOR
DECLARATORY JUDGMENT AND SUPPLEMENTAL RELIEF**

Plaintiffs Florida Wildlife Federation, Inc.; St. Johns Riverkeeper, Inc.; Environmental Confederation of Southwest Florida, Inc.; and Manley Fuller sue Defendants Andy Gardiner, acting in his capacity as the President of the Florida Senate; Steve Crisafulli, acting in his capacity as Speaker of the Florida House of Representatives; and the Florida Legislature. As grounds for this action Plaintiffs allege:

1. This is an action for a declaratory judgment and supplemental relief.
2. This Court has subject matter jurisdiction over this action pursuant to sections 26.012(2)(a) and 86.011, Florida Statutes, because Plaintiffs seek declaratory relief and the rights

and interests at issue are not quantifiable in monetary terms. To the extent those rights and interests are quantifiable in monetary terms, they exceed \$15,000.

3. Venue is proper under section 47.011, Florida Statutes, because Defendants are state entities that maintain their principal headquarters in Leon County, Florida.

INTRODUCTION

4. By an extraordinary 75% vote of the electorate for what thus became Article X, section 28 of the Florida Constitution (commonly and herein referred to as “Amendment 1”), the Florida Constitution was amended eight months ago to dedicate several hundred million dollars per year to acquire and improve conservation and recreation lands. Amendment 1 specifically requires the Legislature to appropriate those funds for those purposes.

5. This lawsuit is brought against the Florida Legislature because it defied the constitutional mandate to appropriate the monies required by Amendment 1 to the acquisition, improvement, and maintenance of conservation and recreation lands. Instead of complying with the mandate of Amendment 1 and in defiance of its constitutional obligations created by that Amendment, the Legislature misappropriated over \$300 million of Amendment 1 funds, devoting those funds to uses not allowable for the Land Acquisition Trust Fund. At the same time, the Legislature approved tax cuts in excess of \$400 million.

6. This lawsuit seeks a declaratory judgment finding that the Legislature has violated the Florida Constitution by misappropriating Amendment 1 funds.

STATEMENT OF FACTS

The Parties

7. Plaintiff Florida Wildlife Federation, Inc. (“Federation”) is a taxpayer that is a Florida nonprofit conservation and education organization with its principal place of business in Tallahassee, Florida. It is a membership-based organization with approximately 11,000 members throughout Florida. The Federation’s mission includes the preservation, management, and improvement of Florida’s water resources and its fish and wildlife habitats. The Federation is a taxpayer, and has standing to bring this action because this is a challenge on constitutional grounds to the Legislature’s taxing and spending power.

8. A substantial number of the Federation’s individual members are taxpayers and would have standing to bring this action individually. Additionally, a substantial number of the Federation’s members are certain to be subject to excise taxes on documents in the near future. Because the Legislature’s actions violate constitutional provisions concerning subject matter that is the focus of the Federation’s mission, and because a substantial number of its members would have standing to pursue this action individually, the Federation has standing to bring this action on behalf of its members.

9. Plaintiff St. Johns Riverkeeper, Inc. (“Riverkeeper”) is a taxpayer and is a Florida nonprofit membership-based corporation with its primary place of business in Jacksonville, Florida. Riverkeeper is dedicated to the protection, preservation, and restoration of the ecological integrity of the St. Johns River watershed for current users and future generations. It has over 1,000 members who use and enjoy the waters of the St. Johns River for boating, fishing, and observing birds and other wildlife in the St. Johns River watershed. Riverkeeper is a taxpayer,

and has standing to bring this action because this is a challenge on constitutional grounds to the Legislature's taxing and spending power.

10. A substantial number of Riverkeeper's individual members are taxpayers and would have standing to bring this action individually. Additionally, a substantial number of Riverkeeper's members are certain to be subject to excise taxes on documents in the near future. Because the Legislature's actions violate constitutional provisions concerning subject matter that is the focus of Riverkeeper's mission, and because a substantial number of its members would have standing to pursue this action individually, Riverkeeper has standing to bring this action on behalf of its members.

11. Plaintiff Environmental Confederation of Southwest Florida, Inc. ("ECOSWF") is a taxpayer and a Florida nonprofit corporation with its primary place of business in Sarasota, Florida. ECOSWF has approximately 50 members consisting of business entities and other organizations and individuals living in Southwest Florida. ECOSWF is a regional coalition which focuses its efforts on protecting the conservation interests of Southwest Florida, including Charlotte, Collier, DeSoto, Lee, Manatee, and Sarasota Counties. ECOSWF is a taxpayer, and has standing to bring this action because this is a challenge on constitutional grounds to the Legislature's taxing and spending power.

12. A substantial number of ECOSWF's members are taxpayers and would have standing to bring this action individually. Additionally, a substantial number of ECOSWF's members are certain to be subject to excise taxes on documents in the near future. Because the Legislature's actions violate constitutional provisions concerning subject matter that is the focus of ECOSWF's mission, and because a substantial number of its members would have standing to

pursue this action individually, ECOSWF has standing to bring this action on behalf of its members.

13. Plaintiff Manley Fuller is the President of the Florida Wildlife Federation, a taxpayer, and a resident of Wakulla County, Florida. He has standing to bring this action because this is a challenge on constitutional grounds to the Legislature's taxing and spending power

14. Defendant Andy Gardiner is the President of the Florida Senate. The President of the Senate is the presiding officer of the Florida Senate. Art. III, § 2, Fla. Const. The Florida Senate, along with the Florida House of Representatives, is responsible for appropriating money to fund state programs, including conservation land acquisition programs. Art. III, §§ 12, 19, Fla. Const. Andy Gardiner is sued in his official capacity as President of the Florida Senate, a capacity in which he has a duty to ensure that appropriations conform with the requirements of the Florida Constitution.

15. Defendant Steve Crisafulli is the Speaker of the Florida House of Representatives. The Speaker of the House of Representatives is the presiding officer of the Florida House of Representatives. Art. III, § 2, Fla. Const. The Florida House of Representatives, along with the Florida Senate, is responsible for appropriating money to fund state programs, including conservation land acquisition programs. Art. III, §§ 12, 19, Fla. Const. Steve Crisafulli is sued in his official capacity as Speaker of the Florida House of Representatives, a capacity in which he has a duty to ensure that appropriations conform with the requirements of the Florida Constitution.

16. The Florida Legislature is the legislative body of the State of Florida, and is invested with the legislative power of the State. Art. III, § 1, Fla. Const. The Legislature is tasked

with appropriating money to fund state programs, including conservation land acquisition programs. Art III, §§ 12, 19, Fla. Const. The Legislature has a duty to appropriate funds in a manner consistent with the Florida Constitution.

The Requirements of Amendment 1

17. There can be no doubt about the meaning of Amendment 1. The Florida Supreme Court examined Amendment 1 prior to its submission to the electorate in November, 2014, and held that it has a clear meaning: to dedicate a specific tax revenue stream of hundreds of millions of dollars per year to the Land Acquisition Trust Fund. *Advisory Op. to Att’y Gen. re Water & Land Conservation—Dedicates Funds to Acquire & Restore Fla. Conservation & Rec. Lands*, 123 So. 3d 47, 51 (Fla. 2013) [hereinafter *Amend. 1 Advisory Op.*].

18. Nor can there be doubt about the function of the Land Acquisition Trust Fund. It is a trust that dates back 50 years and it has an unmistakable purpose: land acquisition.

19. The Land Acquisition Trust Fund has existed intact for over 50 years, and the funds in it were—and are—to be used “to acquire land, water areas, and related resources and to construct, improve, enlarge, extend, operate and maintain capital improvements and facilities thereon.” Ch. 63-36, § 4, Laws of Fla. The Trust Fund is also the vehicle used to pay debt service on bonds issued to acquire lands for conservation and recreation purposes. *Id.*

20. The Trust Fund’s specific and limited purposes were constitutionalized in 1963. Art. IX, § 17, Fla. Const. (1963) (incorporated by reference in Art. XII, § 9(a)(1), Fla. Const.).

21. The continued purpose and permissible uses of the Land Acquisition Trust Fund remain unmistakable because at the time Amendment 1 was passed, the Land Acquisition Trust

Fund had been “continued and recreated” by the Legislature in 1999 as part of the Florida Forever Program. Ch. 99-247, § 6, Laws of Fla.

22. In its constitutional interpretation of Amendment 1, the Florida Supreme Court held that the amendment does not “alter the purpose or management of the Land Acquisition Trust Fund” because if the amendment did alter the purpose or management of the fund, it would violate the single-subject requirement for initiative-based constitutional amendments. *Amend. 1 Advisory Op.* at 50-51.

23. The Legislature is bound by the Florida Supreme Court’s constitutional interpretation of Amendment 1 holding that the purpose and function of that amendment was to dedicate a specific revenue stream into the Land Acquisition Trust Fund. The Legislature is not at liberty to disregard the holding of the Florida Supreme Court by changing the purpose of the Land Acquisition Trust Fund.

24. A principal purpose of the Land Acquisition Trust Fund is to pay the debt service on bonds issued to purchase conservation and recreation lands. That debt service totaled \$190 million this year and was properly paid out of the Land Acquisition Trust Fund.

25. After paying the debt service, \$550 million remained available in the Land Acquisition Trust Fund. The Legislature misappropriated more than half of this Amendment 1 money.

The 2015 Appropriations Bill

26. On June 19th, 2015, the Florida Legislature passed an appropriations bill.

27. The Florida Forever program, which is at the heart of the Land Acquisition Trust Fund, received just \$15 million. Appropriation number 1569A .

28. Lands acquisition for springs restoration received \$38.5 million. Appropriation number 1639.
29. Rural land protection easements and land conservation agreements received \$15 million. Appropriation number 1421A.
30. The South Florida Water Management District received \$20 million for land acquisition to help restore the Kissimmee River. Appropriation number 1618.
31. Of the approximately \$740 million appropriated from the Land Acquisition Trust Fund, only \$88.7 million—less than 12 percent—went to land acquisition.
32. Appropriations for restoration projects included restoration of the Everglades, Lake Okeechobee, lakes, estuaries, and beaches totaling \$100 million: Everglades restoration, \$59 million, appropriation number 1621; Lake Okeechobee restoration, \$5 million, appropriation number 1381A; restoration of lakes, \$10 million, appropriations numbered 1638A, 1803, and 1826; beach projects, \$25 million, appropriation number 1647; restoration of the Indian River Lagoon, \$350,000, appropriations number 1615; and a grant for the Helena Run Preserve, \$600,000, appropriation number 1571A.
33. Appropriations for land management totaled only \$33 million: land management, \$19.5 million, appropriations numbered 1416A, 1559A, 1569B, and 1701; grants to the Water Management Districts for land management, \$11 million, appropriation number 1612B; Greenways CARL management, \$2 million, appropriation number 1705A; and coastal land management \$300,000, appropriation number 1722.
34. State parks received \$20 million for facility improvements. Appropriation number 1707.

35. Non-debt service appropriations from the Land Acquisition Trust Fund totaled approximately \$550 million. Of that total, just \$242 million—only 44 percent—went to projects or programs within the permitted scope of the Land Acquisition Trust Fund.

36. Debt service for bonds used to purchase conservation lands totaled \$190 million: debt service on bonds that financed conservation land acquisition, \$151 million, appropriation number 1571; debt service on Save Our Everglades bonds, \$26 million, appropriation number 1620; and debt service on bonds for Water Management District land acquisition, \$13 million, appropriation number 1619.

COUNT I
APPROPRIATION OF FUNDS IN VIOLATION OF ART. X, § 28, FLA. CONST.
AND ART. XII, § 9(a)(1), FLA. CONST.

37. Paragraphs 1 through 36 are realleged and incorporated herein by reference.

38. The appropriations listed in paragraphs 27 through 34 and paragraph 36 constitute permissible uses of funds from the Land Acquisition Trust Fund.

39. However, almost half of the money appropriated from the Land Acquisition Trust Fund in the Legislature’s 2015 appropriations bill is directed for purposes that fall outside the permissible uses of that Trust Fund. These include all appropriations of Land Acquisition Trust Fund monies not cited herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief against Speaker of the House Steve Crisafulli, President of the Senate Andy Gardiner, and the Florida Legislature:

(1) a declaration that the appropriations not listed in paragraphs 27 through 34 and paragraph 36 violate Article X, section 28 and Article XII, section 9(a)(1) of the Florida Constitution;

(2) a declaration that money from the Land Acquisition Trust Fund may not be substituted for General Revenue funds or other funds and may not be used to pay for services and programs other than those within the scope of the Land Acquisition Trust Fund as it existed on January 1, 2012; and

(3) such other and further relief as the Court may deem just and proper.

Respectfully submitted this 22nd day of June, 2015.

s/David Guest
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