

## AGENCY SNAPSHOT

# The Board of Trustees of the Internal Improvement Trust Fund

by Deborah K. Tyson

The Governor and Cabinet serve as the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees). Effective January 7, 2003, the Florida Cabinet was reduced from six to three members and currently consists of the Attorney General, the Chief Financial Officer and the Commissioner of Agriculture. Currently, the Trustees are Governor Rick Scott, and the Cabinet members are Attorney General Pam Bondi, Commissioner of Agriculture Adam Putnam, and Chief Financial Officer Jeff Atwater. The Governor and Cabinet, when sitting as the Board of Trustees, handle matters related to the acquisition, administration, management, sale, and disposition of state-owned lands, as governed by chapter 253, Florida Statutes. The Board of Trustees' powers and duties are enumerated in section 253.02, Florida Statutes. A vote of three out of four of the Board of Trustees is required for the sale of state lands.

The Board of Trustees holds state lands in trust for the benefit of the public. The Legislature established the Board of Trustees of the Internal Improvement Trust Fund to hold state lands and administer the Internal Improvement Trust Fund. On March 3, 1845, at the time of admission to the Union, Florida was granted title to sovereignty submerged lands, subject to the public trust doctrine. The public trust doctrine protects traditional uses of these lands and subjects them to public interest analysis in the case of a sale or private use. Florida was also granted 500,000 acres of lands by the federal government upon admission to the Union, and obtained land through other means, including the Swamp and Overflowed Lands Act of 1850. These lands (and any proceeds from the lands) became part of the Internal Improvement Trust Fund. The Board of Trustees is the oldest state agency.

A significant part of the Board of Trustees' duties is to administer lands that are held by the state by virtue of

its sovereignty, known as sovereignty submerged lands. These lands are identified in the Florida Constitution, Article X, Section 11, which provides: "Title to land under navigable waters within the boundaries of the state which have not been alienated, including beaches below mean high water lines, is held by the state by virtue of its sovereignty in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private uses of portions of such lands may be authorized by law, but only when not contrary to the public interest." The Board of Trustees is entrusted with the express constitutional duty to protect the public's interest in sovereignty submerged lands.

The Florida Department of Environmental Protection ("DEP") Division of State Lands serves as staff to the Board of Trustees. In 1995, the State's water management districts also became staff to the Board of Trustees concerning the review of applications to use sovereign submerged lands. As staff, DEP presents projects and provides expert assistance and technical support to the Board of Trustees in consideration of state lands matters.

Currently, DEP staff who handle Board of Trustees matters are:

- Katy Fenton, Deputy Secretary of Land and Recreation
- Stephanie Leeds, Cabinet Affairs
- Susan Grandin, Director of the Division of State Lands
- Thomas Sawyer, Acting DEP Counsel for Public Lands

The Governor and the Cabinet members have aides who work directly for them and who assist on Cabinet affairs. Each member of the Board of Trustees has at least one aide and some have more than one. The aides may cover specific issues and agenda items and provide research and briefing to the Board of Trustees. The Cabinet aides meet regularly, usually one week before the Cabinet meeting to discuss agenda

items and ask questions of staff.

The Board of Trustees serves the entire state, and is seated in Tallahassee, Florida. Recently, Board of Trustees meetings have been held throughout the state, including meetings in Miami-Dade County, Tampa, and St Augustine. Meetings in Tallahassee are held in the Cabinet Meeting Room Lower Level, The Capitol Tallahassee, Florida.

The Governor and Cabinet meet at least once per month; however, not every Cabinet meeting includes Board of Trustees issues. Meetings are noticed in the Florida Administrative Register and agendas and upcoming meeting dates are available at the following link:

<http://www.myflorida.com/myflorida/cabinet/mart.html>

The Board of Trustees is an "agency" as that term is defined in section 120.52(1), Florida Statutes. The Board of Trustees is an administrative body that is not specifically created by the Florida Constitution. Therefore, the Board of Trustees is a statutory entity that derives only those powers specified in statute. Board of Trustees' decisions are challengeable under chapter 120, Florida Statutes. The Public Records Act, chapter 119, Florida Statutes, also applies to the Board of Trustees since it is a board created by the Legislature with powers that are prescribed by the Legislature.

Board of Trustees rules are found under Title 18 of the Florida Administrative Code, with the majority of the rules governing state lands in chapters 18-1 and 18-21, F.A.C.

The Board of Trustees has delegated authority to the Secretary of DEP and the water management districts for certain state lands issues. As such, routine state land matters and approvals, as specified in the delegations, can be handled by DEP and water management district staff, and do not need to be presented to the Board of Trustees for consideration.