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Florida Faces Second Suit Over Conservation Spending

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BRADENTON, Fla. — A second Florida environmental group is suing to block spending decisions by the Legislature related to a 2014 constitutional amendment earmarking funds for conservation purposes.

The Gainesville-based Florida Defenders of the Environment filed a lawsuit Nov. 9 in Leon County Circuit Court seeking an injunction to prevent state agencies from spending what the group considers misappropriated funds.

At issue is the fiscal 2016 state budget, and how the Legislature allocated the revenues authorized by Amendment 1, a ballot measure passed by 75% of those voting last year.

The amendment directs 33% of taxes collected on real estate sales to the Land Acquisition Trust Fund to acquire and improve conservation and recreation lands. The revenues can be used as cash for related expenditures, or to pay debt service on bonds.

The Florida Defenders' suit argues that the Legislature improperly allocated \$237 million from the \$740 million in the Trust Fund to offset expenses normally be supported by the general fund, such as salaries, benefits, vehicles, insurance and certain capital projects.

Thomas Hawkins, executive director of the organization, said that his group fundamentally supports the protective environmental measures that Amendment 1 was designed to achieve.

"Environmental conservation in Florida is strongly supported by the voters," Hawkins said in an interview. "We want the will of the voters implemented."

The suit names as defendants the heads of the Florida Department of Environmental Protection, Department of State, Department of Agriculture and Consumer Services, and the Florida Fish and Wildlife Conservation Commission.

A day after Gov. Rick Scott signed a record \$78.4 billion fiscal 2016 state budget into law on June 23, Earthjustice filed a lawsuit charging that lawmakers "defied" voters and the constitution by wrongfully diverting the \$237 million.

The suit was filed on behalf of the Florida Wildlife Federation, St. Johns Riverkeeper, Environmental Confederation of Southwest Florida, the Sierra Club, and Manley Fuller, who is president of the Florida Wildlife Federation.

The Earthjustice suit, which names the Legislature and Chief Financial Officer Jeff Atwater as defendants, also seeks an injunction ordering Atwater "to remedy the Legislature's misappropriations" by transferring the misspent revenues from agency budgets to the Land Acquisition Trust Fund.

Attorneys for the Legislature and Atwater have filed motions to dismiss the Earthjustice suit. A hearing is scheduled Dec. 3 in Tallahassee.

Florida Defenders takes a different legal tack than Earthjustice by arguing that certain state agencies should be forbidden to spend what the group believes are misappropriated funds, Hawkins said.

While the group believes that the Legislature violated the state's constitution, it also accuses lawmakers of improperly using the appropriations bill to impermissibly spend Amendment 1 revenues, he said.

"What we have done is complementary to the Earthjustice suit," Hawkins said. "We think there is a greater likelihood of success for what we are asking, and that is for agency heads to stop spending the misappropriated money."

Scott, a Republican, signed the fiscal 2016 budget into law after vetoing \$461.4 million of line-item expenditures sought by lawmakers.

In a letter accompanying the budget, Scott wrote that the spending plan fully complied with Amendment 1 by including more than \$740 million to support land and water programs. The program's expenses included debt service on outstanding conservation bonds.

Scott and the GOP-led Legislature did not authorize the issuance of bonds for any new environmental programs under Amendment 1.

