

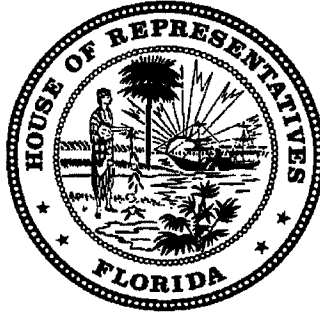


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# **Agriculture & Natural Resources Appropriations Subcommittee**

## **Meeting Packet**

**January 18, 2012  
9:30 AM – 10:30 AM  
Reed Hall**



## **AGENDA**

**Agriculture & Natural Resources Appropriations Subcommittee**

**January 18, 2012**

**9:30 a.m. – 10:30 a.m.**



**Reed Hall**

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. CS/HB 463—Concealed Weapons or Firearms by Kreegel
- IV. HB 7021—Department of Agriculture & Consumer Services by Crisafulli
- V. HB 7025—Fish & Wildlife Conservation Commission by Crisafulli
- VI. Closing Remarks/Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 463 Concealed Weapons or Firearms  
**SPONSOR(S):** Agriculture & Natural Resources Subcommittee, Kreegel and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 998

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	15 Y, 0 N, As CS	Cunningham	Blalock
2) Agriculture & Natural Resources Appropriations Subcommittee		Lolley 	Massengale 
3) State Affairs Committee			

### SUMMARY ANALYSIS

To obtain a concealed weapons license, a person must complete, under oath, an application with the Division of Licensing of the Department of Agriculture and Consumer Services, and must meet the following criteria:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed or has been convicted, or has been deemed a habitual offender, or has had two or more convictions within the 3-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competence with a firearm;
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

The bill specifies that service members and veterans of the United States Armed Forces who were honorably discharged must be issued a license to carry a concealed weapon or firearm, regardless of age, as long as the applicant otherwise meets the concealed weapons permit requirements. Service members are defined as any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces. The bill also requires that DACS accept fingerprints of an applicant administered by any law enforcement agency, military provost, or other military unit charged with law enforcement duties, or as otherwise specified by the Department of Licensing of DACS. Lastly, the bill specifies that a nonresident of Florida who is a service member or veteran of the U.S. Armed Forces who was honorably discharged is exempt from the age requirement for carrying a concealed weapon or firearm, as long as the nonresident service member or veteran has in his or her immediate possession a valid license, from his or her state of residence, to carry a concealed weapon or concealed firearm and is a resident of the United States, as required under current law.

The bill appears to have a fiscal impact on state and local governments (See Fiscal Analysis section below).

The bill is effective upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0463b.ANRAS.DOCX

DATE: 1/12/2012

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

Section 790.01, F.S., specifies that a person who carries a concealed weapon or electronic weapon or device on or about his or her person commits a first degree misdemeanor, and a person who carries a concealed firearm commits a third degree felony. However, these provisions in s. 790.01, F.S., do not apply to a person licensed to carry a concealed weapon or a concealed firearm pursuant to the provisions in s. 790.06, F.S.

Section 790.06(1), F.S., authorizes the Department of Agriculture and Consumer Services to issue licenses to carry concealed weapons or concealed firearms<sup>1</sup> to qualified persons. Each such license must bear a color photograph of the licensee. Licenses issued by the department are valid throughout the state for a period of 7 years from the date of issuance. Any person in compliance with the terms of the license can carry a concealed weapon or concealed firearm. The licensee must carry the license, together with valid identification, at all times in which the licensee is in actual possession of a concealed weapon or firearm and must display both the license and proper identification upon demand by a law enforcement officer.

Section 790.06(2), F.S., requires the department to issue a concealed weapons permit if the applicant:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competence with a firearm by any one of the following:
  - Completion of any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;
  - Completion of any National Rifle Association firearms safety or training course;

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<sup>1</sup> Concealed weapon or concealed firearm is defined in s. 790.001, F.S., as a handgun, electronic weapon or device, tear gas gun, knife, billie, or other deadly weapon, but the terms do not include a machine gun.

- Completion of any firearms safety or training course or class available to the general public offered by law enforcement, junior college, college or private or public institution or organization or firearms training school, utilizing instructors certified by the Department of Agriculture and Consumer Services;
- Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;
- Presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;
- Is licensed or has been licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or
- Completion of any firearms training or safety course or class conducted by a state certified firearms instructor;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.<sup>2</sup>

Section 790.06(3), F.S., specifies that the department must deny a license if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged. The department must also revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years.

Section 790.06(4), F.S., states that the application for a license to carry concealed weapons must be completed, under oath, on a form promulgated by the department and must include:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A statement that the applicant is in compliance with criteria contained within s. 790.06(2) and (3), F.S., described above;
- A statement that the applicant has been furnished a copy of this chapter of law and is knowledgeable of its provisions;
- A conspicuous warning that the application is executed under oath and that a false answer to an question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution; and
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense.

Section 790.06(5), F.S., specifies that the applicant for a license to carry a concealed weapon or firearm must submit to the department:

- A completed application described above;

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<sup>2</sup> Section 790.06(2), F.S.

- A nonrefundable license fee not to exceed \$85, if he or she has not previously been issued a statewide license, or a nonrefundable license fee not to exceed \$70 for renewal of a statewide license;
- A full set of fingerprints of the applicant administered by a law enforcement agency or the Division of Licensing of the Department of Agriculture and Consume Services;
- A photocopy of a certificate or an affidavit or document showing that the applicant passed an approved firearm competency course or class; and
- A full frontal view color photograph of the applicant taken within the preceding 30 days, in which the head, including hair, measures 7/8 of an inch wide and 1 1/8 inches high.

In addition, s. 790.06(10), F.S., states that the department is required to suspend or revoke a concealed weapons license if the licensee:

- Is found to be ineligible under the criteria set forth in s. 790.06(2), F.S., described above;
- Develops or sustains a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is convicted of a felony that would make the licensee ineligible to possess a firearm;
- Is found guilty of a crime under the provisions of ch. 893, F.S., relating to drug abuse, or similar laws of any other state, relating to controlled substances;
- Is committed as a substance abuser or is deemed a habitual offender;
- Is convicted of a second violation of s. 316.193, F.S., (driving under the influence), or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;
- Is adjudicated an incapacitated person; or
- Is committed to a mental institution.<sup>3</sup>

Section 790.015, F.S., specifies that nonresidents who are United States citizens, notwithstanding s. 790.01, F.S., must be at least 21 years of age and must have in his or her possession a valid license to carry a concealed weapon or firearm from his or her state of residence. Nonresidents are subject to the same laws regarding concealed weapons and firearms as residents of the state of Florida. If a nonresident who holds a valid license from their state of residence establishes legal residence in Florida, then their out-of-state license shall remain in effect for 90 days.

Currently, members and veterans of the United States Armed Forces are not given any exemptions for licensure of a concealed weapon or firearm or exceptions from the requirements to obtain a license to carry a concealed weapon or firearm.

### **Effect of Proposed Changes**

The bill creates s. 790.062, F.S., to specify that service members and veterans of the United States Armed Forces who were honorably discharged must be issued a license to carry a concealed weapon or firearm, regardless of age, as long as the applicant is otherwise qualified. Service members are defined as any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces.<sup>4</sup>

The bill also requires the department to accept fingerprints of an applicant administered by any law enforcement agency, military provost, or other military unit charged with law enforcement duties, or as otherwise specified in s. 790.06(5), F.S., described above.

Lastly, the bill amends s. 790.015, F.S., to specify that a nonresident of Florida who is a service member or veteran of the U.S. Armed Forces who was honorably discharged is exempt from the age requirement for carrying a concealed weapon or firearm, as long as the nonresident service member or veteran has in his or her immediate possession a valid license from his or her state of residence to

<sup>3</sup> Section 790.06(10), F.S.

<sup>4</sup> Section 250.01(19), F.S.

carry a concealed weapon or concealed firearm and is a resident of the United States, as required under current law.

**B. SECTION DIRECTORY:**

**Section 1.** Creates s. 790.062, F.S., providing an exception to the minimum age requirement for obtaining a license to carry a concealed weapon for members of the United States Armed Forces as well as honorably discharged veterans. It also specifies that the department shall accept fingerprints from license applicants administered by any law enforcement agency, military provost, or other military unit charged with law enforcement duties or as otherwise specified in s. 790.06(5)(c), F.S.

**Section 2.** Amends s. 790.015, F.S., specifying that members and veterans of the United States Armed Forces be granted reciprocity regardless of age if they meet certain other requirements in current law.

**Section 3.** Specifies that this act shall take effect upon becoming law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

According to the Department of Agriculture & Consumer Services, the Division of Licensing anticipates an indeterminate increase in the volume of concealed weapon license applications and application fees.

**2. Expenditures:**

According to the department, the increase in the volume of concealed weapon license applications would result in increases in hard copy applications, forms, background checks, and other variable costs, the extent of which is unknown. All costs incurred, however, would be covered by application license fees.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

There is potential for minimal increased sales tax collections from local option portion, based on possible increased firearm sales for counties with significant military presence.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

There is potential for increased economic activity from increased sales of firearms to previously ineligible concealed weapon or firearm licensees, especially in areas with higher military presence.

**D. FISCAL COMMENTS:**

None.



### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

Not applicable.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 11, 2012, the Agriculture & Natural Resources Subcommittee amended and passed HB 463 as a committee substitute (CS). The amendment removed a provision in the title that was not a part of the bill.

The bill was reported favorably as a committee substitute. The analysis reflects the committee substitute.

CS/HB 463

2012

1                   A bill to be entitled  
 2           An act relating to concealed weapons or firearms;  
 3           creating s. 790.062, F.S.; providing that otherwise  
 4           qualified members and veterans of the United States  
 5           Armed Forces be issued a concealed weapon or firearm  
 6           license regardless of age in certain circumstances;  
 7           providing additional methods for the taking of  
 8           fingerprints from such license applicants; amending s.  
 9           790.015, F.S.; providing that members and veterans of  
 10          the United States Armed Forces be granted reciprocity  
 11          regardless of age; providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Section 790.062, Florida Statutes, is created  
 16 to read:

17           790.062 Members and veterans of United States Armed  
 18 Forces; exceptions from licensure provisions.-

19           (1) Notwithstanding s. 790.06(2)(b), the Department of  
 20 Agriculture and Consumer Services shall issue a license to carry  
 21 a concealed weapon or firearm under s. 790.06 if the applicant  
 22 is otherwise qualified and:

23           (a) Is a servicemember, as defined in s. 250.01; or

24           (b) Is a veteran of the United States Armed Forces who was  
 25 discharged under honorable conditions.

26           (2) The Department of Agriculture and Consumer Services  
 27 shall accept fingerprints of an applicant under this section  
 28 administered by any law enforcement agency, military provost, or

29 other military unit charged with law enforcement duties or as  
 30 otherwise provided for in 790.06(5)(c).

31 Section 2. Section 790.015, Florida Statutes, is amended  
 32 to read:

33 790.015 Nonresidents who are United States citizens and  
 34 hold a concealed weapons license in another state; reciprocity.-

35 (1) Notwithstanding s. 790.01, ~~a resident of the United~~  
 36 ~~States who is~~ a nonresident of Florida may carry a concealed  
 37 weapon or concealed firearm while in this state if the  
 38 nonresident:

39 (a) Is 21 years of age or older. ~~and~~

40 (b) Has in his or her immediate possession a valid license  
 41 to carry a concealed weapon or concealed firearm issued to the  
 42 nonresident in his or her state of residence.

43 (c) Is a resident of the United States.

44 (2) A nonresident is subject to the same laws and  
 45 restrictions with respect to carrying a concealed weapon or  
 46 concealed firearm as a resident of Florida who is so licensed.

47 (3) If the resident of another state who is the holder of  
 48 a valid license to carry a concealed weapon or concealed firearm  
 49 issued in another state establishes legal residence in this  
 50 state by:

51 (a) Registering to vote; ~~or~~

52 (b) Making a statement of domicile pursuant to s. 222.17;  
 53 or

54 (c) Filing for homestead tax exemption on property in this  
 55 state,  
 56

CS/HB 463

2012

57 | the license shall remain in effect for 90 days following the  
 58 | date on which the holder of the license establishes legal state  
 59 | residence.

60 |       (4) This section applies only to nonresident concealed  
 61 | weapon or concealed firearm licenseholders from states that  
 62 | honor Florida concealed weapon or concealed firearm licenses.

63 |       (5) The requirement of paragraph (1)(a) does not apply to  
 64 | a person who:

65 |           (a) Is a servicemember, as defined in s. 250.01; or

66 |           (b) Is a veteran of the United States Armed Forces who was  
 67 | discharged under honorable conditions.

68 |       Section 3. This act shall take effect upon becoming a law.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7021 PCB ANRS 12-01 Department of Agriculture and Consumer Services

**SPONSOR(S):** Agriculture & Natural Resources Subcommittee, Crisafulli

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1254

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee	12 Y, 0 N	Kaiser	Blalock
1) Agriculture & Natural Resources Appropriations Subcommittee		Lolley <i>gl</i>	Massengale <i>SM</i>
2) State Affairs Committee			

**SUMMARY ANALYSIS**

The bill addresses various issues relating to the Department of Agriculture and Consumer Services (department). The bill:

- Establishes the Division of Food, Nutrition and Wellness within the department.
- Designates the department as the staff responsible for acquiring and administering conservation easements on state lands.
- Renames the "Wounded Warrior Special Hunt Area" as the "Operation Outdoor Freedom Special Hunt Area."
- Allows water hyacinths produced by certified aquaculture producers to be exported to domestic, as well as foreign, markets.
- Clarifies that the department has sole responsibility for enforcing laws, regulations, rules or policies relating to broadcast burning or agricultural or silvicultural pile burning.
- Specifies that members of committees, boards, councils, working groups, task forces or any other advisory bodies created within the department or by the department are not entitled to per diem or travel expenses.
- Extends the due date from September 15 to September 30 for mosquito control districts to provide their certified budgets to the department.
- Repeals statutory language relating to the John A. Mulrennan, Sr. Arthropod Research Laboratory.
- Authorizes the department to adopt by reference the current revision of the federal model food code when applicable.
- Repeals the pilot program relating to the inspection of food establishments.
- Repeals provisions relating to the milkfat testing program within the department.
- Changes the name of the Office of Energy and Water to the Office of Agricultural Water Policy.
- Extends the expiration dates for the fertilizer tonnage fee program to December 31, 2022 and December 31, 2027.
- Repeals language establishing the Plant Industry Technical Council, the Aquaculture Interagency Coordinating Council and the Florida Agricultural Exposition.
- Repeals the Fertilizer Technical Council, the Commercial Feed Technical Council and the Seed Technical Council and creates the Agricultural Feed, Seed and Fertilizer Advisory Council.
- Requires companies distributing feed in the state to report the number of tons distributed to the department on a quarterly basis, specifies penalties for failure to comply, and specifies that consumers who purchase commercial feed that is in violation of department standards may seek legal or administrative action to recover penalties. If the identity of the consumer cannot be ascertained, the registrant of the commercial feed must reimburse the department.
- Allows soil and water conservation districts to work within the district's boundaries, territories within another district's boundaries subject to the other district's approval, or territories not contained within any district's boundaries to maximize the utilization of water conservation devices, systems, and techniques, reduces the membership of the Soil and Water Conservation Council from 23 members to 7 members, and directs that the proceeds of the sale of soil and water conservation district property be credited to the district rather than the department.
- Repeals provisions relating to whole-herd and calf vaccination for brucellosis.
- Waives the annual registration fee for elementary, middle, high school or vocational schools that participate in the aquaculture certification program.
- Grants the department authority to accept grants or other funds to distribute to individuals when such funds are provided in accordance with an agreement.
- Requires a review of marketing orders when requested by an advisory council rather than an annual audit by a certified public accountant.

The fiscal impact on the state and local government is expected to be insignificant. See Fiscal Analysis & Economic Impact Statement.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7021.ANRAS.DOCX

DATE: 1/9/2012

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Division of Food, Nutrition and Wellness**

###### Present Situation

Chapter 2011-207, L.O.F., transferred the administration of the school food and nutrition programs from the Department of Education to the Department of Agriculture and Consumer Services (department) pending a waiver from the United States Department of Agriculture (USDA). The transfer included all powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition programs. The waiver was granted in October 2011; therefore, effective January 1, 2012, the department will administer the school food and nutrition programs in the state.

Section 570.29, F.S., lists the various divisions within the department. This section of statute is duplicative of s. 20.14, F.S., which establishes the department in the organizational structure of the state.

###### Effect of Proposed Changes

The bill amends s. 20.14, F.S., to establish the Division of Food, Nutrition and Wellness within the department. This new division will house the school food and nutrition programs that were transferred to the department during the previous legislation session.

The bill repeals s. 570.29, F.S., and corrects various cross-references from s. 570.29, F.S., to s. 20.14, F.S.

##### **Florida Forest Service**

###### Present Situation

###### *State Lands*

Section 253.002, F.S., directs the Department of Environmental Protection (DEP) to perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, which are titled and vested in the Board of Trustees of the Internal Improvement Trust Fund (BOT). However, water management districts perform the staff duties and functions related to the review of applications for authorization to use BOT-owned submerged lands necessary for an activity related to the management and storage of surface waters for which the water management district has permitting responsibility. Additionally, the department performs the staff duties and functions related to the review of applications and compliance with conditions for use of BOT-owned submerged lands under authorizations or leases issued relating to aquaculture activities.

In 2001, the Legislature passed the Rural and Family Lands Protection Program (act),<sup>1</sup> which focuses on maintaining the integrity and function of working agricultural landscapes through the acquisition of development rights using permanent easements from qualified and willing agricultural land owners. Landowners protecting their land under this program are free to undertake any agricultural practice as long as they are willing to follow established Best Management Practices.

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<sup>1</sup> Chapter 2001-279, L.O.F.

Section 570.71, F.S., specifies that the department, acting on behalf of the BOT, may allocate moneys to acquire perpetual, less-than-fee interest in land, to enter into agricultural protection agreements, and to enter into resource conservation agreements. Rural-lands-protection easements are a perpetual right or interest in agricultural land that is suitable for retaining such land in predominantly its current state and to prevent the subdivision and conversion of such land into other uses. Lands placed in a protection or conservation easement may not be used for:

- Construction or placement of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads that are necessary for agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities, such as electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances;
- Subdivision of the property;
- Dumping or placing of trash, waste, or offensive materials; and
- Activities that affect the natural hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish or wildlife habitat, except those required for environmental restoration; federal, state, or local government regulatory programs; or best management practices.

Resource conservation agreements are contracts for services that provide annual payments to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above that which is already required by law or that provide recreational opportunities. The agreements are for a term of not less than 5 years and not more than 10 years. Property owners are eligible to enter into resource conservation agreements only upon entering into a conservation easement or rural lands protection easement.

Agricultural protection agreements are for a term of 30 years and provide payments to the landowner having significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner. As stated above, certain prohibitions apply.

As part of the agricultural protection agreement, the parties must agree that the state has the right to buy a conservation easement or rural land protection easement at the end of the 30-year term. If the landowner offers the easement for purchase and the state does not respond in a timely fashion, the landowner is released from the agricultural agreement. The purchase price of the easement must be established in the agreement and is based on the value of the easement at the time the agreement is entered into, plus a reasonable escalator multiplied by the number of full calendar years following the date of the commencement of the agreement. The landowner may transfer or sell the property before the expiration of the 30-year term, but only if the property is sold subject to the agreement and the buyer becomes the successor in interest to the agricultural protection agreement. Upon mutual consent of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement.

Payments for conservation easement are lump-sum payments at the time the easement is entered into. Landowners entering into an agricultural protection agreement may receive up to 50 percent of the purchase price at the time the agreement is entered into, with the remaining payments on the balance being paid in equal annual sums over the term of the agreement. Payments for resource conservation agreements are equal annual payments over the term of the agreement. Easements purchased in accordance with the act cannot prevent landowners from transferring the remaining fee value with the easement.

The department, in consultation with the DEP, the water management districts, the Department of Economic Opportunity, and the Florida Fish and Wildlife Conservation Commission, can adopt rules to establish an application process, a process and criteria for establishing funding priorities, an appraisal process, and a process for title review and compliance and approval of the rules by the BOT.



A landowner may choose not to have his property included in any lists or maps developed to implement this act by providing a written request to the department asking to be left off of the list or map.

The department may use funds from the state, the federal government, other governmental entities, non-governmental organizations, or private individuals to implement this act. Any funds provided must be deposited into the Conservation and Recreation Lands Program Trust Fund within the department and used for the purpose of this act. No more than 10 percent of any funds made available to implement this act may be expended for resource conservation agreements and agriculture protection agreements.

The department has entered into a memorandum of understanding (MOU) with the DEP allowing the department to carry out the responsibilities of acquiring conservation easements. In accordance with the MOU, the department negotiates contracts, performs all due diligence with regard to the real estate transactions, prepares the BOT agenda item and presents the item at the BOT meetings. However, according to Florida law, all information must be submitted to the DEP for review prior to the BOT meeting as well as prior to closing.

### *Creation of Certain State Forests*

Chapter 2011-116, L.O.F., directed the Florida Forest Service (FFS) to designate areas of state forests as "Wounded Warrior Special Hunt Areas" to honor wounded veterans and service members, and provide outdoor recreational opportunities for eligible veterans and service members. Admittance to these areas are limited to persons who are an active duty member of any branch of the United State Armed Forces and has a combat-related injury or a veteran who served during a period of wartime service or peacetime service and has a service-connected disability or was discharged from military service because of a disability acquired or aggravated while serving on active duty.

### *Tree Planting Programs*

Section 589.277, F.S., authorizes the FFS to administer federal, state and privately sponsored tree-planting programs to assist private rural landowners and urban communities. Contributions from governmental and private sources may be deposited into the Federal Grants Trust Fund. The FFS has the authority to develop and implement guidelines and procedures to utilize the financial resources of the fund for urban and rural reforestation. Grants to municipalities, counties, nonprofit organizations, and qualifying private landowners may be made from allocated moneys for the purpose of purchasing, planting, and maintaining native tree species. The FFS must work with the Department of Education to develop programs to teach the importance of trees in the urban, rural and global environment.

While current statutory language states that both governmental and private contributions may be deposited into the Federal Grants Trust Fund, the federal government does not allow private funds to be deposited into this trust fund. Therefore, the FFS can't accept funds from a non-federal source.

Chapter 2011-206, L.O.F., renamed the Division of Forestry, within the department, to the Florida Forest Service as it was first designated in the early 1900s. While many references in the statutes have been changed to the Florida Forest Service, some references to the Division of Forestry remain.

### *Forest Protection*

Section 590.02 (10)(a), F.S., specifies that the FFS has exclusive authority to require and issue authorizations for broadcast burning and agricultural and silvicultural pile burning. An agency, commission, department, county, municipality, or other political subdivision of the state cannot adopt laws, regulations, rules, or policies pertaining to broadcast burning or agricultural and silvicultural pile burning unless an emergency order is declared in accordance with s. 252.38(3), F.S., as it relates to emergency management powers of political subdivisions. However, nothing in this section prohibited these entities from enforcing laws, regulations, rules, or policies that may have already been adopted.

## Effect of Proposed Changes

### *State Lands*

The bill amends s. 253.002, F.S., to empower the department to perform the staff duties and functions relating to the acquisition, administration, and disposition of conservation easements pursuant to s. 570.71, F.S., on BOT-owned lands.

### *Creation of Certain State Forests*

Since the enactment of chapter 2011-116, L.O.F., it has come to the attention of the department that another organization is using the term "Wounded Warrior." The bill amends s. 589.19(4)(a), F.S., to rename the "Wounded Warrior Special Hunt Area" as the "Operation Outdoor Freedom Special Hunt Area."

### *Tree Planting Programs*

The bill amends s. 589.277, F.S., to allow the deposit of funds for tree-planting programs into either the Federal Grants Trust Fund or the Incidental Trust Fund so the department can accept non-federal funds and have a place to deposit those funds. The bill also changes references from the Division of Forestry to the Florida Forest Service.

### *Forest Protection*

The bill amends s. 590.02 (10)(a), F.S., to further state that, in addition to the prohibition on adopting laws, regulations, rules, or policies pertaining to broadcast burning or agricultural and silvicultural pile burning, an agency, commission, department, county, municipality, or other political subdivision of the state cannot enforce such laws, regulations, rules, or policies that may have already been adopted.

## **Advisory Committees**

### Present Situation

Chapter 2011-206, L.O.F., repealed statutory authority allowing members of advisory committees under the jurisdiction of the department to receive travel expenses and per diem. While a majority of the advisory committees and councils were identified in ch. 2011-206, L.O.F., some committees and councils were overlooked.

Section 589.03, F.S., specifies that members of the Florida Forestry Council are not entitled to compensation for the services they render to the council. However, members of the council are entitled to travel and per diem for attending meetings and performing the duties required by membership on the council. Current law specifies that the aggregate expense of all members of the council cannot exceed \$2,500 during any fiscal year.

Additionally, some advisory committees that do not fall under the purview of the department were stripped of the ability to receive travel expenses and per diem.

### Effect of Proposed Changes

The bill repeals the statutory authority allowing members of the Sturgeon Production Working Group and the Private Investigation, Recovery and Security Advisory Council to receive travel expenses and per diem.

Additionally, the bill repeals s. 589.03, F.S., relating to compensation and allowance for members of the Florida Forestry Council. Since the department no longer reimburses members of the council for travel and per diem, this section of statute is no longer valid.

The bill also clarifies in s. 570.0705, F.S., that members of committees, boards, councils, working groups, task forces, or any other advisory bodies created within the department or by the department are not entitled to per diem or travel reimbursements.

The bill restores the authority for members of the Citrus Research and Development Foundation, Inc. and the Florida State Fair Authority to receive travel expenses and per diem. These expenses are reimbursed by the foundation and fair authority, respectively.<sup>2</sup>

## **Mosquito Control**

### Present Situation

#### *Powers and Duties*

Section 388.161, F.S., prescribes the powers and duties of the board of commissioners for mosquito control districts. The board may do any and all things necessary to control and eliminate all species of mosquitoes and other arthropods of public health importance, including providing for the construction and maintenance of canals, ditches, drains, dikes, fills, and other necessary works. The board may also provide for the installation and maintenance of pumps, excavators, and other machinery and equipment, the use of oil, larvicide paris green, or any other chemicals approved by the department but only in such quantities as may be necessary to control mosquito breeding and will not be detrimental to fish life. The board also has all of the powers of a body corporate, including the power to sue and be sued as a corporation in any court; to contract; to adopt and use a common seal and alter the seal as needed; to purchase, hold, lease, and convey real estate and personal property as the board sees fit to carry out the purposes of chapter 388, F.S.; to acquire by gift real estate, personal property, and moneys; and to employ a field director and such trained personnel, legal, clerical or otherwise, and laborers as may be required. The board has the authority to adopt rules as necessary to carry out the purposes of chapter 388, F.S., provided such rules are approved by the department.

#### *District Budgets*

Section 388.201, F.S., specifies that the fiscal year for mosquito control districts operating under the provisions of chapter 388, F.S., is the 12-month period extending from October 1 of one year through September 30 of the following year. Prior to July 15 of each year, the governing board must complete the preparation of a tentative detailed work plan budget. The tentative budget must include proposed operations and requirements for arthropod control measures during the ensuing fiscal year. For the purpose of determining eligibility for state aid, the governing board must submit copies to the department for review and approval. The tentative budget must set forth, classified by account number, title and program items, and by fund from which to be paid, the proposed expenditures of the district for construction, acquisition of land, and other purposes, for the operation and maintenance of the district's works, the conduct of the district generally, to which may be added an amount to held as a reserve.

The tentative budget must also show the estimated amount that will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. The estimated unobligated or net balance that will be on hand at the beginning of the fiscal year and the estimated amount to be raised by district taxes and from any and all other sources for meeting the district's requirements must also be included in the tentative budget.

The budget and maintenance tax levy must be adopted in accordance with the method in which the millage is assessed. The board may consider objections filed to the tentative budget and, in its discretion, amend, modify, or change the tentative budget. The board must adopt and execute a certified budget for the district by September 15 of each year. The certified budget must be on a form furnished by the department. Certified copies of the budget shall be submitted to the department for approval by September 15 of each year.

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<sup>2</sup> Sections 573.112 and 616.252, F.S.  
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The county commissioners' mosquito and arthropod control budgets shall be made and adopted as prescribed by s. 388.201, F.S., and summary figures shall be incorporated into the county budgets as prescribed by the Department of Financial Services.

#### *Disposal of Surplus Property*

Section 388.323, F.S., directs that serviceable equipment no longer needed by a county or mosquito control district must first be offered to any or all other counties or districts engaged in arthropod control at a price established by the board of commissioners who own the equipment. If no acceptable offer is received within a reasonable time, the equipment shall be offered to other governmental units or private nonprofit agencies.<sup>3</sup> The alternative procedure for disposal of surplus property is followed if it has been determined no other county, district, governmental unit, or private nonprofit agency has need for the equipment. All proceeds from the sale of any real or tangible personal property owned by the county or district shall be deposited into the county's or district's state fund account unless otherwise specifically designated by the department.

#### *John A. Mulrennan, Sr. Arthropod Research Laboratory*

The John A. Mulrennan, Sr. Arthropod Research Laboratory (lab) is a research laboratory under the administration of the Florida Agricultural and Mechanical University (FAMU). The lab performs basic and applied research to develop and test formulations, application techniques, and procedures of pesticides and biological control agents for the control of arthropods and, in particular, biting arthropods of public health or nuisance importance. The lab gives special attention to the needs of arthropod control districts, counties, and municipalities of the state by providing information, assistance and recommendations for the safe and effective control of arthropods which create a health or nuisance problem. The lab performs environmental impact studies to determine the effects of arthropod control pesticides, with a special emphasis on integrated arthropod control. Each quarter, the lab provides the department with such information as the department may need to assist it in the performance of its duties with respect to arthropod control under chapter 388, F.S. The lab also serves as a center for training of students and state and local government personnel in the safe and effective control of biting arthropods that create a public health or nuisance problem. Funds that become available from the federal government, from any district or county, from funds appropriated to local arthropod control agencies by the state, or from any other sources may be used in constructing, equipping, and operating the lab.

#### *Florida Coordinating Council on Mosquito Control*

Section 388.46, F.S., establishes the Florida Coordinating Council on Mosquito Control. The council is represented by designees of:

- The Secretary of Environmental Protection and the State Surgeon General;
- The executive director of the Fish and Wildlife Conservation Commission;
- The state epidemiologist;
- The Commissioner of Agriculture; and
- Representatives from the University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomological Research Laboratory; FAMU; the United States Environmental Protection Agency; the United States Department of Agriculture, Insects Affecting Man Laboratory; the United States Fish and Wildlife Service; two mosquito control directors nominated by the Florida Mosquito Control Association; two representatives of Florida environmental groups; and two private citizens who are property owners whose lands are regularly subject to mosquito control operations, appointed for 4-year terms by the

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<sup>3</sup> A private non-profit agency is defined in s. 273.01(3), F.S., as a nonprofit charitable organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, which has been held to be tax-exempt under the provisions of s. 501 of the Internal Revenue Code of 1954, and which has as its principal mission public health and welfare; education; environmental restoration and conservation; civil and human rights; or the relief of human suffering and poverty.

Commissioner of Agriculture; and the Board of Trustees of the Internal Improvement Trust Fund.

The council is chaired by the Commissioner of Agriculture or his authorized designee. A majority of the membership constitutes a quorum for conducting business. The chair is responsible for recording and distributing to the members a summary of the proceedings of all council meetings. The council must meet at least three times a year, or as needed. The council may designate subcommittees, as needed, to assist in carrying out its responsibilities. The Subcommittee on Managed Marshes must be the first subcommittee appointed by the council. The subcommittee must provide technical assistance and guidance on mosquito impoundment management plans and develop and review research proposals for mosquito source reduction techniques.

The responsibilities of the council include:

- Developing and implementing guidelines to assist the department in resolving disputes arising over the control of arthropods on publicly owned lands.
- Identifying and recommending to FAMU research priorities for arthropod control practices and technology.
- Developing and recommending to the department a request for a proposal process for arthropod control research.
- Identifying potential funding sources for research or implementation projects and evaluating and prioritizing proposals upon request by the funding source.
- Preparing and presenting reports, as needed, on arthropod control activities in the state to the Pesticide Review Council, the Florida Coastal Management Program Interagency Management Committee, and other governmental organizations, as appropriate.

#### Effect of Proposed Changes

##### *Powers and Duties*

The bill amends s. 388.161, F.S., to specify that the board is authorized to use pesticides registered by the department to control mosquito breeding, as long as it is not detrimental to fish life. The terms previously used in statute that are being deleted are obsolete.

##### *District Budgets*

The bill amends s. 388.201., F.S., to change the date the certified budget is due to the department from September 15 to September 30 of each year. This change will reduce burdens on local governments by providing additional time for budget preparation.

##### *Disposal of Surplus Property*

The bill amends s. 388.323, F.S., to only require that mosquito control districts first offer surplus equipment to other counties or districts engaged in arthropod control, and deletes the requirement that mosquito control districts also offer such equipment to other governmental units or private nonprofit agencies. Generally, mosquito control equipment is highly specialized and only of use to other mosquito control programs.

##### *John A. Mulrennan, Sr. Arthropod Research Laboratory*

The bill repeals s. 388.42, F.S., relating to the John A. Mulrennan, Sr. Arthropod Research Laboratory. In June 2011, FAMU closed the laboratory, terminated all of its employees, and disposed of all of its assets.

## *Florida Coordinating Council on Mosquito Control*

The bill amends s. 388.46(2)(a), F.S., to remove FAMU from the Florida Coordinating Council on Mosquito Control. With the closing of the laboratory, there is no need for continued representation on the council.

The bill amends s. 388.46(2)(b), F.S., to more accurately reflect the work of the Subcommittee on Managed Marshes by specifying that the subcommittee take into account the mosquito control source reduction implications and natural resource interests when providing technical assistance and guidance on saltmarsh management plans and research proposals.

The bill also removes a reference to the Florida Coastal Management Program Interagency Management Committee. This committee is no longer in existence.

## **Food Safety**

### Present Situation

#### *Rulemaking*

The Division of Food Safety (DFS) is responsible for assuring the public of a safe, wholesome and properly represented food supply through permitting and inspection of food establishments, inspection of food products, and performance of specialized laboratory analyses on a variety of food products sold or produced in the state. The DFS monitors food from farm gate through processing and distribution to the retail point of purchase. Section 500.09(3), F.S., requires the DFS to adopt the rules necessary to enforce the provisions of chapter 500, F.S.,<sup>4</sup> and specifies that the department is authorized to adopt by reference the rules adopted by the Food and Drug Administration (FDA) in regard to food safety.

#### *Pilot Program*

During the 1997 legislative session, the DFS initiated a pilot program for the inspection of food establishments and vehicles. The program was used as a "carrot" to reward food establishments that routinely passed the inspection process performed by the DFS. To participate in the pilot program a food establishment must meet the following criteria:

- Maintain a good inspection history over a specified period of time.
- Maintain certified food manager activities that demonstrate effective assessment of food safety practices and correcting deficiencies at the food establishment.
- Maintain an active food training program for employees.
- Maintain "self inspection" records that are available for inspection by the DFS.
- Maintain written sanitation standard operation procedures and verification records for review by the DFS.
- Maintain logs for the freezer/refrigeration units and hot-cold temperature charts for review by the DFS.
- Maintain records of corrective actions to resolve food safety deficiencies for review by the DFS.

When first implemented, approximately 17 food establishments participated in the pilot program. Because of the difficulty of compliance, however, no participation has been recorded since 2004.

#### *Milkfat Testing*

Section 502.014(3), F.S., requires the department to maintain a program to issue permits to persons who test milk or milk products for fat content if these tests are used as a basis for payment to the dairy farmer.

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<sup>4</sup> Chapter 500, F.S., deals with food products.

To obtain a permit, an applicant must pay a fee of \$125<sup>5</sup> and demonstrate sufficient knowledge, ability, and equipment to perform milkfat testing satisfactorily. Each permitholder must maintain records of all tests conducted for a period of 1 year and make such records available to the department for review. Since this program was implemented in 1973, the industry has evolved and the USDA Milk Marketing Administration provides the same function.

### Effect of Proposed Changes

#### *Rulemaking*

The bill amends s. 500.09(3), F.S., to specify that the DFS is authorized to adopt by reference the current edition of the model food code issued by the FDA and Public Health Service of the United States Department of Health and Human Services. While the DFS must still follow the established rulemaking process, this change enables the DFS to adopt the current edition of the model food code.

#### *Pilot Program*

The bill repeals s. 500.147(6), F.S., relating to the pilot program for the inspection of food establishments. In lieu of the pilot program, the DFS has implemented a variable inspection program, which rewards food establishments with good sanitary history by reducing the frequency of inspections.

#### *Milkfat Testing*

The bill amends ss. 502.014 and 502.053, F.S., to delete the duplicative permitting requirement for milkfat testers.

### **Water Issues**

#### Present Situation

##### *Office of Agricultural Water Policy*

During the 2011 legislative session, the Office of Water Policy Coordination was renamed as the Office of Energy and Water. This was done to better reflect the duties carried out by this office. However, at the same time, the Legislature transferred the state energy office to the department. This expanded the focus of energy beyond what was planned for within this office. With the transfer of the state energy office, a new office (Office of Energy) was created within the department.

##### *Fertilizer Tonnage Fee*

Section 576.045, F.S., specifies legislative intent regarding the improvement of fertilization-management practices that protect that state's water resources and preserves a viable agricultural industry, which may be accomplished through research concerning best management practices and education and incentives for the agricultural industry and other major users of fertilizer.

In addition to the fees paid for registration and inspection of agricultural fertilizers, a tonnage fee of 50 cents per ton is assessed for all fertilizer sold in the state that contains nitrogen or phosphorous. These fees are deposited into the General Inspection Trust Fund, and are appropriated annually to the department and allocated according to a memorandum of understanding between the department and the Department of Environmental Protection (DEP). These funds must be used for the express purpose of research, development, adoption, and distribution of interim measures, best management practices (BMPs), or other measures that achieve state water quality standards for nitrogen and phosphorous criteria. The funds may be used for cost-sharing grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The funds may also be used to reimburse the DEP for costs incurred while monitoring and verifying the

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<sup>5</sup> This amount covers a two year period.

effectiveness of the interim measures, BMPs, or other measures, as well as sampling and analyzing potable water supplies found to contain levels of nitrate in excess of state water quality standards.

To achieve these goals, the department may consult with the DEP, the Department of Health, the water management districts, environmental groups, the fertilizer industry, and representatives from the affected farming groups.

The provisions regarding funding and intent, fees, purpose, waiver of liability, and rulemaking are set to expire on December 31, 2012. Compliance and other provisions are set to expire on December 31, 2017. Failing to extend these expiration dates would create a shortfall of approximately \$1 million annually, which the department uses in the development and implementation of agricultural BMPs.

### Effect of Proposed Changes

#### *Office of Agricultural Water Policy*

The bill changes the name of the Office of Energy and Water to the Office of Agricultural Water Policy.

#### *Fertilizer Tonnage Fee*

The bill amends section 576.045, F.S., to extend the expiration dates for the fertilizer tonnage fee program to December 31, 2022 and December 31, 2027, respectively.

### **Plant Industry**

#### Present Situation

##### *Plant Industry Technical Council*

Section 570.34, F.S., establishes the Plant Industry Technical Council (PITC) to address plant industry-related issues. The PITC is composed of eleven members representing various industry-related interests, as well as a citizen-at-large representative, all who serve on the State Agricultural Advisory Council. An additional representative from the citrus fruit industry, appointed by the Commissioner of Agriculture, also serves on the PITC.

The Division of Plant Industry (DPI) reports that the PITC has met sporadically over the past several years and has not been an effective mechanism to address plant industry-related issues. In the recent past, the DPI has had better success in dealing with issues by using working groups or task forces that are commodity based or specific to a given issue. Additionally, the DPI has partnered with their respective counterparts at the USDA to establish the Florida Partnership Council. The council meets with industry stakeholders to seek input and review overall plant protection programs in Florida.

##### *Aquatic Plant Nursery Registration*

Section 581.145, F.S., directs that, despite any other provision of state or federal law, the department issue, when requested, a permit to an aquaculture producer to engage in the business of exporting water hyacinths to countries other than the United States and only when such hyacinths are cultivated in a nursery for the sole purpose of exportation and the aquaculture activity has been certified by the department. An aquaculture producer is forbidden from shipping water hyacinths to another country under the permit for the purpose of importing the hyacinths back into the United States. Drop shipments cannot be made to any destination within the United States. This provision does not restrict or interfere with the Department of Environmental Protection's efforts, or those of any other agency or local government responsible for the management of noxious aquatic plants, to control or eradicate noxious non-nursery aquatic plants, including water hyacinths. This provision is not a consideration in the approval or the release of biological control agents for water hyacinths or any other noxious aquatic plants.



Even though the water hyacinth is not on the United States Department of Agriculture's Noxious Plant List, Florida aquatic plant producers have been prohibited from distributing these products through interstate commerce. This puts Florida aquatic plant producers at a competitive disadvantage in the United States marketplace.

### Effect of Proposed Changes

#### *Plant Industry Technical Council*

The bill repeals section 570.34, F.S., which establishes the Plant Industry Technical Council. The bill also deletes the term "technical council," which refers to the PITC, from the definitions section in Chapter 581, F.S.

#### *Aquatic Plant Nursery Registration*

The bill amends s. 581.145, F.S., to allow for the transporting and selling of water hyacinths to other states and countries that allow such transportation and sale when the aquaculture activities have been certified by the department. An aquaculture producer may not ship water hyacinths to other states or countries under the permit for the purpose of importing the hyacinths back into Florida. Section 581.145(3), F.S., does not restrict or interfere with the efforts of the Fish and Wildlife Conservation Commission or the efforts of any other agency or local government responsible for the management of noxious aquatic plants, to control or eradicate noxious non-nursery aquatic plants, including water hyacinths.

### **Agriculture Environmental Services**

#### Present Situation

#### *Agricultural Feed, Seed and Fertilizer Advisory Council*

Currently, within the department there are three separate advisory councils that mitigate issues regarding fertilizer, seeds, and commercial feed: the Fertilizer Technical Council, the Commercial Feed Technical Council, and the Seed Technical Council. Each of these councils is composed of between 11 and 13 members, which include representatives of the various industry groups related to the respective councils, as well as representatives of the department and the Institute of Food and Agricultural Sciences at the University of Florida (IFAS). While each council addresses issues unique to its particular area, overlap occurs because of the nature of the three topics. All of the various industry groups have agreed to combine the three separate councils into one all-encompassing council.

#### *Commercial Feed Master Registration*

Section 580.041, F.S., requires distributors of commercial feed in the state to obtain a master registration each year before distributing their brand. Distributors must consent to complying with provisions of chapter 580, F.S., as well applicable rules. Registration forms must be accompanied by a fee based on tons of feed distributed in the state during the previous year.<sup>6</sup>

The terms of compliance for registration include:

- Submitting samples of manufactured feed for testing by laboratories certified by the department or obtaining an exemption from testing, as provided by chapter 580, F.S.
- Maintaining a bookkeeping systems and records that allow the department to verify the accuracy of the reported tonnage of feed distributed in the state.
- Allowing the department to examine pertinent records.

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<sup>6</sup> Section 580.041(1)(b), F.S., provides a chart listing the fee per ton of feed distributed.

The department has statutory authority to assess penalties for violations of chapter 580, F.S., as well as to refuse, suspend, or cancel the master registration of a distributor who violates or fails to comply with the provisions of chapter 580, F.S.

Records of the tonnage of feed distributed are maintained by the distributor and verified by the department. Some registrants defer or refuse to provide accurate information. Because the registration cost is based on the tons of feed distributed in the state, the failure to report the tonnage presents a problem when assessing the registration fee.

Additionally, current law requires registrants to have feed samples and ingredients testing at a frequency determined by department rule.<sup>7</sup> The rule states that testing is based on the quantity and type of feed distributed. Without proper reporting, it is impossible for the department to determine if registrants are in compliance with statutory and rule testing requirements.

#### *Commercial Feed Penalties Payable to Consumers*

Section 580.131, F.S., provides consumers that purchase a commercial feed that has been distributed in violation of chapter 580, F.S., the right to seek legal action to recover penalties. The law<sup>8</sup> specifies penalties to coincide with the various violations. The statutes state that a penalty may not be less than \$10 regardless of the monetary value of the violation.

The department states that in 1995, when the current law was amended, statutory language was inadvertently omitted that allowed the department to impose and recover monetary penalties for commercial feed found, when tested by the department's laboratories, to be deficient or excessive in nutrients. Additionally, pre-1995 statutory language, entitled the consumer to payment of penalties through any legal or administrative action that might be implemented, which enabled the state to order restitution on behalf of the consumer through administrative action. The pre-1995 statutes also provided for the penalties to be paid to the department when the identity of the consumer could not be ascertained.

#### Effect of Proposed Changes

##### *Agricultural Feed, Seed and Fertilizer Advisory Council*

The bill repeals the Fertilizer Technical Council, the Commercial Feed Technical Council, and the Seed Technical Council and creates the Agricultural Feed, Seed and Fertilizer Advisory Council. The new council will consist of 15 members who represent the department, IFAS, the beef cattle, poultry, aquaculture, field crops, citrus, vegetable, and dairy production industries, as well as representatives of the fertilizer, seed, and commercial feed industries.

Each member shall be appointed by the Commissioner of Agriculture for a term of 4 years or until a successor is appointed. The members shall organize by electing a chair, a vice chair, and a secretary to serve a 2-year term. Council officers may not serve consecutive terms.

For all purposes, a majority of the members constitutes a quorum. The secretary of the council must keep a record of each meeting, noting the members present and the actions taken. The records of the meetings must be kept on file with the department and are subject to review by members of the council.

The council must meet at least twice a year, either at the call of the chair, by request of a majority of its members, at the request of the department, or at such time as an agricultural or environmental emergency arises. The council may receive reports of relevant enforcement activity conducted by the department, which may include the number of inspections, the number of administrative actions, the number of complaints received and investigated, and the dispositions of complaints. The council may also provide advice to the department on the conduct of actions, and make recommendations to the

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<sup>7</sup> Rule 5E-3.003, F.A.C.

<sup>8</sup> Section 580.131, F.S.

Commissioner of Agriculture for actions to be taken with respect to the regulation of feed, seed, and fertilizer.

### *Commercial Feed Master Registration*

The bill amends s. 580.041, F.S., to change the tonnage reporting requirements. The tonnage of feed distributed in the state must be reported to the department on a quarterly basis, no later than 30 days following the end of each quarter.

The bill also allows the department to issue a warning letter; impose an administrative fine not to exceed \$1,000 per occurrence; revoke or suspend the master registration, laboratory certification, or quality assurance/quality control plan approval; or, impose a probationary period of up to 6 months for persons who violate the provisions of chapter 580, F.S.

### *Commercial Feed Penalties Payable to Consumers*

The bill amends s. 580.131, F.S., to provide consumers who purchase commercial feed that has been distributed in violation of chapter 580, F.S., or any rules promulgated under chapter 580, F.S., the right to seek legal or administrative action to recover penalties. The bill also requires the registrant to reimburse the consumer within 60 days of notice of penalty from the department. Registrants that fail to meet the 60-day deadline are subject to a warning letter; the imposition of an administrative fine not to exceed \$1,000 per occurrence; revocation or suspension of the master registration, laboratory certification, or quality assurance/quality control plan approval; or, imposition of a probationary period of up to 6 months.

Lastly, the bill specifies that, when the identity of the consumer cannot be ascertained, the registrant must reimburse the department within 60 days of notice of penalty being served. The proceeds from penalty payments must be deposited into the General Inspection Trust Fund to be used for the sole purpose of funding the feed inspection program.

## **Soil and Water Conservation Districts**

### Present Situation

Soil and water conservation districts are governmental subdivisions of the state that coordinate with federal, state, regional, and other local partners to develop and implement soil and water conservation practices on private lands. Districts are currently regulated under chapter 582, F.S.

Section 582.20, F.S., specifies that the powers and duties of the districts include:

- Conducting surveys, investigations, and research on soil erosion, floodwater and sediment damages, conservation issues, development and utilization of soil and water resources, disposal of water, preventive and control measures and works of improvement needed.
- Publishing the results of surveys, investigations and research and disseminating information regarding preventive and control measures and works of improvement.
- Disseminating information concerning such preventive and control measures and works of improvement.
- Avoiding duplication of research by the districts working in cooperation with the state or its agencies and the federal government or its agencies.
- Conducting demonstration projects regarding effective conservation methods.
- Implementing preventive and control measures for conservation, development and utilization of soil and water resources, and the disposal of water within the district, such as engineering operations, methods of cultivation, the growing of vegetation, changes in land use, and other measures on private lands or public-owned lands, with the cooperation of landowners or the public land management agency.
- Cooperating or entering into agreements with, and within the limits of appropriations made available to the districts, to furnish financial or other aid to any agency, governmental or

otherwise, or any landowner or occupier of land within the district to assist in conservation efforts.

- Acquiring, either by purchase, exchange, lease, gift, grant, bequest, or otherwise, any property, real or personal, or rights or interests in such property, as well as maintaining, administering, improving, receiving income from, or disposing of any properties acquired.
- Making available to landowners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment to assist in such operations to attain conservation goals.
- Constructing, improving, operating and maintaining such structures as may be necessary or convenient for the performance of any of the operations authorized in chapter 582, F.S.
- Developing comprehensive plans for the conservation of soil and water resources.
- Taking over, by purchase, lease or otherwise, and administering any soil-conservation, erosion-control, erosion-prevention project, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water.
- Managing, as agents of federal or state agencies, any soil-conservation, erosion-control, erosion-prevention project, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water.
- Suing and being sued in the name of the district; having a seal, which may be judicially noticed; having perpetual succession unless terminated as provided in chapter 582, F.S., making and executing contracts or other instruments necessary to exercise the powers of the districts; upon a majority vote of the supervisors of the district, to execute promissory notes and other evidences of indebtedness; pledging, mortgaging and assigning the income of the district and its personal property as security for such promissory notes as may be obtained; making, amending and repealing rules and regulations to achieve the purposes and powers of the districts.

As a condition to extending any benefits under chapter 582, F.S., or the performance of work upon, any lands not owned or controlled by the state or its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require landowners and occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands that will tend to prevent or control erosion and prevent floodwater and sediment damages on the land. Provisions relating to the acquisition, operation, or disposition of property by public bodies of the state apply only to districts organized under chapter 582, F.S. The property and property rights of every kind and nature acquired by a district organized under chapter 582, F.S., are exempt from state, county, and other taxation.

Section 582.29, F.S., directs agencies of the state that have jurisdiction over the administration of any state-owned lands, and any county, or other governmental subdivision of the state that has jurisdiction over any county-owned or other publicly owned land, lying within the boundaries of any district to cooperate to the fullest extent with the supervisors of the district in effecting the programs and operations undertaken by the supervisors under the provisions of chapter 582, F.S. The supervisors of the districts are given free access to enter and perform work upon such publicly-owned lands. The provisions of land use regulations adopted must be in all respects observed by the agencies administering such publicly owned lands.

Currently, districts do not have the authority to work across district lines to assist landowners whose property falls outside a district boundary or in an area that doesn't have an active district.

Section 582.30, F.S., specifies that any time after 5 years from the organization of a district under chapter 582, F.S., any 10 percent of owners of land lying within the boundaries of such district may file a petition with the department asking that the operations of the district be terminated and the existence of the district discontinued. Upon petition, the department may conduct public meetings and hearings as necessary to assist in the consideration of termination of the district. Within 60 days after receiving the petition, the department must give due notice of holding a referendum, as well as supervising and issuing regulations to govern the referendum. The ballot must be clearly marked with the propositions "For terminating the existence of the district" and "Against terminating the existence of the district" and provide a square before each proposition with a direction to insert an "X" mark in the square before one

or the other of the propositions as the voter so chooses. All owners of land lying within the boundaries of the district are eligible to vote in such referendum. If the referendum has been duly noticed and fairly conducted, no informalities relating to the conduct of the referendum can invalidate the referendum or its results. If two-thirds or more of the qualified voters in the referendum have voted for the discontinuance of the district, the department must certify to the supervisors of the district the result of the referendum and that the continued operation of the district is not administratively practicable or feasible.

Alternatively, upon review and recommendation of the Soil and Water Conservation Council regarding the continued viability of the district, the Commissioner of Agriculture may dissolve or discontinue a district if the commissioner certifies that the continued operation of the district is not administratively practicable or feasible. If a district has failed to comply with any of the audit and financial reporting requirements of chapter 189, F.S., the commissioner, after review and confirmation by the department's inspector general, may certify dissolution or discontinuance of the district without prior review and recommendation of the Soil and Water Conservation Council. Notice of the proposed certification of dissolution or discontinuance must be published once a week for 2 weeks in a newspaper of general circulation within the county or counties where the district is located. The notice must state the district's name, a general description of the territory included in the district and require that objections to the proposed dissolution or any claims against assets of the district must be filed with the department no later than 60 days following the date of last publication.

Section 582.31, F.S., directs a district to terminate the affairs of the district, upon receipt from the department of a certification that the department has found that the continued operation of the district is not administratively practicable and feasible. The supervisors of the district must dispose of all district property at a public auction and pay over the proceeds of the sale to the State Treasury, which is placed to the credit of the department to be used to liquidate any legal obligations of the district at the time of its termination. The supervisors must file an application with the Department of State for the discontinuance of the district, and must include with the application the certificate of the department setting forth the determination the continued operation of the district is not administratively practicable and feasible. The application must reiterate that the property has been disposed of and the proceeds paid over to the State Treasury. A full accounting of the properties and the proceeds of the sale must be included in the application. The Department of State must then issue to the supervisors of the district a certificate of dissolution and record the certificate in the appropriate book of record.

#### *Soil and Water Conservation Council*

Section 582.06, F.S., creates the Soil and Water Conservation Council within the department, which is composed of 23 members. Eleven of the members are persons who have been involved in the practice of soil or water conservation, or in the development or implementation of interim measures or best management practices related to soil or water conservation. These eleven members must also be engaged in agriculture or an occupation related to the agricultural industry for at least 5 years at the time of their appointment. The remaining twelve members must include one representative each from the Department of Environmental Protection, the five water management districts, the Institute of Food and Agricultural Sciences at the University of Florida, the United States Department of Agriculture Natural Resources Conservation Service, the Florida Association of Counties, and the Florida League of Cities and two representatives of environmental interests.

All members are appointed by the Commissioner of Agriculture from recommendations provided by the organization or interest represented. The term of appointment is for four years or until successors are duly qualified and appointed. Vacancies are filled for the remainder of the term in the manner of an initial appointment. The meetings, powers and duties, procedures, and recordkeeping of the council, as well as per diem and travel expenses of the council members, are governed by s. 570.0705, F.S., relating to advisory committees established within the department.

## Effect of Proposed Changes

The bill amends ss. 582.20 and 582.29, F.S., to allow districts to work within their boundaries, territories within another district's boundaries subject to the other district's approval, or territories not contained within any district's boundaries in order to maximize the utilization of water conservation devices, systems, and techniques in an area that either falls outside a district boundary or that doesn't have an active district.

The bill amends s. 582.30, F.S., to provide for the dissolution or discontinuance of a district if:

- The Soil and Water Conservation Council, upon review and recommendation, determines the continued operation of the district is not administratively practicable and feasible under the provisions of chapter 582, F.S.
- The district fails to comply with any audit or financial reporting requirement of chapter 189, F.S., or fails to comply with any requirements of s. 582.20(1)-(9), F.S., and the department's inspector general reviews and confirms in writing the district has failed to comply with any of the requirements.
- The department receives a resolution adopted by the supervisors of the district requesting the commissioner to issue a certificate determining that the continued operation of the district is not administratively practicable and feasible under the provisions of chapter 582, F.S.

If any of the requirements for a dissolution or discontinuance are satisfied, the department must publish notice of a proposed certificate determining that the continued operation of the district is not administratively practicable and feasible under the provisions of chapter 582, F.S. The notice procedures remain the same as current law. Upon expiration of the 60-day period after the date of last publication, the commissioner, upon review of any comments or objections received, may issue a certificate determining that the continued operation of the district is not administratively practicable and feasible under the provisions of chapter 582, F.S. If the commissioner issues such a certificate, the department must file the original certificate with the Department of State and must provide a copy of the certificate to the supervisors of the district at the district's principal office.

The bill amends s. 582.31, F.S., to provide for the proceeds of the sale of district property to be paid to the State Treasury and credited to the district, rather than the department; thus, making the legal obligations the responsibility of the district at the time of the district dissolution.

### *Soil and Water Conservation Council*

The bill amends s. 582.06, F.S., reducing the membership of the council from 23 members to 7 members, all of whom must have been involved in the practice of soil or water conservation, or in the development or implementation of interim measures or best management practices related to soil or water conservation. The members must also be engaged in agriculture or an occupation related to the agricultural industry for at least 5 years at the time of their appointment. All members are appointed by the Commissioner of Agriculture and serve 4-year terms or until their successors are duly qualified and appointed. Vacancies are filled for the remainder of the term in the manner of an initial appointment. The meetings, powers and duties, procedures, and recordkeeping of the council are governed by s. 570.0705, F.S., relating to advisory committees established within the department.

## **Animal Industry**

### Present Situation

#### *Whole-herd and Calf Vaccination*

Section 585.155, F.S., specifies that all female calves born in the state used for dairy breeding purposes must be vaccinated with an approved *Brucella abortus* vaccine by state or federal regulatory officials or licensed, accredited veterinarians. When vaccinated, calves must be tattooed with the official shield tattoo "V", which is registered by the United States Department of Agriculture (USDA), in

the right ear, preceded by the numeral of the quarter of the year and followed by the last numeral of the year. Additionally, each calf must be individually identified at the time of vaccination, if not already identified by tattoo or brand, by an official vaccination ear tag in the right ear. The tag must include the designated state prefix, followed by the letter "V," two additional letters, and four numerals. Registration tattoos or individual brand numbers may be substituted for the official ear tags. The identification must be accurately recorded on the official vaccination record. Duplicate records of these vaccinations must be supplied to the department and comprise the official record of vaccination.

Each owner of a herd of cattle in the state must enroll the herd in a program to determine whether the herd is infected with brucellosis. When reactors or suspects are revealed in a herd, the department and the owner must develop a plan to eliminate the infection in accordance with the Uniform Methods and Rules for Brucellosis Eradication and the rules of the state. The plan must include the required testing, removal of reactor animals, calfhood vaccination, and whole-herd vaccination to clear the herd of infection.

The department must establish low brucellosis incidence areas and brucellosis free areas that can be recognized by the USDA as having Class "Free," Class "A," or Class "B" status under the Uniform Methods and Rules for Brucellosis Eradication. The only vaccine that qualifies under chapter, 585, F.S., is an approved vaccine produced under license of the USDA.

### Effect of Proposed Changes

#### *Whole-herd and Calf Vaccination*

The bill repeals s. 585.155, F.S. Florida has been declared brucellosis-free since 2001 and no cases have been revealed since that time. Although calfhood vaccination continues on a voluntary basis, the vaccine is no longer provided at state expense.

### **Aquaculture**

#### Present Situation

##### *Aquaculture Certification*

Section 597.004(1), F.S., specifies the criteria that must be met in order to become certified to engage in aquaculture production in the state. The application for certificate of registration must include:

- Applicant's name/title;
- Company name;
- Complete mailing address;
- Legal property description of all aquaculture facilities;
- Actual physical street address for each aquaculture facility;
- Description of production facilities;
- Aquaculture products to be produced;
- One-hundred dollar annual registration fee; and
- Documentation that the rules adopted relating to chapter, 597, F.S., have been complied with in accordance with s. 597.004(2)(a), F.S.

##### *Aquaculture Interagency Coordinating Council*

Section 597.006, F.S., creates the Aquaculture Interagency Coordinating Council. The council was created in 1984 to facilitate and coordinate inter-agency communication regarding aquaculture activities between the department, the Department of Economic Opportunity, the Department of Environmental Protection (DEP), the Fish and Wildlife Conservation Commission (FWCC), the statewide consortium of universities under the Florida Institute of Oceanography, Florida Agricultural and Mechanical University

(FAMU), the Institute of Food and Agricultural Sciences at the University of Florida (IFAS), and the Florida Sea Grant Program.

The council is composed of one member from each of the above-referenced organizations, to be designated by the head of the respective organization, to act as an aquaculture contact person. In the case of the IFAS, the Vice President for Agricultural Affairs serves as the representative for the council.

The council meets quarterly, with a chair and vice chair being elected by the membership to serve for 1 year. The chair may call for a council meeting as often as necessary to transact business. At least one meeting a year must be a joint meeting with the Aquaculture Review Council (ARC). The council may designate subcommittees as needed to assist in carrying out its responsibilities. A majority of the members constitutes a quorum and an action by a majority of the quorum is considered official. The department has primary responsibility for providing administrative and staff support for the council and must maintain a record of the proceedings of each meeting, which must include the name of the members present and any action taken. The records of the meeting must be kept on file with the department and available for review by the council members.

The purpose of the council is to establish positive interagency cooperation to foster the development of the state's aquaculture industry. To achieve this purpose the council must:

- Serve as a forum for discussion and study regarding governmental regulations relating to aquaculture.
- Review and discuss aquaculture issues developed by the ARC.
- Formulate responses to industry issues, as presented by the ARC, which include solutions and policy alternatives to facilitate aquaculture development.
- Review the recommendations for short-term research projects submitted to the Commissioner of Agriculture by the ARC and forward any pertinent comments to the Commissioner of Agriculture.
- Review the results of the aquaculture research projects funded by the department.
- Establish and maintain effective and cooperative linkages between member agencies, the ARC, and the public and private institutional research, extension, and service programs, so that recommendations for improvement are responsive to the needs of aquaculture.
- Prepare an annual report to be submitted by December 1 each year to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of the legislative appropriations and agriculture committees, and the heads of each agency represented on the council. The report includes all actions and recommendations of the council, as well as the responsive actions taken by the agencies. The report also includes a list of all aquaculture activities undertaken by member agencies and the needs each activity is designed to address, the results, the funds expended on each activity, and the source of those funds.
- Develop guidelines for use by member agencies when reporting any aquaculture activities.

### Effect of Proposed Changes

#### *Aquaculture Certification*

The bill amends s. 597.004(1), F.S., to specify that the annual registration fee is waived for any elementary, middle, high school or vocational schools that participate in the aquaculture certification program. Currently, there are approximately 15 certified aquaculture programs in schools around the state. These programs help to educate students on potential career paths, proper handling of non-native species, as well as demonstrating hands-on practical educational opportunities. The department hopes that by waiving the certification fee, more schools will become involved in the aquaculture certification program.

#### *Aquaculture Interagency Coordinating Council*

The bill amends ss. 379.2523, 597.0021, 597.003 and 597.005, F.S., and repeals s. 597.006, F.S., to abolish the Aquaculture Interagency Coordinating Council.



## Miscellaneous

### Present Situation

#### *Distribution of Grants*

Currently the department uses its general authority as provided in s. 570.07, F.S., to receive and accept grants, gifts, and donations to further the mission of the department. Previously, the department wished to distribute funds to ranchers for Florida Panther depredation, a program not a part of the department's mission. These reimbursements were not accommodated in the department's budget.

#### *Florida Agricultural Exposition*

In 1969, the department received legislative authority to construct and equip, in conjunction with the Department of Corrections, an agricultural exposition center in Palm Beach County to be known as the Florida Agricultural Exposition. The exposition is administered by the department for the purposes of:

- Demonstrating and selling Florida agricultural products;
- Attracting and informing buyers;
- Conducting agricultural short courses and conferences;
- Organizing tours to aid in the marketing of Florida agricultural products to domestic and foreign markets; and.
- Training prisoners of the correctional institutions of the state in agricultural labor and management.

The department and the Department of Corrections have statutory authority to receive donations of funds from growers and dealers of agricultural products, the various groups and associations representing agricultural products and agricultural business products, the federal government and other sources. The moneys collected are deposited into the state treasury in a separate trust fund. The department is further authorized to expend up to \$25,000 of its own funds, if available. Lack of interest, as well as funding, makes it no longer feasible to continue the operation of the exposition.

#### *Marketing Orders*

Marketing orders are instrumentalities issued by the department and designed to regulate the distribution and handling of agricultural products in intrastate commerce. Marketing orders become effective when consented to by a majority of producers or handlers of such commodities in the state.<sup>9</sup> To establish a marketing order, at least 10 percent of the affected producers must petition the department to give notice of a public hearing regarding a proposed marketing order.<sup>10</sup> Once the notice has been filed and the hearing has been conducted, the department may issue the marketing order if it determines the order will accomplish certain objectives prescribed by statute.<sup>11</sup> Prior to a marketing order being issued, the petitioners must deposit such monies with the department to defray the cost of implementing the marketing order. Thereafter, persons directly affected by the marketing order shall pay such amounts as the department deems necessary to cover the administration and enforcement of the marketing order.<sup>12</sup> Section 573.118(4) directs the department to arrange on an annual basis for an audit of the books and accounts of the marketing order by a certified public accountant (CPA). The CPA must notify the department and all parties covered by the marketing order of the results no later than 30 days following the audit.

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<sup>9</sup> Section 573.104, F.S.

<sup>10</sup> Section 573.105, F.S.

<sup>11</sup> Section 573.108, F.S.

<sup>12</sup> Section 573.118, F.S.

## Effect of Proposed Changes

### *Distribution of Grants*

The bill amends s. 570.07, F.S., to give the department direct authority to accept grants or other funds to distribute to individuals when such funds are provided pursuant to an agreement.

### *Florida Agricultural Exposition*

The bill repeals section 570.071, F.S., which creates and administers the Florida Agricultural Exposition.

### *Marketing Orders*

The bill amends s. 573.118, F.S., to require the department to maintain records of collections and expenditures for each marketing order separately within the state's accounting system. Rather than an annual audit, the bill directs that a review be conducted when requested by an advisory council associated with the particular marketing order.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 20.14, F.S., establishing the Division of Food, Nutrition, and Wellness within the department.

**Section 2:** Amends s. 253.002, F.S., authorizing the department to perform staff duties for the Board of Trustees of the Internal Improvement Fund related to conservation easements.

**Section 3:** Amends s. 379.2523, F.S., deleting references to the Aquaculture Interagency Coordinating Council.

**Section 4:** Amends s. 379.2524, F.S., removing provisions relating to per diem and travel expenses for members of the Sturgeon Production Working Group.

**Section 5:** Amends s. 388.161, F.S., revising the products that mosquito control districts are authorized to use to control mosquito breeding.

**Section 6:** Amends s. 388.201, F.S., revising the due date for mosquito control districts to submit their certified budgets to the department.

**Section 7:** Amends s. 388.323, F.S., revising procedures for a county or mosquito control district to dispose of certain surplus equipment.

**Section 8:** Repeals s. 388.42, F.S., relating to the John A. Mulrennan, Sr., Arthropod Research Laboratory.

**Section 9:** Amends s. 388.46, F.S., revising the membership and the responsibilities of the Florida Coordinating Council on Mosquito Control; and revising the duties of the council's Subcommittee on Managed Marshes.

**Section 10:** Amends s. 493.6104, F.S., removing provisions relating to per diem and travel expenses for members of the Private Investigation, Recovery, and Security Advisory Council.

**Section 11:** Amends s. 500.09, F.S., authorizing the department to adopt rules to incorporate by reference the federal model food code.

**Section 12:** Amends s. 500.147, F.S., deleting provisions relating to a food safety pilot program.

**Section 13:** Amends s. 502.014, F.S., deleting provisions relating to a permitting program for persons who test milk or milk products.

**Section 14:** Amends s. 502.053, F.S., deleting requirements for a milkfat tester license.

**Section 15:** Amends s. 507.07, F.S., authorizing the department to accept and distributed funds to individuals under certain circumstances.

**Section 16:** Amends s. 570.0705, F.S., prohibiting members of certain advisory bodies from receiving per diem or travel expenses.

**Section 17:** Repeals s. 570.071, F.S., relating to the Florida Agricultural Exposition.

**Section 18:** Amends s. 570.074, F.S., renaming and revising the policy jurisdiction of the department's Office of Energy and Water.

**Section 19:** Amends s. 570.18, F.S., correcting a cross-reference.

**Section 20:** Repeals s. 570.29, F.S., relating to the divisions of the department.

**Section 21:** Repeals s. 570.34, F.S., relating to the Plant Industry Technical Council.

**Section 22:** Creates s. 570.451, F.S., creating the Agricultural Feed, Seed, and Fertilizer Advisory Council; providing for the council's powers and duties and appointment of council members.

**Sections 23 and 24:** Amends s. 570.53, F.S., correcting cross-references.

**Section 25:** Amends s. 573.112, F.S., providing that members of the Citrus Research and Development Foundation's board of directors are entitled to reimbursement from the foundation for per diem and travel expenses.

**Section 26:** Amends s. 573.118, F.S., revising requirements for the accounting and review of collections and expenditures from agricultural commodity marketing order assessments.

**Section 27:** Amends s. 576.045, F.S., revising the expiration dates of certain provisions regulating fertilizers that contain nitrogen and phosphorous.

**Section 28:** Amends s. 576.071, F.S., removing a reference to the Fertilizer Technical Council.

**Section 29:** Repeals s. 576.091, F.S., relating to the Fertilizer Technical Council.

**Section 30:** Repeals s. 578.30, F.S., relating to the Seed Technical Council.

**Section 31:** Amends s. 580.041, F.S., revising the reporting requirements and penalties for violations by distributors of commercial feed.

**Section 32:** Amends s. 580.131, F.S., revising requirements for the assessment of penalties and enforcement of violations by manufacturers and distributors of commercial feed or feedstuff; authorizing the department to assess penalties; requiring registered distributors of commercial feed to pay penalties to consumers within a specified time; imposing additional penalties for nonpayment; providing for the deposit and use of certain funds paid to the department.

**Section 33:** Repeals s. 580.151, F.S., relating to the Commercial Feed Technical Council.

**Section 34:** Amends s. 581.011, F.S., removing a reference to the Plant Industry Technical Council.

**Section 35:** Amends s. 581.145, F.S., revising requirements for the issuance of permits to aquaculture producers for the transport and sale of water hyacinths to other states and countries.

**Section 36:** Amends s. 582.06, F.S., revising requirements for the composition and appointment of members of the Soil and Water Conservation Council and the reimbursement of members for per diem and travel expenses.

**Sections 37 and 38:** Amends ss. 582.20 and 582.29, F.S., revising the jurisdiction of soil and water conservation districts to include territories within another district's boundaries subject to the other district's approval or territories not contained within any district's boundaries.

**Section 39:** Amends s. 582.30, F.S., revising requirements and procedures for the dissolution or discontinuance of a soil and water conservation district.

**Section 40:** Amends s. 582.31, F.S., revising requirements for payment of the proceeds from the sale of property of a dissolving soil and water conservation district to the State Treasury.

**Section 41:** Repeals s. 585.155, F.S., relating to the inspection and vaccination of cattle for brucellosis.

**Section 42:** Repeals s. 589.03, F.S., relating to compensation and allowance for members of the Florida Forestry Council.

**Section 43:** Amends s. 589.19, F.S., renaming the "Wounded Warrior Special Hunt Areas" of the state forests.

**Section 44:** Amends s. 589.277, F.S., revising requirements for the deposit of contributions for tree planting programs.

**Section 45:** Amends s. 590.02, F.S., specifying that state and local government agencies other than the Florida Forest Service may not enforce regulations of broadcast burning or agricultural or silvicultural pile burning except under certain circumstances.

**Sections 46, 47 and 49:** Amends ss. 597.0021, 597.003, and 597.005, F.S., removing references to the Aquaculture Interagency Coordinating Council.

**Section 48:** Amends s. 597.004, F.S., authorizing the waiver of aquaculture registration fees for certain schools.

**Section 50:** Repeals s. 597.006, F.S., relating to the Aquaculture Interagency Coordinating Council.

**Section 51:** Amends s. 616.252, F.S., providing for the reimbursement by the fair authority of members of the Florida State Fair Authority for per diem and travel expenses.

**Section 52:** Provides an effective date of July 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

By amending 580.041, F.S., the department may receive increased revenues as a result of the changes in reporting requirements for distributors of commercial feed. Although the fiscal impact is indeterminate, revenues collected for FY 2010-11 were \$542,580.

By amending s. 590.02, F.S., the department may receive private funds to administer tree-planting programs, but the amount cannot be determined at this time.

General Inspection Trust Fund

	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Milkfat Tester Permits	(\$6,562)	\$0
Commercial Feed Penalties	\$3,600	\$0
Aquaculture Certification	<u>(\$1,500)</u>	\$0
Subtotal	(\$4,462)	\$0

2. Expenditures:

Division of Licensing Trust Fund

	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Private Investigation, Recovery and Security Advisory Council	(\$11,300)	\$0

General Inspection Trust Fund

	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Milkfat Sampling Costs	(\$400)	\$0

Division of Licensing Trust Fund Net Positive Impact      \$11,300

General Inspection Trust Fund Net Negative Impact      (\$4,062)

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

By amending s. 388.323, F.S., local governments will only be required to offer equipment to other counties or districts engaged in arthropod control. Eliminating the requirement to notify other governmental units and private nonprofit agencies of the sale of mosquito control equipment may reduce advertising costs.

	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Local School Districts with Aquaculture Programs (15 programs x \$100)	(\$1,500)	\$0

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

By amending s. 580.131, F.S., persons who have purchased commercial feed that has been distributed in violation of chapter 580, F.S., may seek administrative action, as well as legal action, to recover penalties.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

Article VII, Section 1(c) of the Florida Constitution specifies that “[n]o money shall be drawn from the treasury except in pursuance of appropriation made by law.” Section 15 of HB 7021 authorizes the department to “accept grants or other funds to distribute to individuals when such funds are provided pursuant to an agreement.” To the extent that this section would allow the department to expend funds that have not been appropriated by the legislature, it may be challenged as being in violation of Article VII, Section 1(c).

**B. RULE-MAKING AUTHORITY:**

The department is given rule-making authority to adopt by reference the current version of the federal food code.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On December 6, 2011, the Agriculture and Natural Resources Subcommittee adopted eight amendments to PCB ANRS 12-01.

- Amendment 1 clarifies that the model food code adopted by the department is issued by the Food and Drug Administration and Public Health Service of the Department of Health and Human Services.
- Amendment 2 clarifies that advisory groups created by the department or within the department may not receive travel or per diem reimbursement.
- Amendment 3 clarifies that the Citrus Research and Development Foundation, Inc. is responsible for reimbursing its members for travel and per diem expenses.
- Amendment 4 clarifies that soil and water conservation districts are authorized to work in territories within another district’s boundaries subject to the other district’s approval or territories not contained within any district’s boundaries.
- Amendment 5 corrects a typographical error. The word “social” is changed to “soil.”
- Amendment 6 removes section 41 of the bill, which would have revised s. 582.32, F.S., to delete the requirement that the department take responsibility for outstanding contracts of dissolved soil and water conservation districts.
- Amendment 7 repeals s. 589.03, F.S., relating to compensation and allowance for members of the Florida Forestry Council. Since the department no longer pays travel and per diem for members of advisory committees under its jurisdiction, this section of statute is no longer valid.

- Amendment 8 clarifies that the Florida State Fair Authority is responsible for reimbursing its members for travel and per diem expenses.

1                                   A bill to be entitled  
 2           An act relating to the Department of Agriculture and  
 3           Consumer Services; amending s. 20.14, F.S.;  
 4           establishing the Division of Food, Nutrition, and  
 5           Wellness within the department; amending s. 253.002,  
 6           F.S.; requiring the department to perform certain  
 7           staff duties and functions for the Board of Trustees  
 8           of the Internal Improvement Trust Fund related to  
 9           conservation easements; amending s. 379.2523, F.S.;  
 10          deleting references to the Aquaculture Interagency  
 11          Coordinating Council to conform to the repeal by the  
 12          act of provisions creating the council; amending s.  
 13          379.2524, F.S.; deleting provisions that prohibit  
 14          compensation and authorize per diem and travel  
 15          expenses for members of the Sturgeon Production  
 16          Working Group; amending s. 388.161, F.S.; revising the  
 17          substances that mosquito control districts are  
 18          authorized to use for controlling mosquito breeding;  
 19          amending s. 388.201, F.S.; revising the date by which  
 20          mosquito control districts must submit their certified  
 21          budgets for approval by the department; amending s.  
 22          388.323, F.S.; revising procedures for a county's or  
 23          mosquito control district's disposal of certain  
 24          surplus equipment; repealing s. 388.42, F.S., relating  
 25          to the John A. Mulrennan, Sr., Arthropod Research  
 26          Laboratory; amending s. 388.46, F.S.; revising the  
 27          membership and responsibilities of the Florida  
 28          Coordinating Council on Mosquito Control; revising the

29 | duties of the council's Subcommittee on Managed  
 30 | Marshes; amending s. 493.6104, F.S.; deleting  
 31 | provisions that prohibit compensation and authorize  
 32 | per diem and travel expenses for members of the  
 33 | Private Investigation, Recovery, and Security Advisory  
 34 | Council; amending s. 500.09, F.S.; authorizing the  
 35 | department to adopt rules incorporating by reference  
 36 | the federal model Food Code; amending ss. 500.147 and  
 37 | 502.014, F.S.; deleting provisions for a food safety  
 38 | pilot program and a permitting program for persons who  
 39 | test milk or milk products; amending s. 502.053, F.S.;  
 40 | deleting requirements for milkfat tester licenses;  
 41 | amending s. 570.07, F.S.; authorizing the department  
 42 | to accept and distribute funds to individuals under  
 43 | certain circumstances; amending s. 570.0705, F.S.;  
 44 | prohibiting members of certain advisory bodies from  
 45 | receiving per diem or travel expenses; deleting a  
 46 | provision that prohibits members from receiving  
 47 | compensation for their services; repealing s. 570.071,  
 48 | F.S., relating to the Florida Agricultural Exposition  
 49 | and the receipt and expenditure of funds for the  
 50 | exposition; amending s. 570.074, F.S.; renaming and  
 51 | revising the policy jurisdiction of the department's  
 52 | Office of Energy and Water; amending s. 570.18, F.S.;  
 53 | conforming cross-references; repealing s. 570.29,  
 54 | F.S., relating to divisions of the Department of  
 55 | Agriculture and Consumer Services; repealing s.  
 56 | 570.34, F.S., relating to the Plant Industry Technical



57 Council; creating s. 570.451, F.S.; creating the  
 58 Agricultural Feed, Seed, and Fertilizer Advisory  
 59 Council; providing for the council's powers and duties  
 60 and the appointment of council members; amending ss.  
 61 570.53 and 570.54, F.S.; conforming cross-references;  
 62 amending s. 573.112, F.S.; providing that members of  
 63 the Citrus Research and Development Foundation's board  
 64 of directors are entitled to reimbursement for per  
 65 diem and travel expenses; amending s. 573.118, F.S.;  
 66 revising requirements for the accounting and review of  
 67 collections and expenditures from agricultural  
 68 commodity marketing order assessments; deleting  
 69 requirements for the audit of such accounts; amending  
 70 s. 576.045, F.S.; revising the expiration dates of  
 71 certain provisions regulating fertilizers containing  
 72 nitrogen or phosphorous; amending s. 576.071, F.S.;  
 73 deleting a reference to the Fertilizer Technical  
 74 Council to conform to the repeal by the act of  
 75 provisions creating the council; repealing ss. 576.091  
 76 and 578.30, F.S., relating to the Fertilizer Technical  
 77 Council and Seed Technical Council; amending s.  
 78 580.041, F.S.; revising the reporting requirements and  
 79 penalties for violations by distributors of commercial  
 80 feed; amending s. 580.131, F.S.; revising requirements  
 81 for the assessment of penalties and enforcement of  
 82 violations by manufacturers and distributors of  
 83 commercial feed or feedstuff; authorizing the  
 84 department to assess penalties; requiring registered

85 distributors of commercial feed to pay such penalties  
 86 to consumers within a specified period; imposing  
 87 additional penalties for nonpayment; providing for the  
 88 deposit and use of certain funds paid to the  
 89 department; repealing s. 580.151, F.S., relating to  
 90 the Commercial Feed Technical Council; amending s.  
 91 581.011, F.S.; conforming provisions; amending s.  
 92 581.145, F.S.; revising requirements for the issuance  
 93 of permits to aquaculture producers for the transport  
 94 and sale of water hyacinths to other states and  
 95 countries; amending s. 582.06, F.S.; revising  
 96 requirements for the composition and appointment of  
 97 members of the Soil and Water Conservation Council and  
 98 the reimbursement of members for per diem and travel  
 99 expenses; amending ss. 582.20 and 582.29, F.S.;  
 100 revising the geographic jurisdiction of soil and water  
 101 conservation districts to include certain territory  
 102 outside of the districts' boundaries; amending s.  
 103 582.30, F.S.; revising requirements and procedures for  
 104 the dissolution or discontinuance of soil and water  
 105 conservation districts; revising notice requirements  
 106 for such proposed dissolution or discontinuance;  
 107 amending s. 582.31, F.S.; revising requirements for  
 108 payment of the proceeds from the sale of property of a  
 109 dissolving soil and water conservation district to the  
 110 State Treasury; repealing s. 585.155, F.S., relating  
 111 to the inspection and vaccination of cattle for  
 112 brucellosis; repealing s. 589.03, F.S., relating to

113 | the compensation and reimbursement for per diem and  
114 | travel expenses of members of the Florida Forestry  
115 | Council; amending s. 589.19, F.S.; renaming the  
116 | "Wounded Warrior Special Hunt Areas" of the state  
117 | forests; conforming obsolete references to the former  
118 | Division of Forestry; amending s. 589.277, F.S.;  
119 | revising requirements for the deposit of contributions  
120 | for tree planting programs; conforming obsolete  
121 | references to the former Division of Forestry;  
122 | amending s. 590.02, F.S.; specifying that state and  
123 | local government agencies other than the Florida  
124 | Forest Service may not enforce regulations of  
125 | broadcast burning or agricultural and silvicultural  
126 | pile burning except under certain circumstances;  
127 | conforming obsolete references to the former Division  
128 | of Forestry; amending ss. 597.0021 and 597.003, F.S.;  
129 | deleting references to the Aquaculture Interagency  
130 | Coordinating Council to conform to the repeal by the  
131 | act of provisions creating the council; amending s.  
132 | 597.004, F.S.; authorizing the waiver of aquaculture  
133 | registration fees for certain schools; amending s.  
134 | 597.005, F.S.; revising the composition of the  
135 | Aquaculture Review Council to conform to the repeal by  
136 | the act of provisions creating the Aquaculture  
137 | Interagency Coordinating Council; revising the  
138 | legislative committees to whom the Aquaculture Review  
139 | Council must provide analyses of unresolved industry  
140 | issues; repealing s. 597.006, F.S., relating to the

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141 Aquaculture Interagency Coordinating Council; amending  
 142 s. 616.252, F.S.; providing for the reimbursement of  
 143 members of the Florida State Fair Authority for per  
 144 diem and travel expenses; providing an effective date.

145

146 Be It Enacted by the Legislature of the State of Florida:

147

148 Section 1. Paragraph (m) is added to subsection (2) of  
 149 section 20.14, Florida Statutes, to read:

150 20.14 Department of Agriculture and Consumer Services.—

151 There is created a Department of Agriculture and Consumer  
 152 Services.

153 (2) The following divisions of the Department of  
 154 Agriculture and Consumer Services are established:

155 (m) Food, Nutrition, and Wellness.

156 Section 2. Subsection (1) of section 253.002, Florida  
 157 Statutes, is amended to read:

158 253.002 Department of Environmental Protection, water  
 159 management districts, Fish and Wildlife Conservation Commission,  
 160 and Department of Agriculture and Consumer Services; duties with  
 161 respect to state lands.—

162 (1) The Department of Environmental Protection shall  
 163 perform all staff duties and functions related to the  
 164 acquisition, administration, and disposition of state lands,  
 165 title to which is or will be vested in the Board of Trustees of  
 166 the Internal Improvement Trust Fund. However, upon the effective  
 167 date of rules adopted pursuant to s. 373.427, a water management  
 168 district created under s. 373.069 shall perform the staff duties

169 and functions related to the review of any application for  
 170 authorization to use board of trustees-owned submerged lands  
 171 necessary for an activity regulated under part IV of chapter 373  
 172 for which the water management district has permitting  
 173 responsibility as set forth in an operating agreement adopted  
 174 pursuant to s. 373.046(4). ~~and~~ The Department of Agriculture  
 175 and Consumer Services shall perform the staff duties and  
 176 functions related to the review of applications and compliance  
 177 with conditions for use of board of trustees-owned submerged  
 178 lands under authorizations or leases issued pursuant to ss.  
 179 253.67-253.75 and 597.010 and the acquisition, administration,  
 180 and disposition of conservation easements pursuant to s. 570.71.  
 181 Unless expressly prohibited by law, the board of trustees may  
 182 delegate to the department any statutory duty or obligation  
 183 relating to the acquisition, administration, or disposition of  
 184 lands, title to which is or will be vested in the board of  
 185 trustees. The board of trustees may also delegate to any water  
 186 management district created under s. 373.069 the authority to  
 187 take final agency action, without any action on behalf of the  
 188 board, on applications for authorization to use board of  
 189 trustees-owned submerged lands for any activity regulated under  
 190 part IV of chapter 373 for which the water management district  
 191 has permitting responsibility as set forth in an operating  
 192 agreement adopted pursuant to s. 373.046(4). This water  
 193 management district responsibility under this subsection shall  
 194 be subject to the department's general supervisory authority  
 195 pursuant to s. 373.026(7). The board of trustees may also  
 196 delegate to the Department of Agriculture and Consumer Services

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197 the authority to take final agency action on behalf of the board  
 198 on applications to use board of trustees-owned submerged lands  
 199 for any activity for which that department has responsibility  
 200 pursuant to ss. 253.67-253.75, 369.25, 369.251, and 597.010.  
 201 However, the board of trustees shall retain the authority to  
 202 take final agency action on establishing any areas for leasing,  
 203 new leases, expanding existing lease areas, or changing the type  
 204 of lease activity in existing leases. Upon issuance of an  
 205 aquaculture lease or other real property transaction relating to  
 206 aquaculture, the Department of Agriculture and Consumer Services  
 207 must send a copy of the document and the accompanying survey to  
 208 the Department of Environmental Protection. The board of  
 209 trustees may also delegate to the Fish and Wildlife Conservation  
 210 Commission the authority to take final agency action, without  
 211 any action on behalf of the board, on applications for  
 212 authorization to use board of trustees-owned submerged lands for  
 213 any activity regulated under ss. 369.20 and 369.22.

214 Section 3. Paragraph (a) of subsection (5) and paragraph  
 215 (b) of subsection (6) of section 379.2523, Florida Statutes, are  
 216 amended to read:

217 379.2523 Aquaculture definitions; marine aquaculture  
 218 products, producers, and facilities.—

219 (5) The department shall:

220 (a) Coordinate with the Aquaculture Review Council, ~~the~~  
 221 ~~Aquaculture Interagency Coordinating Council,~~ and the Department  
 222 of Agriculture and Consumer Services when developing criteria  
 223 for aquaculture general permits.

224 (6) The Fish and Wildlife Conservation Commission shall

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225 encourage the development of aquaculture in the state through  
 226 the following:

227 (b) Facilitating aquaculture research on life histories,  
 228 stock enhancement, and alternative species, and providing  
 229 research results that would assist in the evaluation,  
 230 development, and commercial production of candidate species for  
 231 aquaculture, including:

232 1. Providing eggs, larvae, fry, and fingerlings to  
 233 aquaculturists when excess cultured stocks are available from  
 234 the commission's facilities and the culture activities are  
 235 consistent with the commission's stock enhancement projects.  
 236 Such stocks may be obtained by reimbursing the commission for  
 237 the cost of production on a per-unit basis. Revenues resulting  
 238 from the sale of stocks shall be deposited into the trust fund  
 239 used to support the production of such stocks.

240 2. Conducting research programs to evaluate candidate  
 241 species when funding and staff are available.

242 3. Encouraging the private production of marine fish and  
 243 shellfish stocks for the purpose of providing such stocks for  
 244 statewide stock enhancement programs. When such stocks become  
 245 available, the commission shall reduce or eliminate duplicative  
 246 production practices that would result in direct competition  
 247 with private commercial producers.

248 4. Developing a working group, in cooperation with the  
 249 Department of Agriculture and Consumer Services and the  
 250 Aquaculture Review Council, ~~and the Aquaculture Interagency~~  
 251 ~~Coordinating Council,~~ to plan and facilitate the development of  
 252 private marine fish and nonfish hatcheries and to encourage

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253 private/public partnerships to promote the production of marine  
 254 aquaculture products.

255 Section 4. Paragraph (c) of subsection (3) of section  
 256 379.2524, Florida Statutes, is amended to read:

257 379.2524 Commercial production of sturgeon.—

258 (3) MEETINGS; PROCEDURES; RECORDS.—The working group shall  
 259 meet at least twice a year and elect, by a quorum, a chair and  
 260 vice chair.

261 (c) A quorum shall consist of a majority of the group  
 262 members. ~~Members of the group shall not receive compensation,~~  
 263 ~~but shall be entitled to per diem and travel expenses, including~~  
 264 ~~attendance at meetings, as allowed public officers and employees~~  
 265 ~~pursuant to s. 112.061.~~

266 Section 5. Subsection (1) of section 388.161, Florida  
 267 Statutes, is amended to read:

268 388.161 District boards of commissioners; powers and  
 269 duties.—

270 (1) The board of commissioners may do any and all things  
 271 necessary for the control and elimination of all species of  
 272 mosquitoes and other arthropods of public health importance and  
 273 the board of commissioners is specifically authorized to provide  
 274 for the construction and maintenance of canals, ditches, drains,  
 275 dikes, fills, and other necessary works and to install and  
 276 maintain pumps, excavators, and other machinery and equipment,  
 277 to use pesticides registered ~~oil, larvicide paris green, or any~~  
 278 ~~other chemicals approved~~ by the department but only in such  
 279 quantities as may be necessary to control mosquito breeding and  
 280 not be detrimental to fish life.



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281 Section 6. Subsection (4) of section 388.201, Florida  
 282 Statutes, is amended to read:

283 388.201 District budgets; hearing.—

284 (4) The governing board:

285 (a) Shall consider ~~give consideration to~~ objections filed  
 286 against adoption of the tentative detailed work plan budget and  
 287 in its discretion may amend, modify, or change such budget; and

288 (b) Shall by September 30 ~~15 following~~ adopt and execute  
 289 on a form furnished by the department a certified budget for the  
 290 district which shall be the operating and fiscal guide for the  
 291 district. Certified copies of this budget shall be submitted by  
 292 September 30 ~~15~~ to the department for approval.

293 Section 7. Subsections (1) and (2) of section 388.323,  
 294 Florida Statutes, are amended to read:

295 388.323 Disposal of surplus property.—Surplus property  
 296 shall be disposed of according to the provisions set forth in s.  
 297 274.05 with the following exceptions:

298 (1) Serviceable equipment no longer needed by a county or  
 299 district shall first be offered to any or all other counties or  
 300 districts engaged in arthropod control at a price established by  
 301 the board of commissioners owning the equipment. ~~If no~~  
 302 ~~acceptable offer is received within a reasonable time, the~~  
 303 ~~equipment shall be offered to such other governmental units or~~  
 304 ~~private nonprofit agencies as provided in s. 274.05.~~

305 (2) The alternative procedure for disposal of surplus  
 306 property, as prescribed in s. 274.06, shall be followed if it is  
 307 ~~has been~~ determined that no other county or, district engaged in  
 308 arthropod control, ~~governmental unit, or private nonprofit~~

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309 ~~agency~~ has need for the equipment.

310 Section 8. Section 388.42, Florida Statutes, is repealed.

311 Section 9. Subsection (2) of section 388.46, Florida

312 Statutes, is amended to read:

313 388.46 Florida Coordinating Council on Mosquito Control;

314 establishment; membership; organization; responsibilities.—

315 (2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.—

316 (a) Membership.—The Florida Coordinating Council on

317 Mosquito Control shall be comprised of the following

318 representatives or their authorized designees:

319 1. The Secretary of Environmental Protection. and

320 2. The State Surgeon General. +

321 3.2. The executive director of the Fish and Wildlife

322 Conservation Commission. +

323 4.3. The state epidemiologist. ;

324 5.4. The Commissioner of Agriculture. + ~~and~~

325 6. The Board of Trustees of the Internal Improvement Trust

326 Fund.

327 7.5. Representatives from:

328 a. The University of Florida, Institute of Food and

329 Agricultural Sciences, Florida Medical Entomological Research

330 Laboratory. +

331 ~~b. Florida Agricultural and Mechanical University;~~

332 b.e. The United States Environmental Protection Agency. +

333 c.d. The United States Department of Agriculture, Insects

334 Affecting Man Laboratory. +

335 d.e. The United States Fish and Wildlife Service. +

336 8.f. Two mosquito control directors to be nominated by the

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337 Florida Mosquito Control Association, two representatives of  
 338 Florida environmental groups, and two private citizens who are  
 339 property owners whose lands are regularly subject to mosquito  
 340 control operations, to be appointed to 4-year terms by the  
 341 Commissioner of Agriculture; ~~and~~

342 ~~g. The Board of Trustees of the Internal Improvement Trust~~  
 343 ~~Fund.~~

344 (b) Organization.—The council shall be chaired by the  
 345 Commissioner of Agriculture or the commissioner's authorized  
 346 designee. A majority of the membership of the council shall  
 347 constitute a quorum for the conduct of business. The chair shall  
 348 be responsible for recording and distributing to the members a  
 349 summary of the proceedings of all council meetings. The council  
 350 shall meet at least three times each year, or as needed. The  
 351 council may designate subcommittees from time to time to assist  
 352 in carrying out its responsibilities, provided that the  
 353 Subcommittee on Managed Marshes shall be the first subcommittee  
 354 appointed by the council. The subcommittee shall continue to  
 355 provide technical assistance and guidance on saltmarsh ~~mosquito~~  
 356 ~~impoundment~~ management plans and ~~develop and review~~ research  
 357 proposals, taking into account the mosquito control source  
 358 reduction implications and natural resource interests in these  
 359 habitats ~~for mosquito source reduction techniques.~~

360 (c) Responsibilities.—The council shall:

361 1. Develop and implement guidelines to assist the  
 362 department in resolving disputes arising over the control of  
 363 arthropods on publicly owned lands.

364 ~~2. Identify and recommend to Florida Agricultural and~~

365 ~~Mechanical University research priorities for arthropod control~~  
 366 ~~practices and technologies.~~

367 2.3. Develop and recommend to the department a request for  
 368 proposal process for arthropod control research.

369 3.4. Identify potential funding sources for research or  
 370 implementation projects and evaluate and prioritize proposals  
 371 upon request by the funding source.

372 4.5. Prepare and present reports, as needed, on arthropod  
 373 control activities in the state to the Pesticide Review Council,  
 374 ~~the Florida Coastal Management Program Interagency Management~~  
 375 ~~Committee,~~ and other governmental organizations, as appropriate.

376 Section 10. Subsections (7) and (8) of section 493.6104,  
 377 Florida Statutes, are renumbered as subsections (6) and (7),  
 378 respectively, and present subsection (6) of that section is  
 379 amended to read:

380 493.6104 Advisory council.—

381 ~~(6) Council members shall serve without pay; however,~~  
 382 ~~state per diem and travel allowances may be claimed for~~  
 383 ~~attendance at officially called meetings as provided by s.~~  
 384 ~~112.061.~~

385 Section 11. Subsection (3) of section 500.09, Florida  
 386 Statutes, is amended to read:

387 500.09 Rulemaking; analytical work.—

388 (3) The department may adopt rules necessary for the  
 389 efficient enforcement of this chapter. Such rules must be  
 390 consistent with those adopted under the federal act in regard to  
 391 food and, to this end, may adopt by reference those rules and  
 392 the current edition of the model Food Code issued by the Food

393 and Drug Administration and Public Health Service of the United  
 394 States Department of Health and Human Services, when applicable  
 395 and practicable.

396 Section 12. Subsection (6) of section 500.147, Florida  
 397 Statutes, is amended to read:

398 500.147 Inspection of food establishments and vehicles,  
 399 ~~food safety pilot program.~~

400 ~~(6) The department is authorized to initiate a food safety~~  
 401 ~~pilot program establishing a special, documented food inspection~~  
 402 ~~program based on sound science principles of the Hazard Analysis~~  
 403 ~~Critical Control Point (HACCP) system and involving cooperative~~  
 404 ~~compliance efforts of both the department and the food~~  
 405 ~~establishment to assure consumers a safe, wholesome, and~~  
 406 ~~properly labeled food supply. A food establishment shall be~~  
 407 ~~eligible for such a pilot program only if program criteria are~~  
 408 ~~met. Criteria used to establish this special program include,~~  
 409 ~~but are not limited to, the following:~~

410 ~~(a) A good inspection history over a specified time~~  
 411 ~~period.~~

412 ~~(b) Certified food manager activities demonstrated to be~~  
 413 ~~effective in assessing food safety practices and correcting~~  
 414 ~~deficiencies at the food establishment.~~

415 ~~(c) An active food training program in place for~~  
 416 ~~employees.~~

417 ~~(d) "Self inspection" records of the food establishment~~  
 418 ~~made available for review by the department.~~

419 ~~(e) Written sanitation standard operation procedures in~~  
 420 ~~place and the food establishment's verification records made~~

421 ~~available for review by the department.~~

422 ~~(f) Freezer/refrigeration units and hot-cold temperature~~  
 423 ~~logs or recording charts made available for review by the~~  
 424 ~~department.~~

425 ~~(g) Records of corrective action to resolve food safety~~  
 426 ~~deficiencies made available for review by the department.~~

427 Section 13. Subsections (4) through (7) of section  
 428 502.014, Florida Statutes, are renumbered as subsections (3)  
 429 through (6), respectively, and present subsection (3) of that  
 430 section is amended to read:

431 502.014 Powers and duties.—

432 ~~(3) The department shall manage a program to issue permits~~  
 433 ~~to persons who test milk or milk products for milkfat content by~~  
 434 ~~weight, volume, chemical, electronic, or other means when the~~  
 435 ~~result of such test is used as a basis for payment for the milk~~  
 436 ~~or milk products.~~

437 Section 14. Subsections (1) and (2) and paragraphs (a) and  
 438 (e) of subsection (3) of section 502.053, Florida Statutes, are  
 439 amended to read:

440 502.053 Permits and ~~licenses~~; fees; requirements;  
 441 exemptions; temporary permits.—

442 (1) ~~PERMITS AND LICENSES.~~—

443 (a) Each Grade "A" milk plant, whether located in the  
 444 state or outside the state, and each manufacturing milk plant,  
 445 milk producer, milk hauler, milk hauling service, washing  
 446 station operator, milk plant operator, milk distributor, single-  
 447 service-container manufacturer, receiving station, and transfer  
 448 station in the state shall apply to the department for a permit

449 to operate. The application shall be on forms developed by the  
 450 department.

451 (b) Each frozen dessert plant, whether located in the  
 452 state or outside the state, that manufactures frozen desserts or  
 453 other products defined in this chapter and offers these products  
 454 for sale in this state must apply to the department for a permit  
 455 to operate. The application must be submitted on forms  
 456 prescribed by the department. All frozen dessert permits expire  
 457 on June 30 of each year.

458 ~~(c) Any person who tests milk or milk products for milkfat~~  
 459 ~~content by weight, volume, chemical, electronic, or other method~~  
 460 ~~when the result of such test is used as a basis for payment for~~  
 461 ~~the milk or milk products must apply to the department for a~~  
 462 ~~license. To qualify for a license, the applicant must~~  
 463 ~~demonstrate a sufficiency of knowledge, ability, and equipment~~  
 464 ~~to adequately perform milkfat tests. The license shall be issued~~  
 465 ~~for a period of 2 years after the date of first issuance upon~~  
 466 ~~application to the department on forms prescribed by the~~  
 467 ~~department.~~

468 (c) ~~(d)~~ Permits and licenses are nontransferable between  
 469 persons or locations and are subject to suspension or revocation  
 470 as provided in this chapter.

471 (2) FEES.—

472 ~~(a)~~ The initial application for a frozen dessert plant  
 473 permit must be accompanied by a permit fee of \$200. The annual  
 474 permit renewal fee is \$100.

475 ~~(b) The department shall charge each applicant for a~~  
 476 ~~milkfat tester's license a fee not to exceed \$125.~~


477 (3) REQUIREMENTS.—

478 (a) To obtain a ~~frozen dessert plant permit or milkfat~~  
 479 ~~tester's license~~, an applicant must satisfy all requirements  
 480 that are defined by the department in rule and must agree to  
 481 comply with the applicable provisions of this chapter and rules  
 482 adopted under this chapter. The department shall mail a copy of  
 483 the permit ~~or license~~ to the applicant to signify that  
 484 administrative requirements have been met.

485 ~~(c) Each licensed milkfat tester shall keep records of~~  
 486 ~~milkfat tests conducted by him or her for a period of 1 year,~~  
 487 ~~and such records must be available for inspection by the~~  
 488 ~~department at all reasonable hours.~~

489 Section 15. Subsection (42) of section 570.07, Florida  
 490 Statutes, is renumbered as subsection (43), and a new subsection  
 491 (42) is added to that section to read:

492 570.07 Department of Agriculture and Consumer Services;  
 493 functions, powers, and duties.—The department shall have and  
 494 exercise the following functions, powers, and duties:

495  (42) To accept grants or other funds to distribute to  
 496 individuals when such funds are provided pursuant to an  
 497 agreement.

498 Section 16. Subsection (9) of section 570.0705, Florida  
 499 Statutes, is amended to read:

500 570.0705 Advisory committees.—From time to time the  
 501 commissioner may appoint any advisory committee to assist the  
 502 department with its duties and responsibilities.

503 (9) Notwithstanding s. 20.052(4)(d), members of each  
 504 advisory committee, council, board, working group, task force,



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505 | or other advisory body created by law within the department or  
 506 | created by the department under this section may not be  
 507 | reimbursed for per diem or travel expenses as provided in s.  
 508 | 112.061 shall receive no compensation for their services.

509 | Section 17. Section 570.071, Florida Statutes, is  
 510 | repealed.

511 | Section 18. Section 570.074, Florida Statutes, is amended  
 512 | to read:

513 | 570.074 Department of Agriculture and Consumer Services;  
 514 | ~~energy and water policy.~~—The commissioner may create an Office  
 515 | of Agricultural Energy and Water Policy under the supervision of  
 516 | a senior manager exempt under s. 110.205 in the Senior  
 517 | Management Service. The commissioner may designate the bureaus  
 518 | and positions in the various organizational divisions of the  
 519 | department that report to this office relating to any matter  
 520 | over which the department has jurisdiction in matters relating  
 521 | to ~~energy and water policy~~ affecting agriculture, application of  
 522 | such policies, and coordination of such matters with state and  
 523 | federal agencies.

524 | Section 19. Section 570.18, Florida Statutes, is amended  
 525 | to read:

526 | 570.18 Organization of departmental work.—In the  
 527 | assignment of functions to the divisions of the department  
 528 | created in s. 20.14 ~~570.29~~, the department shall retain within  
 529 | the Division of Administration, in addition to executive  
 530 | functions, those powers and duties enumerated in s. 570.30. The  
 531 | department shall organize the work of the other divisions in  
 532 | such a way as to secure maximum efficiency in the conduct of the

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533 department. The divisions created in s. 20.14 ~~570.29~~ are solely  
 534 to make possible the definite placing of responsibility. The  
 535 department shall be conducted as a unit in which every employee,  
 536 including each division director, is assigned a definite  
 537 workload, and there shall exist between division directors a  
 538 spirit of cooperative effort to accomplish the work of the  
 539 department.

540 Section 20. Section 570.29, Florida Statutes, is repealed.

541 Section 21. Section 570.34, Florida Statutes, is repealed.

542 Section 22. Section 570.451, Florida Statutes, is created  
 543 to read:

544 570.451 Agricultural Feed, Seed, and Fertilizer Advisory  
 545 Council.—

546 (1) The Agricultural Feed, Seed, and Fertilizer Advisory  
 547 Council is created within the department.

548 (2) The council is composed of the following 15 members  
 549 appointed by the commissioner:

550 (a) One representative of the department.

551 (b) One representative of the dean for extension of the  
 552 Institute of Food and Agricultural Sciences at the University of  
 553 Florida.

554 (c) One representative each from the state's beef cattle,  
 555 poultry, aquaculture, field crops, citrus, vegetable, and dairy  
 556 production industries.

557 (d) Two representatives each from the state's fertilizer,  
 558 seed, and commercial feed industries.

559

560 Each member shall be appointed for a term of not to exceed 4  
 561 years and shall serve until his or her successor is appointed.

562 (3) (a) A majority of the council members constitutes a  
 563 quorum for all purposes, and an act by a majority of such quorum  
 564 at any meeting constitutes an official act of the council. The  
 565 secretary shall keep a complete record of each meeting, which  
 566 must show the names of members present and the actions taken.  
 567 Such records must be kept on file with the department.

568 (b) Members of the council shall meet and organize by  
 569 electing a chair, a vice chair, and a secretary whose terms  
 570 shall be for 2 years each. Council officers may not serve  
 571 consecutive terms.

572 (c) The council shall meet at the call of its chair, at  
 573 the request of a majority of its members, at the request of the  
 574 department, or at such time as an agricultural or environmental  
 575 emergency arises, but not less than twice per year.

576 (d) The meetings, powers and duties, procedures, and  
 577 recordkeeping of the council shall be in accordance with the  
 578 provisions of s. 570.0705 relating to advisory committees  
 579 established within the department.

580 (4) The council shall:

581 (a) Receive reports of relevant enforcement activity  
 582 conducted by the Division of Agricultural Environmental  
 583 Services, including the number of inspections, the number of  
 584 administrative actions, the number of complaints received and  
 585 investigated, and the dispositions of complaints.

586 (b) Provide advice to the department on the conduct of  
 587 relevant enforcement activities.

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- 588        (c) Receive reports on disciplinary actions.
- 589        (d) Make recommendations to the commissioner for actions
- 590 to be taken with respect to the regulation of agricultural feed,
- 591 seed, and fertilizer.

592            Section 23. Paragraph (e) of subsection (6) of section  
593 570.53, Florida Statutes, is amended to read:

594            570.53 Division of Marketing and Development; powers and  
595 duties.—The powers and duties of the Division of Marketing and  
596 Development include, but are not limited to:

- 597            (6)
- 598            (e) Extending in every practicable way the distribution  
599 and sale of Florida agricultural products throughout the markets  
600 of the world as required of the department by s. ss. 570.07(7),  
601 (8), (10), and (11) ~~and 570.071~~ and chapters 571, 573, and 574.

602            Section 24. Subsection (2) of section 570.54, Florida  
603 Statutes, is amended to read:

604            570.54 Director; duties.—

- 605            (2) It shall be the duty of the director of this division  
606 to supervise, direct, and coordinate the activities authorized  
607 by ss. 570.07(4), (7), (8), (10), (11), (12), (17), (18), and  
608 (20), ~~570.071~~, 570.21, 534.47-534.53, and 604.15-604.34 and  
609 chapters 504, 571, 573, and 574 and to exercise other powers and  
610 authority as authorized by the department.

611            Section 25. Subsection (7) of section 573.112, Florida  
612 Statutes, is amended to read:

613            573.112 Advisory council.—

- 614            (7) Notwithstanding any provision of this section, the  
615 Citrus Research and Development Foundation, Inc., a direct-

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616 support organization of the University of Florida established  
 617 pursuant to s. 1004.28, shall serve as the advisory council for  
 618 a citrus research marketing order, provide the department with  
 619 advice on administering the order, and, in accordance with the  
 620 order, conduct citrus research and perform other duties assigned  
 621 by the department. Notwithstanding s. 1004.28(3) or any  
 622 provision of this section, the foundation's board of directors  
 623 shall be composed of 13 members, including 10 citrus growers, 2  
 624 representatives of the university's Institute of Food and  
 625 Agricultural Sciences, and 1 member appointed by the  
 626 Commissioner of Agriculture, who are each entitled to  
 627 reimbursement from the foundation for per diem and travel  
 628 expenses as provided in s. 112.061.

629 Section 26. Subsection (4) of section 573.118, Florida  
 630 Statutes, is amended to read:

631 573.118 Assessment; funds; review of accounts ~~audit~~;  
 632 loans.—

633 (4) In the event of levying and collecting of assessments,  
 634 for each fiscal year in which assessment funds are received by  
 635 the department, the department shall maintain records of  
 636 collections and expenditures for each marketing order separately  
 637 within the state's accounting system. If requested by an  
 638 advisory council, department staff shall cause to be made a  
 639 thorough review ~~annual audit~~ of the ~~books and~~ accounts ~~by a~~  
 640 ~~certified public accountant~~, such review ~~audit~~ to be completed  
 641 within 60 days after the request is received ~~end of the fiscal~~  
 642 ~~year~~. The department and all producers and handlers covered by  
 643 the marketing order shall be properly advised of the details of

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644 the review ~~annual official audit~~ of the account ~~accounts as~~  
 645 ~~shown by the certified public accountant~~ within 30 days after ~~of~~  
 646 the review ~~audit~~.

647 Section 27. Subsection (8) of section 576.045, Florida  
 648 Statutes, is amended to read:

649 576.045 Nitrogen and phosphorus; findings and intent;  
 650 fees; purpose; best management practices; waiver of liability;  
 651 compliance; rules; exclusions; expiration.—

652 (8) EXPIRATION OF PROVISIONS.—Subsections (1), (2), (3),  
 653 (4), and (6) expire on December 31, 2022 ~~2012~~. Subsections (5)  
 654 and (7) expire on December 31, 2027 ~~2017~~.

655 Section 28. Section 576.071, Florida Statutes, is amended  
 656 to read:

657 576.071 Commercial value.—The commercial value used in  
 658 assessing penalties for any deficiency shall be determined by  
 659 using annualized plant nutrient values contained in one or more  
 660 generally recognized journals ~~recommended by the Fertilizer~~  
 661 ~~Technical Council~~.

662 Section 29. Section 576.091, Florida Statutes, is  
 663 repealed.

664 Section 30. Section 578.30, Florida Statutes, is repealed.

665 Section 31. Paragraph (c) of subsection (1) and subsection  
 666 (3) of section 580.041, Florida Statutes, are amended to read:

667 580.041 Master registration; fee; refusal or cancellation  
 668 of registration; reporting.—

669 (1)

670 (c) Registration shall be conditioned on the distributor's  
 671 compliance with all provisions of this chapter and rules adopted

672 under this chapter ~~thereof~~, including:

673 1. Submitting samples of manufactured feed for testing by  
 674 laboratories that have been certified by the department or  
 675 obtaining an exemption from the certified laboratory testing  
 676 requirement, as provided by this chapter and rules thereof.

677 2. Maintaining a bookkeeping system and records necessary  
 678 to indicate accurately the type and tonnage of commercial feeds  
 679 sold in this state ~~that will allow the department to verify the~~  
 680 ~~accuracy of the reported tonnage.~~

681 3. Reporting within 30 days after the end of each quarter,  
 682 in the format prescribed by the department, the number of tons  
 683 of feed distributed in the state during each of the following  
 684 reporting periods: July through September, October through  
 685 December, January through March, and April through June.

686 ~~4.3.~~ Allowing the department to verify the accuracy of  
 687 reported type and tonnage and to otherwise examine pertinent  
 688 records at reasonable times.

689 (3) The department may refuse, suspend, or cancel the  
 690 master registration of, or impose one or more of the penalties  
 691 provided in s. 580.121, against any distributor or registrant  
 692 who violates or fails to comply with the provisions of this  
 693 chapter.

694 Section 32. Section 580.131, Florida Statutes, is amended  
 695 to read:

696 580.131 Penalty payable to consumer.—

697 (1) Any consumer who purchases without notice a commercial  
 698 feed or feedstuff that is ~~has been~~ distributed in violation of  
 699 this chapter or rules adopted under this chapter shall, in any

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700 | legal or administrative action that may be instituted, recover  
 701 | penalties as follows:

702 |     (a)~~(1)~~ If a certified laboratory analysis shows that any  
 703 | feed bearing a guarantee of 20 percent protein~~7~~ or less~~7~~ falls  
 704 | more than 1 percent protein below the guarantee, or if the  
 705 | analysis shows that any feed bearing a guarantee of more than 20  
 706 | percent protein falls more than 2 percent protein below the  
 707 | guarantee, \$4 per ton for each percent protein deficiency shall  
 708 | be assessed against the manufacturer or distributor.

709 |     (b)~~(2)~~ If a certified laboratory analysis shows that any  
 710 | feed is deficient in fat by more than 0.5 ~~five-tenths~~ percent  
 711 | fat, \$4 per ton for each percent fat deficiency shall be  
 712 | assessed against the manufacturer or distributor.

713 |     (c)~~(3)~~ If a certified laboratory analysis shows that any  
 714 | feed bearing a maximum guarantee of not more than 20 percent  
 715 | fiber exceeds this guarantee by more than 1 percent fiber, or if  
 716 | the analysis shows that any feed bearing a maximum guarantee of  
 717 | more than 20 percent fiber exceeds this guarantee by more than 2  
 718 | percent fiber, \$4 per ton for each percent fiber excess shall be  
 719 | assessed against the manufacturer or distributor.

720 |     (d)~~(4)~~ If a certified laboratory analysis shows that any  
 721 | commercial feed is deficient or excessive in the required drug,  
 722 | mineral, or nutritive guarantees other than protein, fat, or  
 723 | fiber, a penalty of \$4 per ton shall be assessed against the  
 724 | manufacturer or distributor for each deficiency or excessive  
 725 | level found.

726 |     (e)~~(5)~~ If a certified laboratory analysis shows that any  
 727 | commercial feed or feedstuff is found to be adulterated as



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728 provided in s. 580.071, a penalty of \$4 per ton shall be  
 729 assessed against the manufacturer or distributor for each  
 730 violation found.

731 ~~(f)(6)~~ If any feed is found by the department to be short  
 732 in weight, 4 times the invoice value of the actual shortage  
 733 shall be assessed against the manufacturer or distributor, but  
 734 in no instance shall the penalty be less than \$25. The  
 735 department by rule may establish variations for short weight.

736 ~~(g)(7)~~ ~~In no case shall~~ Any penalty assessed under as  
 737 specified in this section be less than \$10, regardless of the  
 738 monetary value of the violation, must be at least \$10.

739 (2)(a) Within 60 days after the department notifies a  
 740 registrant in writing of any penalty assessed under this  
 741 section, the registrant shall pay the penalty to the consumer.  
 742 If the consumer's identity cannot be determined, the registrant  
 743 shall, within the 60-day period, pay the assessed penalty to the  
 744 department.

745 (b) A registrant who, within the 60-day period, fails to  
 746 pay the full amount of the assessed penalty to the consumer or  
 747 the department, as applicable, in addition to the penalty  
 748 assessed under this section, is also subject to the penalties  
 749 provided in s. 580.121.

750 (c) The proceeds from any penalties paid to the department  
 751 under this section shall be deposited into the department's  
 752 General Inspection Trust Fund and be used by the department for  
 753 the exclusive purpose of administering this chapter.

754 Section 33. Section 580.151, Florida Statutes, is  
 755 repealed.

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756 Section 34. Subsection (30) of section 581.011, Florida  
 757 Statutes, is amended to read:

758 581.011 Definitions.—As used in this chapter:

759 ~~(30) "Technical council" means the Plant Industry~~  
 760 ~~Technical Council.~~

761 Section 35. Subsection (3) of section 581.145, Florida  
 762 Statutes, is amended to read:

763 581.145 Aquatic plant nursery registration; special permit  
 764 requirements.—

765 (3) Notwithstanding any other provision of state or  
 766 federal law, the Department of Agriculture and Consumer Services  
 767 shall issue, by request, a permit to the aquaculture producer to  
 768 engage in the business of transporting and selling ~~exporting~~  
 769 water hyacinths (Eichhornia spp.) only to other states or  
 770 countries that permit such transportation and sale ~~other than~~  
 771 ~~the United States and only when such water hyacinths are~~  
 772 ~~cultivated in a nursery for the sole purpose of exportation and~~  
 773 ~~the aquaculture activities have~~ activity has been certified by  
 774 the Department of Agriculture and Consumer Services. In  
 775 accordance with any appropriate state or federal law or United  
 776 States treaty, a ~~no~~ Florida aquaculture producer may not ~~shall~~  
 777 ship water hyacinths to other states or countries ~~other than the~~  
 778 ~~United States~~ under such a permit for the purpose of importing  
 779 water hyacinths back into Florida ~~the United States~~, ~~nor shall~~  
 780 ~~drop shipments be made to any other destination within the~~  
 781 ~~United States.~~ This subsection does not ~~provision shall in no~~  
 782 ~~way~~ restrict or interfere with the Department of Environmental  
 783 ~~Protection's~~ efforts of the Fish and Wildlife Conservation

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784 Commission, or the efforts ~~those~~ of any other agency or local  
 785 government with responsibilities for the management of noxious  
 786 aquatic plants, to control or eradicate noxious nonnursery  
 787 aquatic plants, including water hyacinths. This subsection may  
 788 ~~provision shall~~ not be considered ~~a consideration~~ in the  
 789 approval or the release of biological control agents for water  
 790 hyacinths or any other noxious aquatic plants.

791 Section 36. Section 582.06, Florida Statutes, is amended  
 792 to read:

793 582.06 Soil and Water Conservation Council; powers and  
 794 duties.—

795 (1) COMPOSITION.—

796 (a) The Soil and Water Conservation Council is created in  
 797 the Department of Agriculture and Consumer Services and shall be  
 798 composed of 7 ~~23~~ members ~~as follows:~~

799 ~~(a) Eleven members shall be persons~~ who have been involved  
 800 in the practice of soil or water conservation, or in the  
 801 development or implementation of interim measures or best  
 802 management practices related thereto, and who have been engaged  
 803 in agriculture or an occupation related to the agricultural  
 804 industry for at least 5 years at the time of their appointment.

805 ~~(b) Twelve members shall include one representative each~~  
 806 ~~from the Department of Environmental Protection, the five water~~  
 807 ~~management districts, the Institute of Food and Agricultural~~  
 808 ~~Sciences at the University of Florida, the United States~~  
 809 ~~Department of Agriculture Natural Resources Conservation~~  
 810 ~~Service, the Florida Association of Counties, and the Florida~~  
 811 ~~League of Cities and two representatives of environmental~~

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812 ~~interests.~~

813 ~~(b)(e)~~ All members shall be appointed by the commissioner.  
 814 ~~Members appointed pursuant to paragraph (b) shall be appointed~~  
 815 ~~by the commissioner from recommendations provided by the~~  
 816 ~~organization or interest represented.~~

817 ~~(c)(d)~~ Members shall serve 4-year terms or until their  
 818 successors are duly qualified and appointed. If a vacancy  
 819 occurs, it shall be filled for the remainder of the term in the  
 820 manner of an initial appointment.

821 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+  
 822 COMPENSATION.—The meetings, powers and duties, procedures, and  
 823 recordkeeping of the Soil and Water Conservation Council, ~~and~~  
 824 ~~per diem and reimbursement of expenses of council members,~~ shall  
 825 be governed by the provisions of s. 570.0705 relating to  
 826 advisory committees established within the department.

827 Section 37. Subsections (2), (3), (4), (6), (8), and (9)  
 828 of section 582.20, Florida Statutes, are amended to read:

829 582.20 Powers of districts and supervisors.—A soil and  
 830 water conservation district organized under the provisions of  
 831 this chapter shall constitute a governmental subdivision of this  
 832 state, and a public body corporate and politic, exercising  
 833 public powers, and such district and the supervisors thereof,  
 834 shall have the following powers, in addition to others granted  
 835 in other sections of this chapter:

836 (2) To conduct demonstrational projects within the  
 837 district's boundaries, territory within another district's  
 838 boundaries subject to the other district's approval, or  
 839 territory not contained within any district's boundaries

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840 | ~~district~~ on lands owned or controlled by this state or any of  
 841 | its agencies, with the cooperation of the agency administering  
 842 | and having jurisdiction thereof, and on any other lands within  
 843 | the district's boundaries, territory within another district's  
 844 | boundaries subject to the other district's approval, or  
 845 | territory not contained within any district's boundaries  
 846 | ~~district~~ upon obtaining the consent of the owner and occupiers  
 847 | of such lands or the necessary rights or interests in such  
 848 | lands, in order to demonstrate by example the means, methods,  
 849 | and measures by which soil and soil resources may be conserved,  
 850 | and soil erosion in the form of soil blowing and soil washing  
 851 | may be prevented and controlled, and works of improvement for  
 852 | flood prevention or the conservation, development and  
 853 | utilization of soil and water resources, and the disposal of  
 854 | water may be carried out;

855 |         (3) To carry out preventive and control measures and works  
 856 | of improvement for flood prevention or the conservation,  
 857 | development and utilization of soil and water resources, and the  
 858 | disposal of water within the district's boundaries, territory  
 859 | within another district's boundaries subject to the other  
 860 | district's approval, or territory not contained within any  
 861 | district's boundaries ~~district~~, including, but not limited to,  
 862 | engineering operations, methods of cultivation, the growing of  
 863 | vegetation, changes in use of land, and the measures listed in  
 864 | s. 582.04 on lands owned or controlled by this state or any of  
 865 | its agencies, with the cooperation of the agency administering  
 866 | and having jurisdiction thereof, and on any other lands within  
 867 | the district's boundaries, territory within another district's

868 boundaries subject to the other district's approval, or  
 869 territory not contained within any district's boundaries  
 870 ~~district~~ upon obtaining the consent of the owner and the  
 871 occupiers of such lands or the necessary rights or interests in  
 872 such lands;

873 (4) To cooperate, or enter into agreements with, and  
 874 within the limits of appropriations duly made available to it by  
 875 law, to furnish financial or other aid to, any agency,  
 876 governmental or otherwise, or any owner or occupier of lands  
 877 within the district's boundaries, territory within another  
 878 district's boundaries subject to the other district's approval,  
 879 or territory not contained within any district's boundaries  
 880 ~~district~~, in the carrying on of erosion control or prevention  
 881 operations and works of improvement for flood prevention or the  
 882 conservation, development and utilization, of soil and water  
 883 resources and the disposal of water within the district's  
 884 boundaries, territory within another district's boundaries  
 885 subject to the other district's approval, or territory not  
 886 contained within any district's boundaries, ~~district~~, subject to  
 887 such conditions as the supervisors may deem necessary to advance  
 888 the purposes of this chapter;

889 (6) To make available, on such terms as it shall  
 890 prescribe, to landowners and occupiers within the district's  
 891 boundaries, territory within another district's boundaries  
 892 subject to the other district's approval, or territory not  
 893 contained within any district's boundaries ~~district~~,  
 894 agricultural and engineering machinery and equipment,  
 895 fertilizer, seeds and seedlings, and such other material or

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896 equipment, as will assist such landowners and occupiers to carry  
 897 on operations upon their lands for the conservation of soil  
 898 resources and for the prevention or control of soil erosion and  
 899 for flood prevention or the conservation, development and  
 900 utilization, of soil and water resources and the disposal of  
 901 water;

902 (8) To develop comprehensive plans for the conservation of  
 903 soil and water resources and for the control and prevention of  
 904 soil erosion and for flood prevention or the conservation,  
 905 development and utilization of soil and water resources, and the  
 906 disposal of water within the district's boundaries, territory  
 907 within another district's boundaries subject to the other  
 908 district's approval, or territory not contained within any  
 909 district's boundaries ~~district~~, which plans shall specify in  
 910 such detail as may be possible the acts, procedures,  
 911 performances, and avoidances which are necessary or desirable  
 912 for the effectuation of such plans, including the specification  
 913 of engineering operations, methods of cultivation, the growing  
 914 of vegetation, cropping programs, tillage practices, and changes  
 915 in use of land; control of artesian wells; and to publish such  
 916 plans and information and bring them to the attention of owners  
 917 and occupiers of lands within the district's boundaries,  
 918 territory within another district's boundaries subject to the  
 919 other district's approval, or territory not contained within any  
 920 district's boundaries ~~district~~;

921 (9) To take over, by purchase, lease, or otherwise, and to  
 922 administer any soil-conservation, erosion-control, erosion-  
 923 prevention project, or any project for flood-prevention or for

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924 the conservation, development and utilization of soil and water  
 925 resources, and the disposal of water, located within the  
 926 district's ~~its~~ boundaries, territory within another district's  
 927 boundaries subject to the other district's approval, or  
 928 territory not contained within any district's boundaries,  
 929 undertaken by the United States or any of its agencies, or by  
 930 this state or any of its agencies; to manage as agent of the  
 931 United States or any of its agencies, or of the state or any of  
 932 its agencies, any soil-conservation, erosion-control, erosion-  
 933 prevention, or any project for flood-prevention or for the  
 934 conservation, development, and utilization of soil and water  
 935 resources, and the disposal of water within the district's ~~its~~  
 936 boundaries, territory within another district's boundaries  
 937 subject to the other district's approval, or territory not  
 938 contained within any district's boundaries; to act as agent for  
 939 the United States, or any of its agencies, or for the state or  
 940 any of its agencies, in connection with the acquisition,  
 941 construction, operation or administration of any soil-  
 942 conservation, erosion-control, erosion-prevention, or any  
 943 project for flood-prevention or for the conservation,  
 944 development and utilization of soil and water resources, and the  
 945 disposal of water within the district's ~~its~~ boundaries,  
 946 territory within another district's boundaries subject to the  
 947 other district's approval, or territory not contained within any  
 948 district's boundaries; to accept donations, gifts, and  
 949 contributions in money, services, materials, or otherwise, from  
 950 the United States or any of its agencies, or from this state or  
 951 any of its agencies, or from others, and to use or expend such



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952 moneys, services, materials or other contributions in carrying  
 953 on its operations;

954 Section 38. Section 582.29, Florida Statutes, is amended  
 955 to read:

956 582.29 State agencies to cooperate.—Agencies of this state  
 957 which shall have jurisdiction over, or be charged with, the  
 958 administration of any state-owned lands, and of any county, or  
 959 other governmental subdivision of the state, which shall have  
 960 jurisdiction over, or be charged with the administration of, any  
 961 county-owned or other publicly owned lands, lying within the  
 962 boundaries of any district organized under this chapter, the  
 963 boundaries of another district subject to that district's  
 964 approval, or territory not contained within the boundaries of  
 965 any district organized under this chapter, shall cooperate to  
 966 the fullest extent with the supervisors of such districts in the  
 967 effectuation of programs and operations undertaken by the  
 968 supervisors under the provisions of this chapter. The  
 969 supervisors of such districts shall be given free access to  
 970 enter and perform work upon such publicly owned lands. The  
 971 provisions of land use regulations adopted shall be in all  
 972 respects observed by the agencies administering such publicly  
 973 owned lands.

974 Section 39. Subsection (3) of section 582.30, Florida  
 975 Statutes, is amended, and subsection (5) is added to that  
 976 section, to read:

977 582.30 Discontinuance of districts; referendum;  
 978 commissioner's authority.—

979 (3) In the alternative, ~~upon review and recommendation of~~

980 ~~the Soil and Water Conservation Council regarding the continued~~  
 981 ~~viability of a district,~~ the Commissioner of Agriculture may  
 982 dissolve or discontinue a such district if: ~~the commissioner~~  
 983 ~~certifies that the continued operation of the district is not~~  
 984 ~~administratively practicable and feasible.~~

985 (a) Upon review and recommendation of the Soil and Water  
 986 Conservation Council, the council determines that the continued  
 987 operation of the district is not administratively practicable  
 988 and feasible under the provisions of this chapter;

989 (b) The If A district fails has failed to comply with any  
 990 of the audit or and financial reporting requirement requirements  
 991 of chapter 189, or fails to comply with any requirement of s.  
 992 582.20(1)-(9), and the commissioner, after review and  
 993 confirmation by the department's inspector general reviews and  
 994 confirms in writing that the district has failed to comply with  
 995 such requirement; or, may certify dissolution or discontinuance  
 996 of such district without prior review and recommendation of the  
 997 Soil and Water Conservation Council.

998 (c) The department receives a resolution adopted by the  
 999 supervisors of the district requesting that the commissioner  
 1000 issue a certificate determining that the continued operation of  
 1001 the district is not administratively practicable and feasible  
 1002 under the provisions of this chapter.

1003 (4) If the requirements for dissolution or discontinuance  
 1004 of a district are satisfied under subsection (1), subsection  
 1005 (2), or subsection (3), the department shall publish notice of a  
 1006 such proposed certification determining that the continued  
 1007 operation of the district is not administratively practicable

1008 and feasible under the provisions of this chapter. The notice of  
 1009 ~~dissolution or discontinuance~~ shall be published once a week for  
 1010 2 weeks in a newspaper of general circulation within the county  
 1011 or counties in which ~~wherein~~ the district is located, stating  
 1012 the name of the district and a general description of the  
 1013 territory included in the district, and requiring that any  
 1014 comments or objections to the proposed certification,  
 1015 ~~dissolution~~ or any claims against the assets of the district,  
 1016 must be filed with the department clerk not later than 60 days  
 1017 after ~~following~~ the date of last publication.

1018 (5) (a) Upon expiration of the 60-day period after the date  
 1019 of last publication, the commissioner, upon review of any  
 1020 comments or objections received under subsection (4), may issue  
 1021 a certificate determining that the continued operation of the  
 1022 district is not administratively practicable and feasible under  
 1023 the provisions of this chapter.

1024 (b) If the commissioner issues a certificate determining  
 1025 that the continued operation of a district is not  
 1026 administratively practicable and feasible under the provisions  
 1027 of this chapter, the department shall file the original  
 1028 certificate with the Department of State and shall provide a  
 1029 copy of the certificate to the supervisors of the district at  
 1030 the district's principal office designated under s.  
 1031 582.15(1)(c).

1032 Section 40. Section 582.31, Florida Statutes, is amended  
 1033 to read:

1034 582.31 Certification of results of referendum;  
 1035 dissolution.—Upon receipt from the Department of Agriculture and

1036 Consumer Services of a certification that the department has  
 1037 determined that the continued operation of the district is not  
 1038 administratively practicable and feasible, pursuant to the  
 1039 provisions of this chapter, the supervisors shall forthwith  
 1040 proceed to terminate the affairs of the district. The  
 1041 supervisors shall dispose of all property belonging to the  
 1042 district at public auction and shall pay over the proceeds of  
 1043 such sale to be converted into the State Treasury, which amount  
 1044 shall be placed to the credit of the district ~~department~~ for the  
 1045 purpose of liquidating any legal obligations the ~~said~~ district  
 1046 may have at the time of its discontinuance. The supervisors  
 1047 shall thereupon file an application, duly verified, with the  
 1048 Department of State for the discontinuance of the ~~such~~ district,  
 1049 and shall transmit with such application the certificate of the  
 1050 Department of Agriculture and Consumer Services setting forth  
 1051 the determination of the department that the continued operation  
 1052 of the ~~such~~ district is not administratively practicable and  
 1053 feasible. The application shall recite that the property of the  
 1054 district has been disposed of and the proceeds paid over as in  
 1055 this section provided, and shall set forth a full accounting of  
 1056 such properties and proceeds of the sale. The Department of  
 1057 State shall issue to the supervisors a certificate of  
 1058 dissolution and shall record such certificate in an appropriate  
 1059 book of record in its office.

1060 Section 41. Section 585.155, Florida Statutes, is  
 1061 repealed.

1062 Section 42. Section 589.03, Florida Statutes, is repealed.

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1063 Section 43. Section 589.19, Florida Statutes, is amended  
 1064 to read:

1065 589.19 Creation of certain state forests; naming of  
 1066 certain state forests.—

1067 (1) When the Board of Trustees of the Internal Improvement  
 1068 Trust Fund, any state agency, or any agency created by state  
 1069 law, authorized to accept reforestation lands in the name of the  
 1070 state, approves the recommendations of the Florida Forest  
 1071 Service ~~Division of Forestry~~ in reference to the acquisition of  
 1072 land and acquires ~~acquire~~ such land, the ~~said~~ board, state  
 1073 agency, or agency created by state law, may formally designate  
 1074 and dedicate any area as a reforestation project, or state  
 1075 forest, and where so designated and dedicated such area shall be  
 1076 under the administration of the Florida Forest Service, ~~division~~  
 1077 which is ~~shall be~~ authorized to manage and administer such ~~said~~  
 1078 area according to the purpose for which it was designated and  
 1079 dedicated.

1080 (2) The first state forest acquired by the Board of  
 1081 Trustees of the Internal Improvement Trust Fund in Baker County  
 1082 is to be named the John M. Bethea State Forest. This is to honor  
 1083 Mr. John M. Bethea who was Florida's fourth state forester and  
 1084 whose distinguished career in state government spanned 46 years  
 1085 and who is a native of Baker County.

1086 (3) The state forest managed by the Florida Forest Service  
 1087 ~~Division of Forestry~~ in Seminole County is to be named the  
 1088 Charles H. Bronson State Forest to honor Charles H. Bronson, the  
 1089 tenth Commissioner of Agriculture, for his distinguished  
 1090 contribution to this state's agriculture and natural resources.

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1091           (4) (a) The Florida Forest Service ~~Division of Forestry~~  
 1092 shall designate one or more areas of state forests as an  
 1093 "Operation Outdoor Freedom a "Wounded Warrior Special Hunt Area"  
 1094 to honor wounded veterans and servicemembers. The purpose of  
 1095 such designated areas is to provide special outdoor recreational  
 1096 opportunities for eligible veterans and servicemembers.

1097           (b) The Florida Forest Service ~~division~~ shall limit guest  
 1098 admittance to such designated areas to any person who:

1099           1. Is an active duty member of any branch of the United  
 1100 States Armed Forces and has a combat-related injury as  
 1101 determined by his or her branch of the United States Armed  
 1102 Forces; or

1103           2. Is a veteran who served during a period of wartime  
 1104 service as defined in s. 1.01(14) or peacetime service as  
 1105 defined in s. 296.02 and:

1106           a. Has a service-connected disability as determined by the  
 1107 United States Department of Veterans Affairs; or

1108           b. Was discharged or released from military service  
 1109 because of a disability acquired or aggravated while serving on  
 1110 active duty.

1111           (c) The Florida Forest Service ~~division~~ may grant  
 1112 admittance to such designated areas to a person who is not an  
 1113 eligible veteran or servicemember for purposes of accompanying  
 1114 an eligible veteran or servicemember who requires the person's  
 1115 assistance to use such designated areas.

1116           (d) Funding required for specialized accommodations shall  
 1117 be provided through the Friends of Florida State Forests Program  
 1118 created under s. 589.012.

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1119 (e) The Florida Forest Service ~~division~~ may adopt rules to  
 1120 administer this subsection.

1121 Section 44. Section 589.277, Florida Statutes, is amended  
 1122 to read:

1123 589.277 Tree planting programs.—

1124 (1) The ~~Division of Forestry of the Florida Forest Service~~  
 1125 ~~Department of Agriculture and Consumer Services~~ shall administer  
 1126 federal, state, and privately sponsored tree planting programs  
 1127 designed to assist private rural landowners and urban  
 1128 communities.

1129 (2) Contributions from governmental and private sources  
 1130 for tree planting programs may be accepted into the Federal  
 1131 Grants Trust Fund or the Incidental Trust Fund of the Florida  
 1132 Forest Service.

1133 (3) The Florida Forest Service shall ~~Division of Forestry~~  
 1134 ~~is authorized and directed to~~ develop and implement guidelines  
 1135 and procedures under which the financial resources of the fund  
 1136 allocated for tree planting programs may be utilized for urban  
 1137 and rural reforestation.

1138 (4) Grants to municipalities, counties, nonprofit  
 1139 organizations, and qualifying private landowners may be made  
 1140 from allocated moneys in the fund for the purpose of purchasing,  
 1141 planting, and maintaining native tree species.

1142 (5) The Florida Forest Service ~~Division of Forestry~~ shall  
 1143 assist the Department of Education in developing programs that  
 1144 teach the importance of trees in the urban, rural, and global  
 1145 environment.

1146 Section 45. Section 590.02, Florida Statutes, is amended  
 1147 to read:

1148 590.02 Florida Forest Service; ~~Division~~ powers, authority,  
 1149 and duties; liability; building structures; Florida Center for  
 1150 Wildfire and Forest Resources Management Training.—

1151 (1) The Florida Forest Service ~~division~~ has the following  
 1152 powers, authority, and duties:

1153 (a) To enforce the provisions of this chapter;

1154 (b) To prevent, detect, suppress, and extinguish wildfires  
 1155 wherever they may occur on public or private land in this state  
 1156 and to do all things necessary in the exercise of such powers,  
 1157 authority, and duties;

1158 (c) To provide firefighting crews, who shall be under the  
 1159 control and direction of the Florida Forest Service ~~division~~ and  
 1160 its designated agents;

1161 (d) To appoint center managers, forest area supervisors,  
 1162 forestry program administrators, a forest protection bureau  
 1163 chief, a forest protection assistant bureau chief, a field  
 1164 operations bureau chief, deputy chiefs of field operations,  
 1165 district managers, forest operations administrators, senior  
 1166 forest rangers, investigators, forest rangers, firefighter  
 1167 rotorcraft pilots, and other employees who may, at the Florida  
 1168 Forest Service's ~~division's~~ discretion, be certified as forestry  
 1169 firefighters pursuant to s. 633.35(4). Other provisions of law  
 1170 notwithstanding, center managers, district managers, forest  
 1171 protection assistant bureau chief, and deputy chiefs of field  
 1172 operations shall have Selected Exempt Service status in the  
 1173 state personnel designation;



1174 (e) To develop a training curriculum for forestry  
 1175 firefighters which must contain the basic volunteer structural  
 1176 fire training course approved by the Florida State Fire College  
 1177 of the Division of State Fire Marshal and a minimum of 250 hours  
 1178 of wildfire training;

1179 (f) To make rules to accomplish the purposes of this  
 1180 chapter;

1181 (g) To provide fire management services and emergency  
 1182 response assistance and to set and charge reasonable fees for  
 1183 performance of those services. Moneys collected from such fees  
 1184 shall be deposited into the Incidental Trust Fund of the Florida  
 1185 Forest Service ~~division~~; and

1186 (h) To require all state, regional, and local government  
 1187 agencies operating aircraft in the vicinity of an ongoing  
 1188 wildfire to operate in compliance with the applicable state  
 1189 Wildfire Aviation Plan.

1190 (2) The Florida Forest Service's ~~Division~~ employees, and  
 1191 the firefighting crews under their control and direction, may  
 1192 enter upon any lands for the purpose of preventing and  
 1193 suppressing wildfires and investigating smoke complaints or open  
 1194 burning not in compliance with authorization and to enforce the  
 1195 provisions of this chapter.

1196 (3) Employees of the Florida Forest Service ~~division~~ and  
 1197 of federal, state, and local agencies, and all other persons and  
 1198 entities that are under contract or agreement with the Florida  
 1199 Forest Service ~~division~~ to assist in firefighting operations as  
 1200 well as those entities, called upon by the Florida Forest  
 1201 Service ~~division~~ to assist in firefighting may, in the

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1202 performance of their duties, set counterfires, remove fences and  
 1203 other obstacles, dig trenches, cut firelines, use water from  
 1204 public and private sources, and carry on all other customary  
 1205 activities in the fighting of wildfires without incurring  
 1206 liability to any person or entity.

1207 (4) (a) The department may build structures,  
 1208 notwithstanding chapters 216 and 255, not to exceed a cost of  
 1209 \$50,000 per structure from existing resources on forest lands,  
 1210 federal excess property, and unneeded existing structures. These  
 1211 structures must meet all applicable building codes.

1212 (b) Notwithstanding s. 553.80(1), the department shall  
 1213 exclusively enforce the Florida Building Code as it pertains to  
 1214 wildfire and law enforcement facilities under the jurisdiction  
 1215 of the department.

1216 (5) The Florida Forest Service ~~division~~ shall organize its  
 1217 operational units to most effectively prevent, detect, and  
 1218 suppress wildfires, and to that end, may employ the necessary  
 1219 personnel to manage its activities in each unit. The Florida  
 1220 Forest Service ~~division~~ may construct lookout towers, roads,  
 1221 bridges, firelines, and other facilities and may purchase or  
 1222 fabricate tools, supplies, and equipment for firefighting. The  
 1223 Florida Forest Service ~~division~~ may reimburse the public and  
 1224 private entities that it engages to assist in the suppression of  
 1225 wildfires for their personnel and equipment, including aircraft.

1226 (6) The Florida Forest Service ~~division~~ shall undertake  
 1227 privatization alternatives for fire prevention activities  
 1228 including constructing fire lines and conducting prescribed  
 1229 burns and, where appropriate, entering into agreements or

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1230 contracts with the private sector to perform such activities.

1231 (7) The Florida Forest Service ~~division~~ may organize,  
 1232 staff, equip, and operate the Florida Center for Wildfire and  
 1233 Forest Resources Management Training. The center shall serve as  
 1234 a site where fire and forest resource managers can obtain  
 1235 current knowledge, techniques, skills, and theory as they relate  
 1236 to their respective disciplines.

1237 (a) The center may establish cooperative efforts involving  
 1238 federal, state, and local entities; hire appropriate personnel;  
 1239 and engage others by contract or agreement with or without  
 1240 compensation to assist in carrying out the training and  
 1241 operations of the center.

1242 (b) The center shall provide wildfire suppression training  
 1243 opportunities for rural fire departments, volunteer fire  
 1244 departments, and other local fire response units.

1245 (c) The center will focus on curriculum related to, but  
 1246 not limited to, fuel reduction, an incident management system,  
 1247 prescribed burning certification, multiple-use land management,  
 1248 water quality, forest health, environmental education, and  
 1249 wildfire suppression training for structural firefighters.

1250 (d) The center may assess appropriate fees for food,  
 1251 lodging, travel, course materials, and supplies in order to meet  
 1252 its operational costs and may grant free meals, room, and  
 1253 scholarships to persons and other entities in exchange for  
 1254 instructional assistance.

1255 (e) An advisory committee consisting of the following  
 1256 individuals or their designees must review program curriculum,  
 1257 course content, and scheduling: the director of the Florida

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1258 Forest Service ~~Division of Forestry~~; the assistant director of  
 1259 the Florida Forest Service ~~Division of Forestry~~; the director of  
 1260 the School of Forest Resources and Conservation of the  
 1261 University of Florida; the director of the Division of  
 1262 Recreation and Parks of the Department of Environmental  
 1263 Protection; the director of the Division of the State Fire  
 1264 Marshal; the director of the Florida Chapter of The Nature  
 1265 Conservancy; the executive vice president of the Florida  
 1266 Forestry Association; the president of the Florida Farm Bureau  
 1267 Federation; the executive director of the Fish and Wildlife  
 1268 Conservation Commission; the executive director of a water  
 1269 management district as appointed by the Commissioner of  
 1270 Agriculture; the supervisor of the National Forests in Florida;  
 1271 the president of the Florida Fire Chief's Association; and the  
 1272 executive director of the Tall Timbers Research Station.

1273 (8) The Cross City Work Center shall be named the L. Earl  
 1274 Peterson Forestry Station. This is to honor Mr. L. Earl  
 1275 Peterson, Florida's sixth state forester, whose distinguished  
 1276 career in state government has spanned 44 years, and who is a  
 1277 native of Dixie County.

1278 (9) (a) Notwithstanding ss. 273.055 and 287.16, the  
 1279 department may retain, transfer, warehouse, bid, destroy, scrap,  
 1280 or otherwise dispose of surplus equipment and vehicles that are  
 1281 used for wildland firefighting.

1282 (b) All money received from the disposition of state-owned  
 1283 equipment and vehicles that are used for wildland firefighting  
 1284 shall be retained by the department. Money received pursuant to  
 1285 this section is appropriated for and may be disbursed for the

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1286 acquisition of exchange and surplus equipment used for wildland  
 1287 firefighting, and for all necessary operating expenditures  
 1288 related to such equipment, in the same fiscal year and the  
 1289 fiscal year following the disposition. The department shall  
 1290 maintain records of the accounts into which the money is  
 1291 deposited.

1292 (10) (a) The Florida Forest Service ~~division~~ has exclusive  
 1293 authority to require and issue authorizations for broadcast  
 1294 burning and agricultural and silvicultural pile burning. An  
 1295 agency, commission, department, county, municipality, or other  
 1296 political subdivision of the state may not adopt or enforce  
 1297 laws, regulations, rules, or policies pertaining to broadcast  
 1298 burning or agricultural and silvicultural pile burning unless an  
 1299 emergency order is declared in accordance with s. 252.38(3).

1300 (b) The Florida Forest Service ~~division~~ may delegate to a  
 1301 county or municipality its authority, as delegated by the  
 1302 Department of Environmental Protection pursuant to ss.  
 1303 403.061(28) and 403.081, to require and issue authorizations for  
 1304 the burning of yard trash and debris from land clearing  
 1305 operations in accordance with s. 590.125(6).

1306 Section 46. Subsection (3) of section 597.0021, Florida  
 1307 Statutes, is amended to read:

1308 597.0021 Legislative intent.—

1309 (3) It is the intent of the Legislature that the  
 1310 Aquaculture Review Council is ~~and the Aquaculture Interagency~~  
 1311 ~~Coordinating Council~~ are established to provide a means of  
 1312 communication between the aquaculture industry and the  
 1313 regulatory agencies.

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1314 Section 47. Paragraphs (b) and (d) of subsection (1) of  
 1315 section 597.003, Florida Statutes, are amended to read:

1316 597.003 Powers and duties of Department of Agriculture and  
 1317 Consumer Services.—

1318 (1) The department is hereby designated as the lead agency  
 1319 in encouraging the development of aquaculture in the state and  
 1320 shall have and exercise the following functions, powers, and  
 1321 duties with regard to aquaculture:

1322 (b) Coordinate the development, annual revision, and  
 1323 implementation of a state aquaculture plan. The plan shall  
 1324 include prioritized recommendations for research and development  
 1325 as suggested by the Aquaculture Review Council, ~~the Aquaculture~~  
 1326 ~~Interagency Coordinating Council~~, and public and private  
 1327 institutional research, extension, and service programs.

1328 (d) Provide staff for the Aquaculture Review Council ~~and~~  
 1329 ~~the Aquaculture Interagency Coordinating Council~~.

1330 Section 48. Paragraph (h) of subsection (1) of section  
 1331 597.004, Florida Statutes, is amended to read:

1332 597.004 Aquaculture certificate of registration.—

1333 (1) CERTIFICATION.—Any person engaging in aquaculture must  
 1334 be certified by the department. The applicant for a certificate  
 1335 of registration shall submit the following to the department:

1336 (h) An One hundred dollar annual registration fee of \$100.  
 1337 The annual registration fee is waived for each elementary,  
 1338 middle, or high school and each vocational school that  
 1339 participates in the aquaculture certification program.

1340 Section 49. Subsection (1), paragraphs (a) and (b) of  
 1341 subsection (2), and paragraph (h) of subsection (3) of section

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1342 597.005, Florida Statutes, are amended to read:  
 1343 597.005 Aquaculture Review Council.—  
 1344 (1) COMPOSITION.—There is created within the department  
 1345 the Aquaculture Review Council to consist of eight ~~nine~~ members  
 1346 as follows: the chair of the State Agricultural Advisory Council  
 1347 or designee; ~~the chair of the Aquaculture Interagency~~  
 1348 ~~Coordinating Council;~~ and seven additional members to be  
 1349 appointed by the commissioner, including an alligator farmer, a  
 1350 food fish farmer, a shellfish farmer, a tropical fish farmer, an  
 1351 aquatic plant farmer, a representative of the commercial fishing  
 1352 industry, and a representative of the aquaculture industry at  
 1353 large. Members shall be appointed for 4-year terms. Each member  
 1354 shall be selected from no fewer than two or more than three  
 1355 nominees submitted by recognized statewide organizations  
 1356 representing each industry segment or the aquaculture industry  
 1357 at large. In the absence of nominees, the commissioner shall  
 1358 appoint persons who otherwise meet the qualifications for  
 1359 appointment to the council. Members shall serve until their  
 1360 successors are duly qualified and appointed. An appointment to  
 1361 fill a vacancy shall be for the unexpired portion of the term.  
 1362 (2) MEETINGS; PROCEDURES; RECORDS.—  
 1363 (a) The members of the council shall meet at least  
 1364 quarterly; shall elect a chair, a vice chair, and a secretary,  
 1365 ~~and an industry representative to the Aquaculture Interagency~~  
 1366 ~~Coordinating Council;~~ and shall use accepted rules of procedure.  
 1367 The terms of such officers shall be for 1 year.  
 1368 (b) The council shall meet at the call of its chair, at  
 1369 the request of a majority of its membership, at the request of

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1370 the department, or at such times as may be prescribed by its  
 1371 rules of procedure. ~~However, the council shall hold a joint~~  
 1372 ~~annual meeting with the Aquaculture Interagency Coordinating~~  
 1373 ~~Council.~~

1374 (3) RESPONSIBILITIES.—The primary responsibilities of the  
 1375 Aquaculture Review Council are to:

1376 (h) For any problem that cannot be solved through simple  
 1377 cooperation or negotiation, provide an issue analysis ~~to the~~  
 1378 ~~Aquaculture Interagency Coordinating Council~~ and to the chairs  
 1379 of the legislative agriculture appropriations committees. The  
 1380 analysis shall include, but not be limited to, specific facts  
 1381 and industry hardships, regulatory provisions, questions  
 1382 relative to the issue, and suggestions for solving the problem.

1383 Section 50. Section 597.006, Florida Statutes, is  
 1384 repealed.

1385 Section 51. Subsection (3) of section 616.252, Florida  
 1386 Statutes, is amended to read:

1387 616.252 Florida State Fair Authority; membership; number,  
 1388 terms, compensation.—

1389 (3) Members of the authority are not entitled to  
 1390 compensation for their services as members but shall be  
 1391 reimbursed by the authority for per diem and travel expenses as  
 1392 provided in s. 112.061 ~~and may not be reimbursed for travel~~  
 1393 ~~expenses~~. Except for the nonvoting youth member, each member may  
 1394 be compensated for any special or full-time service performed in  
 1395 the authority's behalf as officers or agents of the authority.

1396 Section 52. This act shall take effect July 1, 2012.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7021 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Natural  
2 Resources Appropriations Subcommittee  
3 Representative Crisafulli offered the following:  
4

**Amendment (with title amendment)**

6 Remove lines 489-497  
7  
8  
9

10 -----  
11 **T I T L E A M E N D M E N T**

12 Remove lines 41-43 and insert:  
13 amending s. 570.0705, F.S;  
14




## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7025 PCB ANRS 12-03 Fish and Wildlife Conservation Commission

**SPONSOR(S):** Agriculture & Natural Resources Subcommittee, Crisafulli

**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 804

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee	12 Y, 0 N	Deslatte	Blalock
1) Agriculture & Natural Resources Appropriations Subcommittee		Massengale	Massengale 
2) State Affairs Committee			

### SUMMARY ANALYSIS

Current law specifies that 85 percent of the proceeds collected from the Florida Panther license plate be deposited into the Florida Panther Research and Management Trust Fund, which is managed by the Fish and Wildlife Conservation Commission (FWCC), and 15 percent, but not less than \$300,000, be deposited into the Florida Communities Trust Fund to fund the administration of the Florida Communities Trust program, which prior to 2011 was within the Department of Community Affairs (DCA). Chapter 2011-142, L.O.F., created the Department of Economic Opportunity, in part, to replace the DCA, and transferred the Florida Communities Trust Program from the DCA to the Department of Environmental Protection (DEP), which does not require the funds from the Florida Panther License Plate to administer the program. The bill deletes the requirement for the deposit into the Florida Communities Trust Fund, and specifies that all proceeds be deposited into the Florida Panther Research and Management Trust Fund.

Current law specifies that a portion of vessel registration fees be distributed to the Marine Resources Conservation Trust Fund to be used for marine mammal care. The bill repeals an outdated statutory reference to documentary stamp tax revenue distributed to the Marine Resources Conservation Trust Fund to reflect the fact that such revenues are no longer deposited into the fund.

The bill repeals the statutory requirement that the FWCC publish a printed version of the *Florida Wildlife* magazine, and abolishes the *Florida Wildlife Magazine* Advisory Council.

The bill deletes the 1-year limitation on the special authorization allowing persons to hunt without taking a hunter safety course, under the supervision of a licensed hunter 21 years old or older.

The bill amends current statute to reduce the fee for a commercial blue crab soft shell endorsement from \$250 to \$125 for each endorsement, which will make the fee for all endorsements for trap fisheries (spiny lobster, stone crab, soft shell blue crab, and hardshell blue crab) the same.

The bill designates spiny lobster trap theft violations as a Level 5 offense, which equals 28 sentencing points, and thus, affords judges the discretion to sentence persons that steal or molest spiny lobster traps to the maximum allowed for a third degree felony (5 years in prison) on a case-by-case basis.

The bill will have an insignificant negative fiscal impact on state government, but a potential insignificant positive fiscal impact on local government (see Fiscal Analysis and Economic Impact section below).

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Florida Panther License Plate**

###### *Current Situation*

Beginning in 1990, the DEP was charged with developing a Florida Panther license plate. Fifty percent of the proceeds from the license plate were distributed to the Florida Panther Research and Management Trust Fund in the Game and Fresh Water Fish Commission (now the FWCC), and 25 percent were distributed into the Florida Communities Trust Fund within the DCA to fund the administration of the Florida Communities Trust program.

In 1993 the distribution was changed to 45 percent for the Florida Panther Research and Management Trust Fund and 15 percent, but not less than \$300,000, for the Florida Communities Trust Fund. In 1996, the distribution was changed again to 85 percent for the Florida Panther Research and Management Trust Fund. However, the distribution remained the same for the Florida Communities Trust Fund.

Chapter 2011-142, L.O.F., created the Department of Economic Opportunity, in part, to replace the DCA, and transferred the Florida Communities Trust program from the DCA to the DEP. Now that the Florida Communities Trust program has been transferred from the DCA to the DEP, there is no longer a reason for the DEP to transfer funds collected from the Florida Panther License Plate fee to the DCA for administrative purposes. The DEP indicates it does not need these funds to administer the Florida Communities Trust program.

###### *Effect of Proposed Changes*

The bill deletes the provision in s. 320.08058, F.S., requiring 15 percent, but not less than \$300,000, be deposited in the Florida Communities Trust Fund. The bill provides that all proceeds from the Florida Panther license plate fees be deposited into the Florida Panther Research and Management Trust Fund. The bill also deletes a reference in s. 380.511, F.S., providing that the proceeds of the sale of environmental license plates be deposited in the Florida Communities Trust Fund.

##### **Marine Resources Conservation Trust Fund**

###### *Current Situation*

Section 379.208, F.S., establishes the Marine Resources Conservation Trust Fund within the FWCC. During the 2008 legislative session, a subsection of s. 201.15, F.S., that distributed documentary stamp tax revenue to the Marine Resources Conservation Trust Fund for marine mammal care was repealed. A cross-reference to s. 201.15, F.S., in s. 379.208, F.S., was not amended or repealed.

Section 328.76, F.S., requires all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state to be deposited in the Marine Resources Conservation Trust Fund to be used for: recreational channel marking; public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery.

###### *Effect of Proposed Changes*

The bill amends s. 379.208, F.S., pertaining to the Marine Resources Conservation Trust Fund, to repeal the outdated reference to s. 201.15, F.S., requiring documentary stamp tax revenue to be distributed to the Marine Resources Conservation Trust Fund, and replaces it with a cross-reference to

s. 328.76, F.S., since the funds collected pursuant to s. 328.76, F.S., are already allocated for marine mammal care as described above.

### **Florida Wildlife Magazine**

#### *Current Situation*

The *Florida Wildlife* magazine was first published in 1947 by the Game and Fresh Water Fish Commission, the predecessor to the Fish and Wildlife Conservation Commission (FWCC). The goal of the magazine was to promote hunting, fishing, and nature-based recreation in Florida, and to encourage good stewardship of the state's wildlife resources.<sup>1</sup>

In 2004, a seven-member Florida Wildlife Magazine Advisory Council (Council) was created<sup>2</sup> to provide advice and guidance relating to the editorial and advertising content of the magazine. The council has been inactive since 2006.

During the 2011 session, the Legislature permanently eliminated the budget for the *Florida Wildlife* magazine, and in the appropriations implementing bill directed the FWCC to suspend the printed publication of the magazine and the operations of the council during Fiscal Year 2011-2012. However, a statutory change is needed to permanently repeal the required publication of a printed version of the magazine and to repeal the authorization of the council.

#### *Effect of Proposed Changes*

The bill repeals s. 379.2342, F.S., which ends the statutorily required printing of the magazine and dissolves the Florida Wildlife Magazine Advisory Council. However, the FWCC still intends to offer the *Florida Wildlife* magazine online.

### **Hunter Safety Course**

#### *Current Situation*

Section 379.3581(2), F.S., specifies that a person born on or after June 1, 1975, who has not successfully completed a hunter safety course, can apply to the Fish and Wildlife Conservation Commission (FWCC) for a special authorization to hunt under supervision. The special authorization for supervised hunting must be designated on any license or permit required under chapter 379, F.S., for a person to take game or fur-bearing animals and must be valid for not more than one year. A special authorization for supervised hunting also cannot be issued more than once to the person applying for such authorization. Any person issued a license with the special authorization to hunt under supervision must hunt under the supervision of, and in the presence of, a person 21 years of age or older, who is licensed to hunt pursuant to s. 379.354, F.S., or who is exempt from licensing requirements or eligible for a free license pursuant to s. 379.353, F.S.

#### *Effect of Proposed Changes*

The bill amends s. 379.3581(2), F.S., deleting the one-year limitation on the special authorization for supervised hunting. A hunting license will still be required every year, but it will have the special authorization on it, so that law enforcement will know that the individual must comply with this section.

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<sup>1</sup> FWCC 2011 analysis, on file with staff.

<sup>2</sup> See s. 279.2343(2), F.S.

## **Blue Crab Soft Shell Endorsement Fee Reduction**

### *Current Situation*

Pursuant to s. 379.361, F.S., a Saltwater Products License (SPL) is required for commercial fishermen harvesting in Florida's state waters. The SPL authorizes the license holder to fish for commercial quantities of fish instead of recreational bag limits. The fee for an SPL is \$50 for Florida residents, \$100 for non-residents, and \$150 for aliens. Along with SPLs, an endorsement may be required for some fisheries. These may be free or there may be a charge for the endorsement.

Beginning in 1998, a moratorium was established on the issuance of new blue crab endorsements because of concerns about the increasing number of traps for blue crabs and the resulting stress on the marine resources environment. The moratorium was extended twice and lasted until July 1, 2007.

In 2003, the FWCC established an ad hoc Blue Crab Advisory Board to develop a management program for the harvesting of blue crab. The board endorsed adopting a program that would limit the total number of participants in the fishery, and allow for an equal number of trap tags available for each endorsement issued.<sup>3</sup> The board also recommended separating the hard shell blue crab fishery from the soft shell blue crab fishery and having separate endorsements for each.

To qualify for a soft shell crab endorsement, applicants had to demonstrate reported soft shell blue crab landings of 750 crabs on their SPL during any one of the same qualifying years. To qualify for an additional endorsement on one additional SPL, applicants had to demonstrate reported landings of 2,500 soft shell crabs. Each initial endorsement is allotted 400 trap tags with an additional 250 trap tags for a subsequent qualified endorsement. The endorsements must be re-qualified every 3 years. If the endorsement holder does not re-qualify, the endorsement is not renewed the next year and is required to be forfeited.

The Legislature, with the recommendation of the board and the FWCC, set endorsement fees at the following rates: \$125 for hard shell crab and net limitation endorsements; \$250 for soft shell crab endorsements; and \$25 for the incidental take endorsement.<sup>4</sup>

As a result of the cap on the fishery and the forfeiture of non-renewed licenses, the endorsements for soft shell crab have dropped from 152 the first year of the program to 83 available to be issued for the 2012 year. In 2009, the board voted to reduce the fee for soft shell crab from \$250 to \$125, which is the same for the hard shell crab.

All monies generated from the sale of blue crab endorsements, trap tags, replacement tags, and from the assessment of administrative penalties are distributed into the Marine Resources Conservation Trust Fund. The revenues are to be used for the management of the fishery, trap retrieval, research, law enforcement, and public education.

### *Effect of Proposed Changes*

The bill reduces the fee for a soft shell crab endorsement from \$250 to \$125 for each endorsement, making the fee for endorsements for all trap fisheries the same.

## **Spiny Lobster Trap Theft**

### *Current Situation*

When measured annually in dollars, the spiny lobster fishery is the largest commercial fishery in Florida. For the last 10 years, \$20 million has been generated annually. Because of demand, supply, and higher prices, the 2010-2011 and 2011-2012 seasons have had a sharp increase in lobster trap

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<sup>3</sup> FWCC 2011 analysis, on file with staff.

<sup>4</sup> Section 379.366, F.S.

theft. According to the Florida Keys Commercial Fishermen's Association, as a result of the theft, \$4.2 million is lost per commercial fishing season.

Section 379.367, F.S., specifies that each commercial harvester taking spiny lobster with a trap in commercial quantities or for commercial purposes must obtain and exhibit a spiny lobster endorsement number. Section 379.367, F.S., also specifies that it is unlawful for any person to willfully molest any commercial spiny lobster traps, lines, or buoys belonging to another without permission of the licenseholder. Furthermore, anyone who violates this section commits a felony of the third degree, punishable as specified in s. 775.082 or s. 775.083, F.S. Section 775.082, F.S., specifies that a felony of the third degree may not exceed 5 years imprisonment and/or up to a \$5,000 fine. In 2009, changes were made to the sentencing statutes that prevented judges from administering any state prison time (sentences of 1 year or greater) for a non-forcible felony of the third degree, unless the total sentence points, pursuant to the offense severity ranking chart, equaled 23 points or more. When scoring is applied to theft/molestation of spiny lobster traps, the score is 4. As a result, for anyone who violates s. 379.367, F.S., the maximum sentence that a judge can give is 364 days or less in county jail.

Section 379.3671, F.S., provides legislative intent to develop the spiny lobster trap certificate program. The principal goal of the program is to stabilize the fishery by reducing the total number of traps, which should increase the yield per trap, and therefore, maintain or increase overall catch levels. The FWCC is responsible for establishing the program and is responsible for its administration and enforcement. Each trap used to take or attempt to take spiny lobsters in state waters must have an annual trap tag, issued by the FWCC, affixed to the trap. Section 379.3671, F.S., also specifies that it is unlawful for any person to willfully molest, take possession of, or remove the contents of another harvester's spiny lobster trap without the express written consent of the trap owner available for immediate inspection. Unauthorized possession of another's trap gear or removal of trap contents constitutes theft.

Section 921.0022, F.S., specifies an offense severity ranking chart for particular offenses that must be used with the Criminal Punishment Code worksheet<sup>5</sup> to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998.

#### *Effect of Proposed Changes*

The bill amends s. 921.0022, F.S., to specify that any person who willfully molests or takes a spiny lobster trap or its contents in violation of ss. 379.367 or 379.3671, F.S., commits a Level 5 offense, which equals 28 sentencing points, and thus affords judges the discretion to sentence persons convicted of stealing or molesting spiny lobster traps to the maximum allowed for a third degree felony (5 years in prison) on a case-by-case basis.

#### **B. SECTION DIRECTORY:**

Section 1. Amending s. 320.08058, F.S., deleting the distribution to the Florida Communities Trust Fund and directing all proceeds from the Florida Panther license plate to the Florida Panther Research and Management Trust Fund in the FWCC.

Section 2. Amending s. 379.208, F.S., providing for funds from vessel registration fees to be distributed into the Marine Resources Conservation Trust Fund for marine mammal care; removing funds from documentary stamp tax revenue as a funding source for marine mammal care.

Section 3. Repealing s. 379.2342, F.S., ending the required printing of the *Florida Wildlife Magazine* and dissolving the Florida Wildlife Magazine Advisory Council.

Section 4. Amending s. 379.3581, F.S., deleting the 1-year limitation on the current special authorization that allows persons to hunt without taking a hunter safety course under the supervision of a licensed hunter 21 years or older.

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<sup>5</sup> Section 922.0024, F.S.

Section 5. Amending s. 379.366, F.S., reducing the fee for the blue crab soft shell endorsement from \$250 to \$125.

Section 6. Amending s. 380.511, F.S., deleting a reference to proceeds of the sale of environmental license plates as a funding source for the Florida Communities Trust Fund.

Section 7. Amending s. 921.0022, F.S., reclassifying spiny lobster trap theft violations as a Level 5 offense.

Section 8. Providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

	FY 2012-13 Recurring	FY 2013-14
<b>Fish And Wildlife Conservation Commission</b>		
Florida Panther Research & Management Trust Fund		
Florida Panther License Plate Fees	\$300,000	\$0
Marine Resources Conservation Trust Fund		
Blue Crab Soft Shell Endorsement Fee (83 X \$125)	(\$10,375)	\$0
State Game Trust Fund		
Florida Wildlife Magazine Annual Subscription Collections	(\$38,000)	\$0
<b>Department of Environmental Protection</b>		
Florida Communities Trust Fund		
Florida Panther License Plate Fees	(\$300,000)	\$0
<b>General Revenue</b>		
Service Charge on Marine Resources Conservation TF	(\$830)	\$0

#### 2. Expenditures:

The \$10,375 revenue loss to the Marine Resources Conservation Trust Fund would be absorbed by the Division of Marine Fisheries Management, Fish and Wildlife Research Institute, Division of Law Enforcement, and the Office of Licensing and Permitting.

The Criminal Justice Impact met January 17, 2012 and determined this bill will have an insignificant impact on the state prison beds because of the low volume of offenses addressed in this bill.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

To the extent that there is anyone subject to a state prison sentence rather than a county jail sentence, this may have a positive fiscal impact on local government.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Subscribers to the printed version of the *Florida Wildlife* magazine were refunded after July 1, 2011. The magazine will be available for free through an electronic format.



The reduction in fees for the Soft Shell Blue Crab endorsement will have a positive impact on the commercial crabbers in Florida.

Persons violating spiny lobster commercial trap theft laws could be subject to increased fines.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

Not applicable.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On December 6, 2011, the Agriculture & Natural Resources Subcommittee amended and passed PCB ANRS 12-03 with one amendment. The amendment is technical and corrects two statutory references that were incorrectly written.



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29 320.08058 Specialty license plates.-

30 (5) FLORIDA PANTHER LICENSE PLATES.-

31 (b) The ~~department shall distribute the~~ Florida panther  
 32 license plate annual use fee ~~in the following manner:~~

33 ~~1. Eighty-five percent~~ must be deposited in the Florida  
 34 Panther Research and Management Trust Fund in the Fish and  
 35 Wildlife Conservation Commission to be used for education and  
 36 programs to protect the endangered Florida panther, and up to 10  
 37 percent of such deposit may be used to promote and market the  
 38 license plate.

39 ~~2. Fifteen percent, but no less than \$300,000, must be~~  
 40 ~~deposited in the Florida Communities Trust Fund to be used~~  
 41 ~~pursuant to the Florida Communities Trust Act.~~

42 Section 2. Subsection (3) of section 379.208, Florida  
 43 Statutes, is amended to read:

44 379.208 Marine Resources Conservation Trust Fund;  
 45 purposes.-

46 (3) Funds provided to the Marine Resources Conservation  
 47 Trust Fund from vessel registration fees pursuant to s. 328.76  
 48 ~~may taxes distributed under s. 201.15 shall~~ be used for the  
 49 following purposes:

50 (a) To reimburse the cost of activities authorized  
 51 pursuant to the Fish and Wildlife Service of the United States  
 52 Department of the Interior. The facilities must be involved in  
 53 the actual rescue and full-time acute care veterinarian-based  
 54 rehabilitation of manatees. The cost of activities includes, but  
 55 is not limited to, costs associated with expansion, capital  
 56 outlay, repair, maintenance, and operation related to the

57 rescue, treatment, stabilization, maintenance, release, and  
 58 monitoring of manatees. Moneys distributed through the  
 59 contractual agreement to each facility for manatee  
 60 rehabilitation must be proportionate to the number of manatees  
 61 under acute care rehabilitation; the number of maintenance days  
 62 medically necessary in the facility; and the number released  
 63 during the previous fiscal year. The commission may set a cap on  
 64 the total amount reimbursed per manatee per year.

65 (b) For training on the care, treatment, and  
 66 rehabilitation of marine mammals at the Whitney Laboratory and  
 67 the College of Veterinary Medicine at the University of Florida.

68 (c) For program administration costs of the agency.

69 ~~(d) Funds not distributed in any 1 fiscal year must be~~  
 70 ~~carried over for distribution in subsequent years.~~

71 Section 3. Subsections (3) through (7) of section  
 72 379.2342, Florida Statutes, are renumbered as subsections (2)  
 73 through (6), respectively, and present subsection (2) of that  
 74 section is amended to read:

75 379.2342 Private publication agreements; advertising;  
 76 costs of production.-

77 ~~(2)(a) Beginning January 1, 2005, the commission, with the~~  
 78 ~~advice and assistance of the Florida Wildlife Magazine Advisory~~  
 79 ~~Council, shall publish the Florida Wildlife Magazine. The~~  
 80 ~~magazine shall be published at least on a quarterly basis in~~  
 81 ~~hard copy format and shall be available to the public by~~  
 82 ~~subscription and retail distribution. The primary focus of the~~  
 83 ~~magazine shall be to promote the heritage of hunting and fishing~~  
 84 ~~in Florida. The magazine shall also disseminate information~~

85 ~~regarding other outdoor recreational opportunities available to~~  
 86 ~~Floridians and visitors.~~

87 ~~(b) In order to offset the cost of publication and~~  
 88 ~~distribution of the magazine, the commission, with the advice~~  
 89 ~~and assistance of the Florida Wildlife Magazine Advisory~~  
 90 ~~Council, is authorized to sell advertising for placement in the~~  
 91 ~~magazine. The commission shall have the right to approve all~~  
 92 ~~elements of any advertising placed in the magazine, including~~  
 93 ~~the form and content thereof. The magazine shall include a~~  
 94 ~~statement providing that the inclusion of advertising in the~~  
 95 ~~magazine does not constitute an endorsement by the state or the~~  
 96 ~~commission of the products or services so advertised. The~~  
 97 ~~commission may charge an annual magazine subscription fee of up~~  
 98 ~~to \$25, a 2-year magazine subscription fee of up to \$45, and a~~  
 99 ~~3-year magazine subscription fee of up to \$60. The commission~~  
 100 ~~may charge a retail per copy fee of up to \$7. The provisions of~~  
 101 ~~chapter 287 do not apply to the sale of advertising for~~  
 102 ~~placement in the magazine. All revenues generated by the~~  
 103 ~~magazine shall be credited to the State Game Trust Fund.~~

104 ~~(c) The Florida Wildlife Magazine Advisory Council is~~  
 105 ~~created within the commission to advise and make recommendations~~  
 106 ~~to the commission regarding development, publication, and sale~~  
 107 ~~of the Florida Wildlife Magazine. In order to accomplish this~~  
 108 ~~purpose, the council shall provide recommendations to the~~  
 109 ~~commission regarding:~~

- 110 ~~1. The content of articles included in each edition of the~~
- 111 ~~magazine.~~
- 112 ~~2. Advertising proposed for each edition of the magazine.~~

113 ~~3. Strategies to improve distribution and circulation of~~  
 114 ~~the magazine.~~

115 ~~4. Cost reduction measures regarding publication of the~~  
 116 ~~magazine.~~

117 ~~(d) The Florida Wildlife Magazine Advisory Council shall~~  
 118 ~~consist of seven members appointed by the commission, and~~  
 119 ~~initial appointments shall be made no later than August 1, 2004.~~  
 120 ~~When making initial appointments to the council and filling~~  
 121 ~~vacancies, the commission shall appoint members to represent the~~  
 122 ~~following interests: hunting; saltwater fishing; freshwater~~  
 123 ~~fishing; recreational boating; recreational use of off-road~~  
 124 ~~vehicles; hiking, biking, bird watching, or similar passive~~  
 125 ~~activities; general business interests; and magazine publishing.~~

126 ~~(e) Two of the initial appointees shall serve 2-year~~  
 127 ~~terms, two of the initial appointees shall serve 3-year terms,~~  
 128 ~~and three of the initial appointees shall serve 4-year terms.~~  
 129 ~~Subsequent to the expiration of the initial terms, advisory~~  
 130 ~~council appointees shall serve 4-year terms.~~

131 ~~(f) The members of the advisory council shall elect a~~  
 132 ~~chair annually.~~

133 ~~(g) The council shall meet at least quarterly at the call~~  
 134 ~~of its chair, at the request of a majority of its membership, or~~  
 135 ~~at the request of the commission. A majority of the council~~  
 136 ~~shall constitute a quorum for the transaction of business.~~

137 ~~(h) The commission shall provide the council with~~  
 138 ~~clerical, expert, technical, or other services. All expenses of~~  
 139 ~~the council shall be paid from appropriations made by the~~  
 140 ~~Legislature to the commission. All vouchers shall be approved by~~

141 ~~the executive director before submission to the Chief Financial~~  
 142 ~~Officer for payment.~~

143 ~~(i) Members of the council shall serve without~~  
 144 ~~compensation but shall receive per diem and reimbursement for~~  
 145 ~~travel expenses as provided in s. 112.061.~~

146 ~~(j) Advisory council members may be reappointed. Advisory~~  
 147 ~~council members shall serve at the pleasure of the commission.~~

148 Section 4. Paragraph (b) of subsection (2) of section  
 149 379.3581, Florida Statutes, is amended to read:

150 379.3581 Hunter safety course; requirements; penalty.—

151 (2)

152 (b) A person born on or after June 1, 1975, who has not  
 153 successfully completed a hunter safety course may apply to the  
 154 commission for a special authorization to hunt under  
 155 supervision. The special authorization for supervised hunting  
 156 shall be designated on any license or permit required under this  
 157 chapter for a person to take game or fur-bearing animals ~~and~~  
 158 ~~shall be valid for not more than 1 year. A special authorization~~  
 159 ~~for supervised hunting may not be issued more than once to the~~  
 160 ~~person applying for such authorization.~~ A person issued a  
 161 license with a special authorization to hunt under supervision  
 162 must hunt under the supervision of, and in the presence of, a  
 163 person 21 years of age or older who is licensed to hunt pursuant  
 164 to s. 379.354 or who is exempt from licensing requirements or  
 165 eligible for a free license pursuant to s. 379.353.

166 Section 5. Effective beginning with the 2012-2013 blue  
 167 crab license year, paragraph (a) of subsection (3) of section  
 168 379.366, Florida Statutes, is amended to read:

169 379.366 Blue crab; regulation.—

170 (3)(a) Endorsement fees.—

171 1. The fee for a hard-shell blue crab endorsement for the  
 172 taking of hard-shell blue crabs, as authorized by rule of the  
 173 commission, is \$125, \$25 of which must be used solely for the  
 174 trap retrieval program authorized under s. 379.2424 and in  
 175 commission rules.

176 2. The fee for a soft-shell blue crab endorsement for the  
 177 taking of soft-shell blue crabs, as authorized by rule of the  
 178 commission, is \$125 ~~\$250~~, \$25 of which must be used solely for  
 179 the trap retrieval program authorized under s. 379.2424 and in  
 180 commission rules.

181 3. The fee for a nontransferable hard-shell blue crab  
 182 endorsement for the taking of hard-shell blue crabs, as  
 183 authorized by rule of the commission, is \$125, \$25 of which must  
 184 be used solely for the trap retrieval program authorized under  
 185 s. 379.2424 and in commission rules.

186 4. The fee for an incidental take blue crab endorsement  
 187 for the taking of blue crabs as bycatch in shrimp trawls and  
 188 stone crab traps is \$25, as authorized in commission rules.

189 Section 6. Paragraph (d) of subsection (1) of section  
 190 380.511, Florida Statutes, is redesignated as paragraph (c), and  
 191 present paragraph (c) of that subsection is amended to read:

192 380.511 Florida Communities Trust Fund.—

193 (1) There is created the Florida Communities Trust Fund as  
 194 a nonlapsing, revolving fund for projects, activities,  
 195 acquisitions, and operating expenses necessary to carry out this  
 196 part. The fund shall be held and administered by the trust. The



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197 following shall be credited to or deposited in the Florida  
 198 Communities Trust Fund:

199 ~~(e) Proceeds from the sale of environmental license plates~~  
 200 ~~authorized in s. 320.08058(5).~~

201  
 202 All moneys so deposited into the Florida Communities Trust Fund  
 203 shall be trust funds for the uses and purposes set forth in this  
 204 section, within the meaning of s. 215.32(1)(b); and such moneys  
 205 shall not become or be commingled with the General Revenue Fund  
 206 of the state, as defined by s. 215.32(1)(a).

207 Section 7. Paragraph (e) of subsection (3) of section  
 208 921.0022, Florida Statutes, is amended to read:

209 921.0022 Criminal Punishment Code; offense severity  
 210 ranking chart.—

211 (3) OFFENSE SEVERITY RANKING CHART

212 (e) LEVEL 5

213

Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor

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			vehicle with suspended license, resulting in death or serious bodily injury.
217	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
218	<u>379.367 (4)</u>	<u>3rd</u>	<u>Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.</u>
219	<u>379.3671 (2) (c) 3.</u>	<u>3rd</u>	<u>Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.</u>
220	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
221	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
222	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
223			

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	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
224	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
225	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
226	790.01 (2)	3rd	Carrying a concealed firearm.
227	790.162	2nd	Threat to throw or discharge destructive device.
228	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
229	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
230	790.23	2nd	Felons in possession of

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			firearms, ammunition, or electronic weapons or devices.
231	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
232	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
233	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
234	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
235	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
236	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
237	812.131(2)(b)	3rd	Robbery by sudden snatching.
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239	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
240	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
241	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
242	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
243	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.

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244	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
245	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
246	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
247	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
248	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
	843.01	3rd	Resist officer with violence to

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			person; resist arrest with violence.
249	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
250	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
251	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
252	874.05 (2)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
253	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
254	893.13 (1) (c) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s.

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893.03(1)(c), (2)(c)1.,  
 (2)(c)2., (2)(c)3., (2)(c)5.,  
 (2)(c)6., (2)(c)7., (2)(c)8.,  
 (2)(c)9., (3), or (4) drugs)  
 within 1,000 feet of a child  
 care facility, school, or  
 state, county, or municipal  
 park or publicly owned  
 recreational facility or  
 community center.

255

893.13(1)(d)1.            1st    Sell, manufacture, or deliver  
 cocaine (or other s.  
 893.03(1)(a), (1)(b), (1)(d),  
 (2)(a), (2)(b), or (2)(c)4.  
 drugs) within 1,000 feet of  
 university.

256

893.13(1)(e)2.            2nd    Sell, manufacture, or deliver  
 cannabis or other drug  
 prohibited under s.  
 893.03(1)(c), (2)(c)1.,  
 (2)(c)2., (2)(c)3., (2)(c)5.,  
 (2)(c)6., (2)(c)7., (2)(c)8.,  
 (2)(c)9., (3), or (4) within  
 1,000 feet of property used for  
 religious services or a



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257 specified business site.

893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.

258 893.13(4)(b) 2nd Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).

259 893.1351(1) 3rd Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

260

261 Section 8. Except as otherwise expressly provided in this

262 act, this act shall take effect July 1, 2012.