



Agriculture & Natural Resources Appropriations Subcommittee

Meeting Packet

**February 14, 2012
1:15 PM – 2:30 PM
306 HOB**



AGENDA

Agriculture & Natural Resources Appropriations Subcommittee

February 14, 2012

1:15 p.m. – 2:30 p.m.

306 HOB



- I. Call to Order/Roll Call
- II. Opening Remarks
- III. HB 13—Sovereignty Submerged Lands by Frishe
- IV. CS/HB 1117—Conservation of Wildlife by Harrison
- V. CS/HB 1021—Agriculture by Albritton
- VI. Closing Remarks/Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 13 Sovereignty Submerged Lands

SPONSOR(S): Frishe; Harrell

TIED BILLS: None **IDEN./SIM. BILLS:** SB 88

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	14 Y, 0 N	Smith	Blalock
2) Agriculture & Natural Resources Appropriations Subcommittee		Helping 	Massengale 
3) State Affairs Committee			

SUMMARY ANALYSIS

The Board of Trustees of the Internal Improvement Trust Fund is responsible for the administration and disposition of the state's sovereign submerged lands, including the authority to adopt regulations pertaining to anchoring, mooring, or otherwise attaching to the bottom and the establishment of anchorages. Waterfront landowners must receive the board's authorization to build docks and related structures on sovereign submerged lands. The Department of Environmental Protection (DEP) is required by law to perform all staff functions on behalf of the board.

The board has promulgated detailed rules regulating the design of docks and related structures, determining whether a lease is required, and setting the amount of fees a lessee must pay to the board. The DEP determines whether a lease is required for a person to build a dock or related structure on sovereign submerged lands based on a number of factors, including:

- Location within or outside of an aquatic preserve;
- Area of sovereign submerged land preempted;
- Number of wet slips or the number of boats the structure is designed to moor;
- Whether the dock is for a single-family residence or a multi-unit dwelling;
- Whether the dock generates revenue;
- Whether the dock is "private residential" or "commercial, industrial and other revenue generating/income related."

This bill provides lease requirements for private residential docks and related structures on sovereign submerged lands. Specifically, the bill:

- Extends the maximum term for an initial standard lease and for successive renewal to 10 years from the 5 years maximum currently provided by rule and requires inspection by the DEP at least once every 10 years instead of every 5 years.
- Requires standard lease contracts to disclose all applicable lease fees as established by the board.
- Exempts multi-family docks and structures that require a lease from paying a fee on minimal amounts of sovereignty submerged lands that are leased to reflect the same size-based exemption currently in place for single-family docks.
- Specifies that lessees whose upland property qualifies for a homestead exemption are not required to pay a lease fee on revenue derived from the transfer of fee simple or beneficial ownership.
- Specifies that the board and the DEP are not prohibited from imposing additional application fees, regulatory permitting fees, or other lease requirements as otherwise authorized by law.

On February 10, 2012, the Revenue Estimating Conference adopted an estimate that the additional lease exemptions will result in an annual recurring reduction in revenues of \$0.1 million to the General Revenue Fund and \$1 million to the Internal Improvement Trust Fund.

The bill also contains a recurring appropriation of \$1 million from the General Revenue Fund to the Internal Improvement Trust Fund beginning in Fiscal Year 2012-13.

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

STORAGE NAME: h0013b.ANRAS.DOCX

DATE: 2/7/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Introduction

Upon statehood, Florida gained title to all sovereign submerged lands¹ within its boundaries, to be held in trust for the public.² The Board of Trustees of the Internal Improvement Trust Fund is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of such lands.³ The Florida Constitution requires the sale of such lands to be authorized by law, but only when in the public interest, and private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.⁴ When disposing of sovereign submerged lands, the board is required to "ensure maximum benefit and use."⁵ The board has the authority to adopt regulations pertaining to anchoring, mooring, or otherwise attaching to the bottom and the establishment of anchorages on sovereign submerged lands.⁶

Florida recognizes "riparian rights" for landowners with waterfront property bordering on navigable waters.⁷ These rights include ingress, egress, boating, bathing, fishing, and others as defined by law.⁸ Riparian landowners must obtain the board's authorization for installation and maintenance of docks, piers, and boat ramps on sovereign submerged land.⁹ Under the board's rules, "dock" generally means a fixed or floating structure, including moorings and access walkways, used for the purpose of mooring and accessing vessels.¹⁰ Authorization may be in the form of consent by rule,¹¹ letter of consent,¹² or lease.¹³ All leases authorizing activities on sovereign submerged lands must include provisions for lease fee adjustments and annual payments.¹⁴

The bill creates s. 253.0347, F.S., relating to leases of sovereignty submerged lands for private residential single-family docks or piers, private residential multi-family docks or piers, and private residential multi-slip docks located in and outside of an aquatic preserve. For these types of leases, the bill affects (1) lease duration, (2) lease fee applicability and calculation, and (3) site inspection.

For ease of reading, "private residential single-family or multi-family dock" is used in this analysis to refer to private residential single-family docks or piers, private residential multi-family docks or piers, and private residential multi-slip docks.¹⁵

¹ In Florida, "submerged lands" are "publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state." Section 253.03(8)(b), F.S.

² *Broward v. Marbry*, 50 So. 826, 829-30 (Fla. 1909).

³ Section 253.03(1), F.S. (2010).

⁴ S. 11, Art. X of the State Constitution

⁵ Section 253.03(7)(a), F.S.

⁶ Section 253.03(7)(b), F.S.

⁷ Section 253.141(1), F.S. These rights are appurtenant to and inseparable from the riparian land; the rights inure to the property owner, but the rights are not proprietary in nature. *Id.*

⁸ Section 253.141(1), F.S.

⁹ 18-21.005(1)(d), F.A.C. (2010).

¹⁰ See 18-20.003(19), F.A.C.; 18-21.003(20), F.A.C.

¹¹ 18-21.005(1)(b), F.A.C.

¹² 18-21.005(1)(c), F.A.C.

¹³ 18-21.005(1)(d), F.A.C.

¹⁴ 18-21.008(1)(b)(2), F.A.C.

¹⁵ For definitions of these terms as used in the board's rules, see 18-20.003(44), F.A.C. ("private residential single-family dock"); 18-20.003(45) ("private residential multi-slip dock"), 18-21.003(47), F.A.C. ("private residential multi-family dock or pier"); 18-21.003(48), F.A.C. ("private residential single-family dock or pier").

Duration of Leases

Present Situation

Currently, the duration of a standard lease is 5 years.¹⁶ Extended term leases with durations up to 25 years are also available under limited circumstances if approved by the board.¹⁷ According to the Department of Environmental Protection (DEP), the vast majority of residential leases are standard leases with a duration of 5 years.

Effects of Proposed Bill

The bill establishes a 10-year maximum duration for initial sovereignty submerged land standard leases for private residential single-family or multi-family docks. Upon agreement of the parties and compliance with all applicable laws and rules, such leases may be renewed for successive terms of up to 10 years. The DEP does not anticipate granting leases of a duration shorter than 10 years.

Lease Fees and Calculation

Present Situation

The board has promulgated extensive and detailed rules regulating the design of docks and related structures. Multiple factors jointly determine which docks on sovereign submerged land require a lease, and subsequently when lease fees apply, including:

- Location within or outside of an aquatic preserve;¹⁸
- Area of sovereign submerged land preempted;¹⁹
- Number of wet slips or the number of boats the structure is designed to moor;
- Whether the dock is for a single-family residence or a multi-unit dwelling;
- Whether the dock generates revenue;
- Whether the dock is "private residential"²⁰ or "commercial, industrial and other revenue generating/income related."²¹

The following currently require a lease and lease fees:

- All revenue-generating docks.²²
- Outside of an aquatic preserve:
 - Single-family docks that preempt an area of more than 10 square feet for each foot of shoreline.

¹⁶ 18-21.008(1), F.A.C.

¹⁷ 18-21.008(2)(a), F.A.C. Extended term leases are available where the use of sovereignty submerged lands has an expected life or amortization period equal to or greater than the requested lease term and where the applicant demonstrates the following: that the facility or activity provides access to public waters and sovereignty submerged lands for the general public on a first-come, first-served basis; that the facility is constructed, operated, or maintained by the government, or funded by government secured bonds with a term greater than or equal to the requested lease term; or that an extended term is necessary to satisfy unique operational constraints. *Id.*

¹⁸ Aquatic preserves are areas specifically designated by the legislature as having exceptional biological, aesthetic, or scientific value. See s. 258.37, F.S. (2010).

¹⁹ Relevant area is determined by a ratio of the area of sovereign submerged land preempted by the dock to the total linear feet of shoreline a riparian landowner holds on the affected water body (i.e., sovereign submerged land area in square feet: feet of shoreline owned). See 18-21.008(4)(a), (b), F.A.C. However, the board may allow exceptions to regulation based on this ratio in certain circumstances when the dock is consistent with the public interest. See 18-21.008(4)(b), F.A.C.

²⁰ These generally include docks used for private, recreational or leisure purposes. See 18-20.003(44), (45), F.A.C.

²¹ "Commercial, industrial and other revenue generating/income related docks" means docking facilities for any activity which produces income, through rental or any other means, or which serves as an accessory facility to other rental, commercial or industrial operations. It includes, but is not limited to, docking for: marinas, restaurants, hotels, motels, commercial fishing, shipping, boat or ship construction, repair, and sales. 18-20.003(16), F.A.C.

²² 18-21.005(1)(d)(5), F.A.C.

- Multi-family docks that preempt an area of more than 10 square feet for each foot of shoreline and include more than two wet slips.
- Within an aquatic preserve, other than the Boca Ciega Bay or Pinellas County aquatic preserves:
 - Single-family docks that preempt an area of more than 10 square feet for each foot of shoreline.²³
 - Multi-slip²⁴ docks that include two or fewer wet slips and preempt an area of more than 10 square feet for each foot of shoreline.²⁵
 - Multi-slip docks that include three or more wet slips and exceed both the design criteria for single-family docks and preempt an area of more than 10 square feet for each foot of shoreline.²⁶
- Within the Boca Ciega Bay or Pinellas County aquatic preserves:²⁷
 - Single-family docks that preempt an area of more than 10 square feet for each foot of shoreline.²⁸
 - Multi-slip docks that preempt an area of more than 10 square feet for each foot of shoreline or include more than two wet slips.²⁹

Lease fees for both standard and extended term leases are calculated through a fee formula, with adjustments for applicable discounts, surcharges, and other payments.³⁰ The annual lease fee for a standard lease is based on either 6 percent of the annual income, the base fee, or the minimum annual fee, whichever is greatest.³¹ The base fee is approximately 15 cents per square foot per year.³² The minimum annual fee is approximately \$460, adjusted annually based on the Consumer Price Index.³³ Private residential multi-family docks that include 10 or more wet slips developed in conjunction with upland property may be subject to a one-time premium when a lease is initiated calculated at three times the base fee.³⁴ The extended term lease formula includes a multiplier for the number of years of the lease term.³⁵

Revenue derived from sale of the property is currently included as revenue for the purposes of calculating the annual lease fee.

Effects of Proposed Bill

The bill requires lease contracts for sovereignty submerged lands for private residential single-family or multi-family docks to disclose the lease fees as established by the board.

The bill also extends the same financial benefit that currently exists for private residential single-family docks—exclusion from lease fees for a preempted area of 10 square feet or less for each linear foot of shoreline—to private residential multi-family docks. This benefit is extended only to private residential

²³ 18-21.005(1)(c)(2), F.A.C.

²⁴ The term “private residential multi-slip dock” refers to docks and related structures for multi-unit residential dwellings in aquatic preserves, whereas the term “private residential multi-family dock” addresses similar structures outside of aquatic preserves. 18-20.003(45), F.A.C.; 18-21.003(48), F.A.C.

²⁵ 18-20.004(5)(c)(1), F.A.C.

²⁶ *Id.*

²⁷ Boca Ciega Bay and Pinellas County aquatic preserves are in highly developed and urban areas. As such, certain regulatory differences exist for the building and maintenance of docks and other structures in these aquatic preserves.

²⁸ See 18-21.005(1)(c)(2), F.A.C.; 18-21.005(1)(d)(1.), F.A.C.

²⁹ Whereas in most aquatic preserves multi-slip docks that preempt an area more than 10 square feet for each foot of shoreline are effectively prohibited, in the Boca Ciega Bay and Pinellas County aquatic preserves multi-slip docks may preempt an area of more than 10 square feet for each foot of shoreline and less than 30 square feet for each foot of shoreline, with a lease from the board. 18-20.019(7)(a), F.A.C.

³⁰ 18-21.011(1)(a), F.A.C.

³¹ *Id.*

³² 18-21.011(1)(b)(1), F.A.C.

³³ 18-21.011(1)(b)(4), F.A.C.

³⁴ 18-21.011(1)(c), F.A.C.

³⁵ 18-21.011(1)(a), F.A.C.

multi-family dwellings that include no more than one wet slip for each approved upland residential unit. As such, lessees of sovereign submerged land for private residential multi-family docks that include no more than one wet slip for each approved upland residential unit are not required to pay lease fees on a preempted area of 10 square feet or less for each linear foot of shoreline. However, those private residential multi-family docks that include no more than one wet slip for each approved upland residential unit but do preempt an area of more than 10 square feet for each linear foot of shoreline (exceeding the ratio under which private residential single-family docks receive the exemption from lease fees) are subject to lease fees only on the preempted area of sovereign submerged land that exceeds 10 square feet for each linear foot of shoreline.

In addition, the bill establishes that lessees whose upland property qualifies for a homestead exemption at the time of any transfer of fee simple or beneficial ownership of the property are not required to pay a lease fee on revenue derived from the transfer. Thus, the 6 percent of revenue from such a sale would be applicable to a lease fee only upon the first transfer from a non-resident developer or subsequent sale by a person who is not eligible for a homestead exemption under to s. 196.031, F.S.

The bill also codifies current board rules regarding income generated through leased sovereign submerged lands. A lessee of sovereignty submerged lands for a private residential single-family or multi-family dock must pay a lease fee on any income derived from a wet slip, dock, or pier, as determined by the board.

Lastly, the board and the DEP are not prohibited from imposing additional application fees, regulatory permitting fees, or other lease requirements as authorized by law.

Site Inspection

Present Situation

According to board rule, the DEP or water management district staff must inspect a leased site at least once every 5 years to determine compliance with the terms and conditions of the lease.³⁶

Effects of Proposed Bill

The bill provides by statute for the DEP to inspect sites under lease for private residential single-family or multi-family docks at least once every 10 years. Although the bill does not include authority for the water management districts to conduct inspections, currently they perform only regulatory reviews of lease applications and do not conduct proprietary reviews, including inspections.

Appropriation

The bill provides a recurring appropriation of \$1 million from the General Revenue Fund to the Internal Improvement Trust Fund beginning in Fiscal Year 2012-13.

B. SECTION DIRECTORY:

Section 1: Creates s. 253.0347, F.S., specifying the maximum initial terms for standard leases of sovereignty submerged lands for private residential single-family docks or piers, private residential multi-family docks or piers, and private residential multi-slip docks; requiring lease contracts to specify lease fees; adding an exemption for lease fees below a certain threshold for certain multi-family and multi-slip leases; eliminating lease fees on revenue generated through transfer of fee simple or beneficial ownership if property is entitled to a homestead exemption under to s. 196.031, F.S.; requiring the payment of lease fees upon income generated from sovereign submerged land leases; requiring inspections at least every 10 years.

³⁶ 18-21.008(1)(b)(4), F.A.C.

Section 2: Provides a recurring appropriation.

Section 2: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On February 10, 2012, the Revenue Estimating Conference adopted an estimate that the lease exemptions in this bill will result in an annual recurring reduction of \$0.1 million to the General Revenue Fund and \$1 million to the Department of Environmental Protection's Internal Improvement Trust Fund.

2. Expenditures:

The bill specifies for a recurring appropriation of \$1 million from the General Revenue Fund to the Internal Improvement Trust Fund beginning in Fiscal Year 2012-13.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the Department of Environmental Protection, this bill would result in a loss of \$37,868 in sales tax and \$6,311 in county discretionary tax.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would have an undetermined positive impact on the private sector, based on reduced lease fees under exemptions created.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to implicate the mandate provision in s. 18, Art. VII, of the State Constitution by reducing the authority of the local governments to collect certain sales tax and discretionary tax; however, the bill appears to meet the insignificant fiscal impact exemption in the constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill specifies that this new section of law does not prohibit the board or the DEP from imposing additional application fees, regulatory permitting fees, or other lease requirements as otherwise authorized by law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to sovereignty submerged lands;
 3 creating s. 253.0347, F.S.; providing for the lease of
 4 sovereignty submerged lands for private residential
 5 single-family docks and piers, private residential
 6 multifamily docks and piers, and private residential
 7 multislip docks; providing for the term of the lease
 8 and lease fees; providing for inspection of such
 9 docks, piers, and related structures by the Department
 10 of Environmental Protection; clarifying the authority
 11 of the Board of Trustees of the Internal Improvement
 12 Trust Fund and the department to impose additional
 13 fees and requirements; providing an appropriation;
 14 providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 253.0347, Florida Statutes, is created
 19 to read:

20 253.0347 Lease of sovereignty submerged lands for private
 21 residential docks and piers.-

22 (1) The maximum initial term of a standard lease of
 23 sovereignty submerged lands for a private residential single-
 24 family dock or pier, private residential multifamily dock or
 25 pier, or private residential multislip dock is 10 years. A lease
 26 is renewable for successive terms of up to 10 years if the
 27 parties agree and the lessee complies with all terms of the
 28 lease and all applicable laws and rules.

29 (2) (a) A standard lease contract for sovereignty submerged
 30 lands for a private residential single-family dock or pier,
 31 private residential multifamily dock or pier, or private
 32 residential multislip dock must specify the amount of lease fees
 33 as established by the Board of Trustees of the Internal
 34 Improvement Trust Fund.

35 (b) If private residential multifamily docks or piers,
 36 private residential multislip docks, and other private
 37 residential structures pertaining to the same upland parcel
 38 include a total of no more than one wet slip for each approved
 39 upland residential unit, the lessee is not required to pay a
 40 lease fee on a preempted area of 10 square feet or less of
 41 sovereignty submerged lands for each linear foot of shoreline in
 42 which the lessee has a sufficient upland interest as determined
 43 by the Board of Trustees of the Internal Improvement Trust Fund.

44 (c) A lessee of sovereignty submerged lands for a private
 45 residential single-family dock or pier, private residential
 46 multifamily dock or pier, or private residential multislip dock
 47 is not required to pay a lease fee on revenue derived from the
 48 transfer of fee simple or beneficial ownership of private
 49 residential property that is entitled to a homestead exemption
 50 pursuant to s. 196.031 at the time of transfer.

51 (d) A lessee of sovereignty submerged lands for a private
 52 residential single-family dock or pier, private residential
 53 multifamily dock or pier, or private residential multislip dock
 54 must pay a lease fee on any income derived from a wet slip,
 55 dock, or pier in the preempted area under lease in an amount

56 determined by the Board of Trustees of the Internal Improvement
 57 Trust Fund.

58 (3) The Department of Environmental Protection shall
 59 inspect each private residential single-family dock or pier,
 60 private residential multifamily dock or pier, private
 61 residential multislip dock, or other private residential
 62 structure under lease at least once every 10 years to determine
 63 compliance with the terms and conditions of the lease.

64 (4) This section does not prohibit the Board of Trustees
 65 of the Internal Improvement Trust Fund or the Department of
 66 Environmental Protection from imposing additional application
 67 fees, regulatory permitting fees, or other lease requirements as
 68 otherwise authorized by law.

69 Section 2. Beginning with the 2012-2013 fiscal year, the
 70 sum of \$1 million in recurring funds is appropriated from the
 71 General Revenue Fund to the Internal Improvement Trust Fund for
 72 purposes of administration, management, and disposition of
 73 sovereignty submerged lands.


74 Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1117 Conservation of Wildlife

SPONSOR(S): Agriculture & Natural Resources Subcommittee, Harrison

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1456

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

SUMMARY ANALYSIS

Current law specifies that the Board of Trustees of the Internal Improvement Trust Fund (BOT) is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state. Current law also specifies that state-owned lands must be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. Where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the BOT, public land not designated for single-use purposes should be managed for multiple-use purposes. All multiple-use land management strategies must address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands.

The bill specifies that a zoo or aquarium that is accredited by the Association of Zoos and Aquariums (AZA) and operating a facility in the state can apply to the BOT or to the governing board of a water management district (WMD) for authorization to use state lands for the purpose of conducting enhanced research in husbandry, reproductive biology, endocrinology, nutrition, genetics, behavior, health, and ecology of selected population of ungulates and avian species. The application must provide certain criteria. The BOT or the governing board of the WMD is authorized to approve the application if the BOT or governing board determines that the proposed project is in the best interest of the state by considering the following:

- Whether the project is consistent with the state's goals for the lands that will be used for the project, as described in the approved land management plan for those lands, and will not cause harm to the land or the surrounding land.
- Whether the project, through alliances and relationships with organizations, universities, federal and state agencies, or other members of the AZA, or otherwise, will have a positive economic impact on the state or the communities surrounding the project location.

The bill directs the Florida Fish and Wildlife Conservation Commission (FWCC) to provide technical assistance to the BOT or to the governing board of a WMD in reviewing each application.

The bill's impact on state revenues and expenditures is indeterminate. The impact on state revenues will depend on the response of aquariums and zoos applying to use state lands and the negotiated terms of the leases. The FWCC may experience an increased workload in assisting with the review of project applications, as well as monitoring sites for compliance with laws. The bill appears to have no fiscal impact on local government.

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

STORAGE NAME: h1117b.ANRAS.DOCX

DATE: 2/2/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Board of Trustees of the Internal Improvement Trust Fund (BOT)

At statehood on March 3, 1845, Florida received 500,000 acres of land from the federal government for the benefit of internal improvements. Through the Swamp and Overflowed Lands Act of 1850, the state received an additional 20 million acres of land. In 1855, the Board of Trustees of the Internal Improvement Trust Fund (BOT) was created as an agency of the Florida government to hold these lands. The federal government also made other land grants to the state for varied purposes such as educational facilities, and the seat of government. In 1967, the Florida Legislature vested the BOT with most of the lands owned by the various agencies, boards, and commissions of the state and made the BOT responsible for all state lands, with but few exceptions. These lands are held in trust for the use and benefit of the people of the State of Florida.

The BOT consists of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The BOT is recognized in the State Constitution, and its powers and duties are provided by statute as the acquisition, administration, management, control, supervision, conservation, protection, and disposition of the state-owned lands under its control. The Department of Environmental Protection, through its Division of State Lands, performs all staff duties and functions related to the acquisition, administration, and disposition of state-owned lands to which title is vested in the BOT, with exceptions for certain activities of the water management districts and the Department of Agriculture and Consumer Services.

The BOT administers one of the largest conservation and recreation land buying programs in the nation, with more than 3.3 million acres of conservation and non-conservation uplands. These include state parks, forests, wildlife management areas, historic sites, public universities, and state facilities. The Board of Trustees oversees its conservation lands as a trust on behalf of the citizens of Florida for the protection of the state's natural resources and scenic beauty.

The BOT also administers the state's sovereignty lands, those water bodies within the state's territorial limits that were navigable at the date of statehood. These include coastal shores below mean high water, and navigable fresh waters such as rivers and lakes below ordinary high water. The public status of these lands is protected by the Public Trust Doctrine as codified in Article X, Section 11 of the Florida Constitution.¹

Section 253.02, F.S., specifies that the BOT cannot sell, transfer, or otherwise dispose of any lands the title to which is vested in the BOT except by vote of at least three of the four trustees.

Section 253.03, F.S., specifies that the BOT is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state. These lands specifically include:

- All swamp and overflowed lands held by the state or which may hereafter inure to the state;
- All lands owned by the state by right of its sovereignty;
- All internal improvement lands proper;
- All tidal lands;
- All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;

¹ Cabinet Affairs website, <http://cabinet.myflorida.com/cabprocess.html>

- All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way; and
- All lands which have accrued, or which may hereafter accrue, to the state from any source whatsoever, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way, spoil areas, or borrow pits or any land, the title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act.

The BOT is authorized and directed to administer all state-owned lands and is responsible for the creation of an overall and comprehensive plan of development concerning the acquisition, management, and disposition of state-owned lands so as to ensure maximum benefit and use.

State owned lands and uses

Section 253.034(1), F.S., specifies that all lands acquired must be managed to serve the public interest by protecting and conserving land, air, water, and the state's natural resources, which contribute to the public health, welfare, and economy of the state. These lands must also be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The statute further states that it is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the BOT, public land not designated for single-use purposes be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands.

Section 253.034(5), F.S., specifies that a manager of state conservation lands must submit to the Division of State Lands a land management plan every 10 years. Whenever the manager of conservation lands intends to make substantive land use or management changes that were not addressed in the approved plan, the land manager must update the land management plan.

Section 253.034(10), F.S., provides additional uses of conservation lands to include water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. When the lands are used for these purposes, they must meet the following conditions:

- The use must not be inconsistent with the management plan for the lands;
- The use must be compatible with the natural ecosystem and resource values of such lands;
- The proposed use must be appropriately located on such lands where due consideration is given to the use of other available lands;
- The using entity must reasonably compensate the titleholder for the use based on an appropriate measure of value; and
- The use must be consistent with the public interest.

Association of Zoos & Aquariums

The Association of Zoos & Aquariums (AZA) was founded in 1924 and is dedicated to the advancement of zoos and aquariums in the areas of conservation, education, science, and recreation. Zoos and aquariums can apply to be accredited by the AZA. The AZA selects Accreditation Commission members who are experts in their fields to evaluate the zoo or aquarium. The zoo or aquarium must meet the AZA's standards for animal management and care, including living environments, social groupings, health, and nutrition. The Accreditation Commission also evaluates the veterinary program, involvement in conservation and research, education programs, safety policies and procedures, security, physical facilities, guest services, and the quality of the institution's staff. The application takes months to complete and 6 months to study and evaluate. Zoos and aquariums that are

accredited must keep up with evolving standards and must go through the accreditation process every 5 years. Currently, there are 16 zoos and aquariums in Florida that are accredited by the AZA.

Effect of Proposed Changes

The bill specifies that a zoo or aquarium that is accredited by the AZA and operating a facility in the state can apply to the BOT for authorization to use state lands, or to the governing board of a water management district (WMD), for authorization to use lands of the WMD, for the purpose of conducting enhanced research in husbandry, reproductive biology, endocrinology, nutrition, genetics, behavior, health, and ecology of selected populations of ungulates² and avian species.

The application must provide the following:

- Information relating to the principals and sponsors of the project.
- A description of the funding and sources of funding that will be used to support the project.
- The size, proximate location, and type of land sought.
- A detailed description of the proposed project, including a description of the research to be conducted and the animals that will be used in the research. Projects that involve mammalian species that are carnivores or primates are prohibited.
- A description of the infrastructure necessary to conduct the research project, including buildings, utilities, roadways, and containment facilities.
- A description of a plan to ensure timely recovery of animals that have escaped because of natural disasters or other unforeseen events.

The BOT or the governing board of the WMD is authorized to approve the application if the BOT or governing board determines that the proposed project is in the best interest of the state by considering the following:

- Whether the project is consistent with the state's goals for the lands that will be used for the project, as described in the approved land management plan for those lands, and will not cause harm to the land or the surrounding land.
- Whether the project, through alliances and relationships with organizations, universities, federal and state agencies, or other members of the AZA, or otherwise, will have a positive economic impact on the state or the communities surrounding the project location.

The bill directs the Fish and Wildlife Conservation Commission (FWCC) to provide technical assistance to the BOT or to the governing board of a WMD in reviewing each application.

B. SECTION DIRECTORY:

Section 1. Provides for certain zoos and aquariums to apply to the BOT, or to the governing board of a WMD, for authorization to use state lands for the purpose of conducting enhanced research; providing application requirements; providing criteria that the board or the governing board of a WMD, must consider in reviewing the application; requiring the FWCC to assist the board, or the governing board of a WMD.

Section 2. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

² Ungulates are defined as hoofed animals. Commonly known examples of ungulates include: horses, zebras, donkeys, cattle/bison, rhinoceroses, camels, hippos, tapirs, goats, pigs, sheep, giraffes, okapis, moose, elk, deer, antelopes, and gazelles.

The bill's impact on state revenues is indeterminate. The impact will depend on the response of aquariums and zoos applying to use state lands and the negotiated terms of the leases.

2. Expenditures:

The bill's impact on state expenditures is indeterminate. The FWCC may experience an increased workload in assisting with the review of project applications, as well as monitoring sites for compliance with laws, but may perform these responsibilities within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 31, 2012, the Agriculture & Natural Resources Subcommittee amended and passed HB 1117 as a committee substitute (CS). The CS provides that a zoo or aquarium can apply to the BOT or a governing board of a WMD for the purpose of conducting enhanced research in husbandry, reproductive biology, endocrinology, nutrition, genetics, behavior, health, and ecology of selected populations of ungulates and avian species. The CS provides that the application must provide a description of a plan to ensure timely recovery of escaped animals resulting from natural disasters or other unforeseen events. The CS provides that the BOT or the governing board of a WMD may approve the application. Lastly, the CS provides that the FWCC must provide technical support to the BOT or to the governing board of a WMD.

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1 A bill to be entitled
 2 An act relating to conservation of wildlife;
 3 authorizing certain zoos and aquariums to apply to the
 4 Board of Trustees of the Internal Improvement Trust
 5 Fund or the governing board of a water management
 6 district to use state lands or water management
 7 district lands for specified purposes; providing
 8 application requirements; providing criteria for the
 9 approval of such uses; requiring the Fish and Wildlife
 10 Conservation Commission to provide technical
 11 assistance in reviewing such applications; providing
 12 an effective date.

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

16 Section 1. (1) A zoo or aquarium having current
 17 accreditation with the Association of Zoos and Aquariums and
 18 operating a facility in the state may apply to the Board of
 19 Trustees of the Internal Improvement Trust Fund for
 20 authorization to use state lands, or to the governing board of a
 21 water management district for authorization to use district
 22 lands, for the purpose of conducting enhanced research in
 23 husbandry, reproductive biology, endocrinology, nutrition,
 24 genetics, behavior, health, and ecology of selected populations
 25 of ungulate and avian species.

26 (2) The application must:

27 (a) Provide information relating to the principals and
 28 sponsors of the project.

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29 (b) Provide a description of the funding and sources of
 30 funding that will be used to support the project.

31 (c) Identify the size, proximate location, and type of
 32 land sought.

33 (d) Provide a detailed description of the proposed
 34 project, including a description of the research to be conducted
 35 and the animals that will be used in the research. A project
 36 involving mammalian species that are carnivores or primates is
 37 prohibited.

38 (e) Provide a description of the infrastructure necessary
 39 to conduct the research project, including buildings, utilities,
 40 roadways, and containment facilities.

41 (f) Provide a description of a plan to ensure timely
 42 recovery of animals that have escaped due to natural disasters
 43 or other unforeseen events.

44 (3) The Board of Trustees of the Internal Improvement
 45 Trust Fund or the governing board of the water management
 46 district may approve the application if it determines that the
 47 proposed project is in the best interest of the state. In making
 48 its determination, the board of trustees or governing board
 49 shall consider:

50 (a) Whether the project is consistent with the state's
 51 goals for the lands that will be used for the project, as
 52 described in the approved land management plan for those lands,
 53 and will not cause harm to the land or the surrounding land.

54 (b) Whether the project, through alliances and
 55 relationships with organizations, universities, federal and
 56 state agencies, or other members of the Association of Zoos and

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

57 Aquariums, or otherwise, will have a positive economic impact on
 58 the state and the communities surrounding the project location.

59 (4) The Fish and Wildlife Conservation Commission shall
 60 provide technical assistance to the Board of Trustees of the
 61 Internal Improvement Trust Fund or to the governing board of the
 62 water management district in reviewing each application.

63 Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1021 Agriculture
SPONSOR(S): Criminal Justice Subcommittee; Albritton
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1184

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 2 N	Kaiser	Blalock
2) Criminal Justice Subcommittee	14 Y, 0 N, As CS	Cunningham	Cunningham
3) Agriculture & Natural Resources Appropriations Subcommittee		Lolley 	Massengale 
4) State Affairs Committee			

SUMMARY ANALYSIS

This bill addresses several issues relating to agriculture in the state.

- Current law prohibits a county from charging an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural, under certain circumstances. Current law also permits any county that, before March 1, 2009, had adopted certain ordinances or resolutions, to continue to charge an assessment or fee for stormwater management on a bona fide farm operation on agricultural land, under certain circumstances. The bill replaces the word “county” with “governmental entity” in the provisions described above to expand the types of governmental entities for which the above provisions apply.
- Current law provides that a person who uses motor fuel for agricultural or aquacultural purposes in farm equipment that has not been driven or operated upon the public highways of the state is entitled to a refund of state taxes imposed on the motor fuel. The public highway use restriction does not apply to the movement of a farm vehicle or farm equipment between farms. The bill adds citrus harvesting equipment and citrus fruit loaders to the types of equipment that can move between farms on public highways in the State and not violate the public highway use restriction for the purpose of qualifying for the motor fuel tax refund described above. The bill also amends the Florida Uniform Traffic Control Law to include citrus harvesting equipment and citrus fruit loaders, not exceeding 50 feet in length, to the list of machinery that are authorized to transport certain perishable farm products, and includes citrus in the list of perishable farm products specified in statute that are authorized to be transported by such machinery.
- The bill revises the powers and duties of the Department of Agriculture and Consumer Services to include enforcing the state laws and rules relating to the use of commercial feed stocks. In addition, the bill requires the department to adopt rules establishing standards for the sale, use, and distribution of commercial feed or feedstuff to ensure usage that is consistent with animal health, safety, and welfare and, to the extent that meat, poultry, and other animal products may be affected by commercial feed or feedstuff, with the safety of these products for human consumption. If adopted, such standards must be developed in consultation with the Commercial Feed Technical Council.

The bill does not appear to have a fiscal impact on state government. On January 20, 2012, the Revenue Estimating Conference adopted an estimate that the bill would have a significant annualized fiscal impact on cities and special districts by exempting certain farm operations from local stormwater management fees or assessments—from \$54.3 million for Fiscal Year 2012-13 to \$68.5 million for Fiscal Year 2015-16.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Stormwater Management Assessments

In 2011, the Legislature overrode the veto of CS/HB 7103, which passed the House and Senate during the 2010 Legislative Session. CS/HB 7103, in part, amended s. 163.3162(3)(b), F.S., to specify that a county cannot charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural if the farm operation has a National Pollutant Discharge Elimination System (NPDES) permit, environmental resources permit (ERP) or works-of-the-district permit, or implements best management practices (BMPs).¹

In addition, CS/HB 7103 amended s. 163.3162(3)(c), F.S., to specify that each county that, before March 1, 2009, adopted a stormwater utility ordinance or resolution, adopted an ordinance or resolution establishing a municipal services benefit unit, or adopted a resolution stating the county's intent to use the uniform method of collection for such stormwater ordinances, can continue to charge an assessment or fee for stormwater management on a bona fide farm operation on agricultural land, if the ordinance or resolution provides credits against the assessment or fee on a bona fide farm operation for the water quality or flood control benefit of:

- The implementation of BMPs;²
- The stormwater quality and quantity measures required as part of the NPDES permit, ERP, or works-of-the-district permit; or
- The implementation of BMPs or alternative measures, which the landowner demonstrates to the county to be of equivalent or greater stormwater benefit than the BMPs adopted by the Department of Environmental Protection, Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program, or stormwater quality and quantity measures required as part of an NPDES permit, ERP, or works-of-the-district permit.

Since the veto override of CS/HB 7103, the City of Palm Coast has adopted and implemented a stormwater fee that affects thousands of acres of timber and agricultural lands. However, since the stormwater management assessment provisions described above currently only apply to counties, they do not currently apply to the City of Palm Coast.

Effect of Proposed Changes

The bill creates s. 163.3162(2)(d), F.S., to define the term "governmental entity" as "having the same meaning as provided in s. 164.1031, F.S.,"³ and amends ss. 163.3162(3)(b) and 163.3162(3)(c), F.S., by replacing the word "county" with the words "governmental entity" in the provisions of those sections described above. This has the effect of expanding the types of entities that are prohibited from charging an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural if the farm operation has an NPDES permit, ERP, or works-of-the-district permit or implements best management practices (BMPs), and that can continue, if certain requirements are met, to charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural.

Motor Fuel Tax Refund

¹ The BMPs must have been adopted as rules under Chapter 120, F.S., by the Department of Environmental Protection, the Department of Agriculture and Consumer Services or a water management district as part of a statewide or regional program.

² *Id.*

³ Governmental entity is defined in s. 164.1031, F.S., to include local and regional governmental entities. "Local governmental entities" includes municipalities, counties, school boards, special districts, and other local entities within the jurisdiction of one county created by general or special law or local ordinance. "Regional governmental entities" includes regional planning councils, metropolitan planning organizations, water supply authorities that include more than one county, local health councils, water management districts, and other regional entities that are authorized and created by general or special law that have duties or responsibilities extending beyond the jurisdiction of a single county.

Section 206.41(4)(c), F.S., specifies that a person who uses motor fuel for agricultural, aquacultural, commercial fishing, or commercial aviation purposes that has paid the local option fuel tax, an additional tax designated as the "State Comprehensive Enhanced Transportation System Tax," or fuel sales tax, is entitled to a refund of such tax. For the purpose of establishing what activities qualify for the tax refund, "agricultural and aquacultural purposes" means "motor fuel used in any tractor, vehicle, or other farm equipment that is used exclusively on a farm or for processing farm products on the farm, and no part of which fuel is used in any vehicle or equipment driven or operated upon the public highways of this state." This restriction from being driven or operated upon the public highways of the state does not apply to the movement of a farm vehicle or farm equipment between farms.

Effect of Proposed Changes

The bill amends s. 206.41(4)(c), F.S., to add citrus harvesting equipment and citrus fruit loaders to the types of equipment that can move between farms on public highways in the State and not violate the public highway use restriction for the purpose of qualifying for the motor fuel tax refund described above.

Transporting Farm Products

Chapter 316, F.S., establishes the Florida Uniform Traffic Control Law. Section 316.515(5)(a), F.S., specifies that, notwithstanding any other provisions of law, certain agricultural equipment such as straight trucks, agricultural tractors, and cotton module movers, not exceeding 50 feet in length, or any combination of up to and including three implements of husbandry, including the towing power unit, and any single agricultural trailer with a load thereon or any agricultural implements attached to a towing power unit, or a self-propelled agricultural implement or an agricultural tractor, is authorized to transport peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage, and for the purpose of returning to such point of production, or for the purpose of moving such tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler, if such vehicle or combination of vehicles otherwise complies with this section of law.

Effect of Proposed Changes

The bill amends s. 316.515(5)(a), F.S., to include citrus harvesting equipment and citrus fruit loaders, not exceeding 50 feet in length, to the list of machinery that are authorized to transport certain perishable farm products, and includes citrus in the list of perishable farm products specified in statute that are authorized to be transported by specified equipment.

DACS—Rulemaking Authority

The Department of Agriculture and Consumer Services has the authority under s. 570.07, F.S., to enforce the laws and rules of the state relating to the registration, labeling, inspection, sale, composition, formulation, wholesale and retail distribution, and analysis of commercial stock feeds.

Chapter 580, F.S., provides for the regulation of commercial feed and feedstuff. Section 580.036, F.S., authorizes the department to adopt rules pursuant to chapter 120, F.S., to enforce the provisions of chapter 580, F.S., and specifies that such rules must be consistent with the rules and standards of the United States Food and Drug Administration and United States Department of Agriculture, when applicable. Such rules must include:

- Establishing definitions and reasonable standards for commercial feed or feedstuff and permissible tolerances for pesticide chemicals, chemical additives, non-nutritive ingredients, or drugs in or on commercial feed or feedstuff in such amounts as will ensure the safety of livestock and poultry and their products, which are used for human consumption.
- Adopting standards for the manufacture and distribution of medicated feedstuff.
- Establishing definitions and reasonable standards for the certification of laboratories for the conduct of testing and analyses as required by Florida law.
- Establishing product labeling requirements for distributors.
- Limiting the use of drugs in commercial feed and prescribe feeding directions to be used to ensure safe usage of medicated feed.

- Establishing standards for evaluating quality-assurance/quality-control plans, including testing protocols, for exemptions to certified laboratory testing requirements.

Effect of Proposed Changes

The bill amends s. 570.07, F.S., authorizing the department to enforce laws and rules of the state relating to the use of commercial feed and feedstuff.

The bill also amends s. 580.036, F.S., requiring the department to adopt rules establishing standards for the sale, use, and distribution of commercial feed or feedstuff to ensure usage that is consistent with animal health, safety, and welfare and, to the extent that meat, poultry, and other animal products may be affected by commercial feed or feedstuff, with the safety of these products for human consumption. These standards, if adopted, must be developed in consultation with the Commercial Feed Technical Council.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3162, F.S., relating to agricultural lands and practices.

Section 2: Amends s. 206.41, F.S., relating to state taxes imposed on motor fuel.

Section 3: Amends s. 316.515, F.S., relating to maximum width, height, length.

Section 4: Amends s. 570.07, F.S., relating to Department of Agriculture and Consumer Services; functions, powers, and duties.

Section 5: Amends s. 580.036, F.S., relating to powers and duties.

Section 6: Providing an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On January 20, 2012, the Revenue Estimating Conference adopted an estimate of the fiscal impact as a result of amending s. 163.3162, F.S., replacing the word "county" with "governmental entity."

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
Cities	(\$0.9 million)	(\$1 million)	(\$1 million)	(\$1.1 million)
Special Districts	(\$53.4 million)	(\$57.7 million)	(\$62.3 million)	(\$67.4 million)
Total	(\$54.3 million)	(\$58.7 million)	(\$63.3 million)	(\$68.5 million)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides relief to agricultural producers who are being assessed with stormwater management fees by certain governmental entities.

D. FISCAL COMMENTS:

The Department of Revenue has determined that pursuant to s. 206.41(4), F.S., citrus harvesting equipment and citrus fruit loaders fall under the existing definition of farm equipment and already qualify for the motor fuel tax refund.

The Department of Transportation expects no fiscal impact as a result of including citrus harvesting equipment and citrus fruit loaders, not exceeding 50 feet in length, as authorized to transport citrus or other perishable farm products.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Section 18(b), Art. VII of the State Constitution may apply because the bill may reduce the authority that counties and cities have to raise revenues in the aggregate, as such authority existed on February 1, 1989. The bill prohibits a county or city from imposing an assessment or fee for stormwater management on certain lands. The terms of the mandates provision of the constitution specifically apply to legislation affecting counties and municipalities. It is not clear whether this provision applies to legislation affecting dependent special districts—those whose millage rates are included in the county's millage cap and that are subject to greater direct control by the county.

Section 18(d), Art. VII of the State Constitution, provides an exemption for laws that have an insignificant fiscal impact. The Revenue Estimating Conference has interpreted "insignificant fiscal impact," in the context of s. 18(d), Art. VII, to mean an amount not greater than the average statewide population for the applicable fiscal year times 10 cents, or \$1.9 million. Although the revenue loss to cities is estimated to be \$.9 million for Fiscal Year 2012-13 up to \$1.1 million for Fiscal Year 2015-16, the amount of revenue loss for dependent special districts is unknown.

If the bill has a significant fiscal impact, a two-thirds vote of the membership of each house may be necessary to have the legislation binding on municipalities and dependent special districts if the bill reduces the authority that counties and cities have to raise revenues in the aggregate, as such authority existed on February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2012, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed section 6 of the bill, which made it a first degree misdemeanor for a person to knowingly enter upon any nonpublic area of a farm and, without prior written consent of the farm's owner or the owner's authorized representative, operate the audio or video recording function of any device with the intent of recording sounds or images of the farm or farm operation.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

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Section 1. Paragraph (d) is added to subsection (2) of section 163.3162, Florida Statutes, and paragraphs (b), (c), and (i) of subsection (3) of that section are amended to read:

163.3162 Agricultural Lands and Practices.—

(2) DEFINITIONS.—As used in this section, the term:

(d) "Governmental entity" has the same meaning as provided in s. 164.1031.

(3) DUPLICATION OF REGULATION.—Except as otherwise provided in this section and s. 487.051(2), and notwithstanding any other law, including any provision of chapter 125 or this chapter:

(b) A governmental entity ~~county~~ may not charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if the farm operation has a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit or implements best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program.

(c) For each governmental entity ~~county~~ that, before March 1, 2009, adopted a stormwater utility ordinance or resolution, adopted an ordinance or resolution establishing a municipal services benefit unit, or adopted a resolution stating the governmental entity's ~~county's~~ intent to use the uniform method of collection pursuant to s. 197.3632 for such stormwater

57 | ordinances, the governmental entity ~~county~~ may continue to
 58 | charge an assessment or fee for stormwater management on a bona
 59 | fide farm operation on land classified as agricultural pursuant
 60 | to s. 193.461, if the ordinance or resolution provides credits
 61 | against the assessment or fee on a bona fide farm operation for
 62 | the water quality or flood control benefit of:

63 | 1. The implementation of best management practices adopted
 64 | as rules under chapter 120 by the Department of Environmental
 65 | Protection, the Department of Agriculture and Consumer Services,
 66 | or a water management district as part of a statewide or
 67 | regional program;

68 | 2. The stormwater quality and quantity measures required
 69 | as part of a National Pollutant Discharge Elimination System
 70 | permit, environmental resource permit, or works-of-the-district
 71 | permit; or

72 | 3. The implementation of best management practices or
 73 | alternative measures which the landowner demonstrates to the
 74 | governmental entity ~~county~~ to be of equivalent or greater
 75 | stormwater benefit than those provided by implementation of best
 76 | management practices adopted as rules under chapter 120 by the
 77 | Department of Environmental Protection, the Department of
 78 | Agriculture and Consumer Services, or a water management
 79 | district as part of a statewide or regional program, or
 80 | stormwater quality and quantity measures required as part of a
 81 | National Pollutant Discharge Elimination System permit,
 82 | environmental resource permit, or works-of-the-district permit.

83 | (i) The provisions of this subsection that limit a
 84 | governmental entity's ~~county's~~ authority to adopt or enforce any

85 ordinance, regulation, rule, or policy, or to charge any
 86 assessment or fee for stormwater management, apply only to a
 87 bona fide farm operation as described in this subsection.

88 Section 2. Paragraph (c) of subsection (4) of section
 89 206.41, Florida Statutes, is amended to read:

90 206.41 State taxes imposed on motor fuel.—

91 (4)

92 (c)1. Any person who uses any motor fuel for agricultural,
 93 aquacultural, commercial fishing, or commercial aviation
 94 purposes on which fuel the tax imposed by paragraph (1) (e),
 95 paragraph (1) (f), or paragraph (1) (g) has been paid is entitled
 96 to a refund of such tax.

97 2. For the purposes of this paragraph, "agricultural and
 98 aquacultural purposes" means motor fuel used in any tractor,
 99 vehicle, or other farm equipment which is used exclusively on a
 100 farm or for processing farm products on the farm, and no part of
 101 which fuel is used in any vehicle or equipment driven or
 102 operated upon the public highways of this state. This
 103 restriction does not apply to the movement of a farm vehicle, ~~or~~
 104 farm equipment, citrus harvesting equipment, or citrus fruit
 105 loaders between farms. The transporting of bees by water and the
 106 operating of equipment used in the apiary of a beekeeper shall
 107 be also deemed an agricultural purpose.

108 3. For the purposes of this paragraph, "commercial fishing
 109 and aquacultural purposes" means motor fuel used in the
 110 operation of boats, vessels, or equipment used exclusively for
 111 the taking of fish, crayfish, oysters, shrimp, or sponges from
 112 salt or fresh waters under the jurisdiction of the state for

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113 resale to the public, and no part of which fuel is used in any
 114 vehicle or equipment driven or operated upon the highways of
 115 this state; however, the term may in no way be construed to
 116 include fuel used for sport or pleasure fishing.

117 4. For the purposes of this paragraph, "commercial
 118 aviation purposes" means motor fuel used in the operation of
 119 aviation ground support vehicles or equipment, no part of which
 120 fuel is used in any vehicle or equipment driven or operated upon
 121 the public highways of this state.

122 Section 3. Paragraph (a) of subsection (5) of section
 123 316.515, Florida Statutes, is amended to read:

124 316.515 Maximum width, height, length.—

125 (5) IMPLEMENTS OF HUSBANDRY AND FARM EQUIPMENT;
 126 AGRICULTURAL TRAILERS; FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.—

127 (a) Notwithstanding any other provisions of law, straight
 128 trucks, agricultural tractors, citrus harvesting equipment,
 129 citrus fruit loaders, and cotton module movers, not exceeding 50
 130 feet in length, or any combination of up to and including three
 131 implements of husbandry, including the towing power unit, and
 132 any single agricultural trailer with a load thereon or any
 133 agricultural implements attached to a towing power unit, or a
 134 self-propelled agricultural implement or an agricultural
 135 tractor, is authorized for the purpose of transporting peanuts,
 136 grains, soybeans, citrus, cotton, hay, straw, or other
 137 perishable farm products from their point of production to the
 138 first point of change of custody or of long-term storage, and
 139 for the purpose of returning to such point of production, or for
 140 the purpose of moving such tractors, movers, and implements from

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141 one point of agricultural production to another, by a person
 142 engaged in the production of any such product or custom hauler,
 143 if such vehicle or combination of vehicles otherwise complies
 144 with this section. The Department of Transportation may issue
 145 overlength permits for cotton module movers greater than 50 feet
 146 but not more than 55 feet in overall length. Such vehicles shall
 147 be operated in accordance with all safety requirements
 148 prescribed by law and rules of the Department of Transportation.

149 Section 4. Paragraph (c) of subsection (16) of section
 150 570.07, Florida Statutes, is amended to read:

151 570.07 Department of Agriculture and Consumer Services;
 152 functions, powers, and duties.—The department shall have and
 153 exercise the following functions, powers, and duties:

154 (16) To enforce the state laws and rules relating to:

155 (c) Registration, labeling, inspection, sale, use,
 156 composition, formulation, wholesale and retail distribution, and
 157 analysis of commercial stock feeds and registration, labeling,
 158 inspection, and analysis of commercial fertilizers;

159
 160 In order to ensure uniform health and safety standards, the
 161 adoption of standards and fines in the subject areas of
 162 paragraphs (a)-(n) is expressly preempted to the state and the
 163 department. Any local government enforcing the subject areas of
 164 paragraphs (a)-(n) must use the standards and fines set forth in
 165 the pertinent statutes or any rules adopted by the department
 166 pursuant to those statutes.

167 Section 5. Paragraph (g) is added to subsection (2) of
 168 section 580.036, Florida Statutes, to read:

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169 | 580.036 Powers and duties.—

170 | (2) The department is authorized to adopt rules pursuant
 171 | to ss. 120.536(1) and 120.54 to enforce the provisions of this
 172 | chapter. These rules shall be consistent with the rules and
 173 | standards of the United States Food and Drug Administration and
 174 | the United States Department of Agriculture, when applicable,
 175 | and shall include:

176 | (g) Establishing standards for the sale, use, and
 177 | distribution of commercial feed or feedstuff to ensure usage
 178 | that is consistent with animal health, safety, and welfare and,
 179 | to the extent that meat, poultry, and other animal products may
 180 | be affected by commercial feed or feedstuff, with the safety of
 181 | these products for human consumption. Such standards, if
 182 | adopted, must be developed in consultation with the Commercial
 183 | Feed Technical Council created under s. 580.151.

184 | Section 6. This act shall take effect July 1, 2012.