



---

# **State Affairs Committee**

## **MEETING PACKET**

**Wednesday, January 25, 2012**

**2:00 PM**

**Morris Hall (17 HOB)**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### State Affairs Committee

**Start Date and Time:** Wednesday, January 25, 2012 02:00 pm  
**End Date and Time:** Wednesday, January 25, 2012 04:00 pm  
**Location:** Morris Hall (17 HOB)  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

CS/HB 373 Environmental Permits by Agriculture & Natural Resources Subcommittee, Glorioso  
CS/CS/HB 449 Public Fairs and Expositions by Community & Military Affairs Subcommittee, Agriculture & Natural Resources Subcommittee, Steube  
CS/HB 463 Concealed Weapons or Firearms by Agriculture & Natural Resources Subcommittee, Kreegel, Brandes  
HB 539 Pub. Rec./Florida Historic Capitol and Legislative Research Center and Museum by Frishe  
HB 577 City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County by Young, Cruz  
CS/HB 7021 Department of Agriculture and Consumer Services by Agriculture & Natural Resources Appropriations Subcommittee, Agriculture & Natural Resources Subcommittee, Crisafulli  
HB 7025 Fish and Wildlife Conservation Commission by Agriculture & Natural Resources Subcommittee, Crisafulli

**NOTICE FINALIZED on 01/23/2012 16:16 by Love.John**



## ImHOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 373 Environmental Permits  
**SPONSOR(S):** Glorioso  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 602

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Deslatte	Blalock
2) State Affairs Committee		Deslatte JD	Hamby JJC

### SUMMARY ANALYSIS

The bill amends current law to require that the Department of Environmental Protection (DEP) and water management districts (WMDs) reduce or waive permit processing fees for an applicant created by special act, local ordinance, or interlocal agreement of counties or municipalities meeting specified population limits.

The bill amends current law directing the DEP to initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports. The general permit applies statewide and must be administered by any WMD or delegated local government, with no additional rulemaking required. The bill also provides that the rules are not subject to any special rulemaking requirements related to small business.

The bill authorizes counties and municipalities that have created a community redevelopment area (CRA) or an urban infill and redevelopment area to adopt a stormwater adaptive management plan addressing the quantity and quality of stormwater discharges for the area and obtain a conceptual permit from the WMD or the DEP. The bill defines a "stormwater management plan" as a master drainage plan that, to the extent feasible:

- Improves the quality of stormwater runoff discharged from the project area.
- Controls the rate and volume of stormwater discharges to the extent that offsite flooding or other adverse water quantity impacts are not exacerbated by the proposed redevelopment project.
- Is designed based on a feasibility assessment of stormwater best management practices, including low impact development techniques and regional stormwater treatment systems, that consider the size and physical site characteristics of the project area.

The bill also directs the DEP and WMDs to establish conceptual permits for urban redevelopment projects or an urban infill and redevelopment area. The conceptual permit:

- Must allow for the rate and volume of stormwater discharges for stormwater management systems of urban redevelopment projects located within a CRA or an urban infill and redevelopment area to continue up to the maximum rate and volume of stormwater discharges within the area as of the date the stormwater management plan was adopted.
- Must presume that stormwater discharges for stormwater management systems of urban redevelopment projects within a CRA or urban infill and redevelopment areas that demonstrate a net improvement of the quality of the discharged water that existed as of the date the stormwater management plan was adopted for any applicable pollutants of concern in the receiving water body do not cause or contribute to violations of water quality criteria.
- Cannot prescribe additional or more stringent limitations concerning the quantity and quality of stormwater discharges from stormwater management systems than provided in section 373.413, F.S.
- Must be issued for a duration of at least 20 years, and can be renewed, unless a shorter duration is requested by the applicant.

The bill provides that urban redevelopment projects that meet the requirements of the conceptual permit qualify for general permits authorizing construction and operation of the permitted system.

Lastly, the bill provides that conceptual permits may not conflict with the requirements of a federally approved state National Pollution Discharge Elimination System program or with the implementation of total maximum daily loads and basin management plans.

The reduction or waiver of permit processing fees required in the bill appears to result in an indeterminate negative fiscal impact to state revenues and a cost savings for affected local governments. There may be an insignificant fiscal impact on those local governments that have already established either a community redevelopment area or an urban infill and redevelopment area. Those local governments would have to amend those plans if they wanted to obtain a conceptual permit. However, there may be a time and cost savings for those cities or counties that meet the requirements of the conceptual permit. Those cities or counties would be able to obtain general permits during the duration of the conceptual permit, which are generally easier to obtain and more cost effective.

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

STORAGE NAME: h0373b.SAC.DOCX

DATE: 1/23/2012



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Waiver or Reduction of Permit Fees**

Section 218.075, F.S., provides that DEP and the WMDs must reduce or waive permit processing fees for certain specified small counties and municipalities with a population of 25,000 or less, or any county or municipality not included within a metropolitan statistical area. Fee reductions or waivers are approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

- Per capita taxable value is less than the statewide average for the current fiscal year;
- Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;
- Any condition specified in s. 218.503(1), F.S., which results in the county or municipality being in a state of financial emergency;
- Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or
- A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality or a third party under contract with a county or municipality and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee shall not exceed \$100.

##### **Airside Stormwater Management**

The Federal Aviation Authority (FAA) provides grants to the Florida Department of Transportation (DOT) Aviation Office for airport airside improvements. The grants have 18 month time frames, making it difficult to permit and complete a stormwater project within the required time to take advantage of the grant.

In 1998, the DOT, the Department of Environmental Protection (DEP) and three water management districts (WMDs) outlined a study to evaluate airport runway, taxiway and apron stormwater quality. In 1977, the FAA set limitations on stormwater designs on airports to limit wildlife strikes in an advisory circular<sup>1</sup>. The FAA found that stormwater management systems known as "wet ponds" attracted birds and posed a threat to airline safety. A joint study by the DEP and the FAA has evaluated chemical loading characteristics of airside runoff and how best management practices can help airports meet federal and state water quality standards.

Another phase of the study will be funded by the FAA once a general permit for these stormwater systems is developed and adopted. This phase will convert the wet pond at Orlando International Airport into a wet detention system that complies with the 1997 advisory circular. The system will be monitored for pollutant loading and remediation, including nutrients. About 30 percent of Florida's airports have soil and water table considerations that prevent the use of wet detention systems.

---

<sup>1</sup> U.S. Dep't of Transportation Federal Aviation Administration, Advisory Circular 150/5200-33, *Hazardous Wildlife Attractants On or Near Airports* (May 1997), available at [http://rgl.faa.gov/Regulatory\\_and\\_Guidance\\_Library/rgAdvisoryCircular.nsf/0/53bdf1c5aa1083986256c690074ebab/\\$FILE/150-5200-33.pdf](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/53bdf1c5aa1083986256c690074ebab/$FILE/150-5200-33.pdf)

## Statement of Estimated Regulatory Costs

Section 120.541, F.S., provides that if a proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule, the agency shall prepare a statement of estimated regulatory costs. The statement of estimated regulatory costs must include:

- An economic analysis showing whether the rule directly or indirectly:
  1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule;
  2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; or
  3. Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.
- A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule.
- A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.
- A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.
- An analysis of the impact on small businesses as defined by s. 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in s. 120.52, F.S. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.
- Any additional information that the agency determines may be useful.
- In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

If the adverse impact or regulatory costs of the rule exceed any of the criteria described above, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule cannot take effect until it is ratified by the Legislature.

## Growth Policy Act

In 1999, the Florida Legislature enacted the Growth Policy Act<sup>2</sup> (Act) in order to provide incentives to promote urban infill and redevelopment. The Act authorizes local governments to designate urban infill and redevelopment areas for the purpose of targeting economic development, job creation, housing, transportation, crime prevention, neighborhood revitalization and preservation and land use incentives to encourage infill and redevelopment within urban centers. The Act defines an urban infill and redevelopment area as an area where:

---

<sup>2</sup> Sections 163.2511-163.2523, F.S.  
STORAGE NAME: h0373a.ANRS.DOCX  
DATE: 1/13/2012

- Public services (water and wastewater, transportation, schools, and recreation) are already available or are scheduled to be provided in the 5-year schedule of capital improvements;
- The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress;<sup>3</sup>
- The proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete is higher than the average for the local government;
- More than 50 percent of the area is within one-fourth mile of a transit stop, or a sufficient number of such transit stops will be made available concurrent with the designation; and
- The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or federal government as an urban redevelopment, revitalization, or infill area under empowerment zone, enterprise community, or brownfield showcase community program or similar program.<sup>4</sup>

Pursuant to s. 163.2517, F.S., local governments that want to designate urban infill and redevelopment areas must develop plans describing redevelopment objectives and strategies, or to amend existing plans. Local governments must also adopt urban infill and redevelopment plans by ordinance and amend their comprehensive plans to delineate urban infill and redevelopment area boundaries. Section 163.2520, F.S., provides that a local government with an adopted urban infill and redevelopment plan or plan employed in lieu thereof can issue revenue bonds and employ tax increment financing for the purpose of financing the implementation of the plan.

### **Community Redevelopment Act**

Part III of chapter 163, F.S., the Community Redevelopment Act of 1969 (Act), was enacted in order to revitalize economically distressed areas in order to improve public welfare and increase the local tax base. The Act authorizes a county or municipality to create community redevelopment areas (CRAs) by adopting a resolution declaring the need for a CRA in order to redevelop slum and blighted areas.<sup>5</sup> CRAs are not permitted to levy or collect taxes; however, the local government is permitted to establish a community redevelopment trust fund utilizing revenues derived from tax increment financing (TIF). TIF uses the incremental increase in ad valorem tax revenue within a designated CRA to finance redevelopment projects within that area. To obtain this revenue, in addition to establishing a trust fund, a local government must create a community redevelopment agency,<sup>6</sup> designate an area or areas to be a Community Redevelopment Area (CRA), and approve a community redevelopment plan.<sup>7</sup> Once this is accomplished, the CRA can direct the tax increment revenues from within the CRA to accrue to the local government and to be used for the conservation, rehabilitation, or redevelopment of the CRA.

### **Stormwater**

Unmanaged urban stormwater creates a wide variety of effects on Florida's surface and ground waters. Urbanization leads to the compaction of soil; the addition of impervious surfaces such as roads and parking lots; alteration of natural landscape features such as natural depressional areas which hold water, floodplains and wetlands; construction of highly efficient drainage systems; and the addition of pollutants from everyday human activities. These alterations within a watershed decrease the amount of rainwater that can seep into the soil to recharge aquifers, maintain water levels in lakes and wetlands, and maintain spring and stream flows. Consequently, the increased volume, speed, and pollutant loading in stormwater that runs off developed areas lead to flooding, water quality problems, and the loss of habitat.<sup>8</sup>

<sup>3</sup> Section 290.0058, F.S., provides the definition for "general distress."

<sup>4</sup> Section 163.2514(2), F.S.

<sup>5</sup> Section 163.340(7), F.S., provides the definition for "slum area" and s. 163.340(8), F.S., provides the definition for "blighted area."

<sup>6</sup> Section 163.356, F.S.

<sup>7</sup> See ch. 163, part III, F.S.

<sup>8</sup> National Resources Defense Council. *Stormwater Strategies*, May 1999 report, available at: <http://www.nrdc.org/water/pollution/storm/stoinx.asp> (last visited March 24, 2011).

In 1982, to manage urban stormwater and minimize impacts to our natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for all new development. The rule included a performance standard for the minimum level of treatment, design criteria for best management practices (BMPs) that will achieve the performance standard, and a rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will meet water quality standards. The performance standard was to reduce post-development stormwater pollutant loading of Total Suspended Solids (TSS)<sup>9</sup> by 80 percent or by 95 percent for Outstanding Florida Waters.<sup>10</sup>

In 1990, in response to legislation, the DEP developed and implemented the State Water Resource Implementation Rule (originally known as the State Water Policy rule).<sup>11</sup> The rule sets forth the broad guidelines for the implementation of Florida's stormwater program and describes the roles of DEP, the water management districts, and local governments. The rule provides that one of the primary goals of the program is to maintain, to the degree possible, during and after construction and development, the predevelopment stormwater characteristics of a site. The rule also provides a specific minimum performance standard for stormwater treatment systems: to remove 80 percent of the post-development stormwater pollutant loading of pollutants "that cause or contribute to violations of water quality standards." This performance standard is significantly different than the one used in the DEP and WMD stormwater treatment rules of the 1980s.

In 1999, the Florida Watershed Restoration Act was enacted leading to the implementation of Florida's water body restoration program and the establishment of Total Maximum Daily Loads (TMDLs). A TMDL is the maximum allowable pollutant a water body can absorb and still maintain its intended purpose, e.g., fishable/swimmable. Under the Clean Water Act, TMDLs must be developed for all water bodies that are not meeting their classification standards and are deemed to be impaired. There can be multiple TMDLs for one water body if there are multiple pollutants contributing to water quality standards violations. Since the program began, over 2000 impairments have been verified in Florida's surface waters, and nutrients have been identified as the major cause of such impairments. In order to restore impaired waters by reducing pollutant loadings to meet the allowable loadings established in a TMDL, the DEP creates a Basin Management Action Plan (BMAP). The BMAP represents a comprehensive set of strategies--permit limits on wastewater facilities, urban and agricultural best management practices, conservation programs, financial assistance and revenue generating activities, etc.--designed to implement the pollutant reductions established by the TMDL. These broad-based plans are developed with local stakeholders--they rely on local input and local commitment--and they are adopted by Secretarial Order to be enforceable.

### **Effect of Proposed Changes**

The bill amends s. 218.075, F.S. to provide that the DEP and WMDs must reduce or waive permit processing fees for an entity created by special act, local ordinance, or interlocal agreement of counties or municipalities meeting specified population limits. The permit applicant must be an entity created by special act, local ordinance, or interlocal agreement.

The bill amends s. 373.118, F.S., directing the DEP to initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports. The general permit applies statewide and must be administered by any WMD or any delegated local government pursuant to the operating agreements applicable to part IV of chapter 373, F.S., with no additional rulemaking required. The bill also provides that the rules are not subject to any special rulemaking requirements related to small business. It appears that this provision would allow the DEP to be exempt from the provisions in s. 120.541, F.S., requiring a statement of estimated regulatory costs to be prepared if the proposed rule

---

<sup>9</sup> Total Suspended Solid (TSS) is listed as a conventional pollutant under s. 304(a)(4) of the Clean Water Act. A conventional pollutant is a water pollutant that is amenable to treatment by a municipal sewage treatment plant.

<sup>10</sup> Rule 62-302.700 F.A.C., provides that an Outstanding Florida Water (OFW), is a water designated worthy of special protection because of its natural attributes. This special designation is applied to certain waters and is intended to protect existing good water quality.

<sup>11</sup> Chapter 62-40 F.A.C.

will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after the implementation of the rule.

The bill creates s. 373.4131, F.S., relating to conceptual permits for urban redevelopment projects. The bill provides that a municipality or county that has created a community redevelopment area or an urban infill and redevelopment area is authorized to adopt a stormwater adaptive management plan that addresses the quantity and quality of stormwater discharges for the redevelopment or infill area and obtain a conceptual permit<sup>12</sup> from the WMD or the DEP.

The bill defines a "stormwater management plan" as a master drainage plan that, to the extent feasible:

- Improves the quality of stormwater runoff discharged from the project area.
- Controls the rate and volume of stormwater discharges to the extent that offsite flooding or other adverse water quantity impacts are not exacerbated by the proposed redevelopment project.
- Is designed based on a feasibility assessment of stormwater best management practices, including low impact development techniques and regional stormwater treatment systems, that consider the size and physical site characteristics of the project area.

The bill also directs the DEP and WMDs to establish a conceptual permit for urban redevelopment projects or an urban infill and redevelopment area. The conceptual permits:

- Must allow for the rate and volume of stormwater discharges for stormwater management systems of urban redevelopment projects located within a CRA or an urban infill and redevelopment area to continue up to the maximum rate and volume of stormwater discharges within the area as of the date the stormwater management plan was adopted.
- Must presume that stormwater discharges for stormwater management systems of urban redevelopment projects within a CRA or urban infill and redevelopment areas that demonstrate a net improvement of the quality of the discharged water that existed as of the date the stormwater management plan was adopted for any applicable pollutants of concern in the receiving water body do not cause or contribute to violations of water quality criteria.
- Cannot prescribe additional or more stringent limitations concerning the quantity and quality of stormwater discharges from stormwater management systems than provided in section 373.413, F.S.
- Must be issued for a duration of at least 20 years, and can be renewed, unless a shorter duration is requested by the applicant.

Urban redevelopment projects that meet the criteria established in the conceptual permit qualify for a general permit that authorizes construction and operation of the permitted system.

Lastly, the bill provides that conceptual permits may not conflict with the requirements of a federally approved state National Pollution Discharge Elimination System program or with the implementation of total maximum daily loads and basin management plans.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 218.075, F.S., providing for an entity created by special act, local ordinance, or interlocal agreement of a county or municipality meeting specified population limits to receive certain reduced or waived permit processing fees; requiring that the project for which such fee reduction or waiver is sought serves a public purpose.

---

<sup>12</sup> In general, conceptual permits are individual permits for projects to be developed in phases that approve the design concepts of a phased master plan. Issuance of a conceptual permit is a determination that the conceptual plans are, within the extent of detail provided in the conceptual permit application, consistent with applicable rules at the time of issuance. Design concepts approved in a conceptual permit are not to be affected by subsequent rule changes so long as the permit is valid.

**Section 2.** Amends s. 373.118, F.S., requiring that the DEP initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports; providing for statewide application of the general permit; providing for any WMD or delegated local government to administer the general permit; providing that the rules are not subject to any special rulemaking requirements relating to small businesses.

**Section 3.** Creates s. 373.4131, F.S., authorizing municipalities and counties that have created a community redevelopment area or an urban infill and redevelopment area to adopt stormwater adaptive management plans and obtain conceptual permits for urban redevelopment projects; provides requirements for establishment of such permits by water management districts and the Department of Environmental Protection; provides that urban redevelopment projects that meet the criteria for a conceptual permit qualify for a noticed general permit.

**Section 4.** Provides an effective date of July 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The reduction or waiver of permit processing fees required in the bill appears to result in an indeterminate negative fiscal impact to state revenues.

#### 2. Expenditures:

According to the DEP analysis, there will be a small impact to the DEP, and possibly the water management districts, to conduct rule making for general permits for airside activities and potentially to create the conceptual permit for urban redevelopment projects.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The reduction or waiver of permit processing fees required in the bill appears to result in an indeterminate negative fiscal impact on WMDs. Entities created by special acts, local ordinances, or interlocal agreements of certain local governments will pay fewer permit fees so the savings would likely be passed on to the local government but without knowing how many of these entities exist, the actual effect is unknown.

#### 2. Expenditures:

According to the DEP analysis, there will possibly be a small impact to the water management districts, to conduct rule making for general permits for airside activities and potentially to create the conceptual permit for urban redevelopment projects.

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

None.

### D. FISCAL COMMENTS:

There may be a time and cost savings for those cities or counties that meet the requirements of the conceptual permit. Those cities or counties would be able to obtain general permits during the duration of the conceptual permit, which are generally easier to obtain and more cost effective.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

Not applicable. The 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:

The bill requires the DEP to initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports. The permit applies statewide and must be administered by any WMD or delegated local government, with no additional rulemaking required. The bill also provides that the rules are not subject to any special rulemaking requirements related to small business. It appears that this provision would allow the DEP to be exempt from the provisions in s. 120.541, F.S., requiring a statement of estimated regulatory costs to be prepared if the proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after the implementation of the rule.

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

The DEP provided the following comments:

The conceptual permits for urban redevelopment projects may create conflict with Federal Clean Water Act and with the Florida Watershed Restoration Act, s. 403.067, F.S., with respect to total maximum daily load (TMDL) implementation for water bodies with an adopted TMDL. The bill is silent as to how the stormwater requirements for urban redevelopment projects will have to address stormwater in a watershed with a TMDL or basin management action plan (BMAP) adopted pursuant to s. 403.067, F.S. If a TMDL or BMAP require additional stormwater treatment, it is unclear how the requirements of the proposed subsection will relate.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 11, 2012, the Agriculture & Natural Resources Subcommittee amended and passed HB 373 as a committee substitute (CS). The CS provides that conceptual permits may not conflict with the requirements of a federally approved state National Pollution Discharge Elimination System program or with the implementation of total maximum daily loads and basin management plans.

1                                 A bill to be entitled  
 2             An act relating to environmental permits; amending s.  
 3             218.075, F.S.; providing for an entity created by  
 4             special act, local ordinance, or interlocal agreement  
 5             of a county or municipality to receive certain reduced  
 6             or waived permit processing fees; requiring that the  
 7             project for which such fee reduction or waiver is  
 8             sought serves a public purpose; amending s. 373.118,  
 9             F.S.; requiring that the Department of Environmental  
 10            Protection initiate rulemaking to adopt a general  
 11            permit for stormwater management systems serving  
 12            airside activities at airports; providing for  
 13            statewide application of the general permit; providing  
 14            for any water management district or delegated local  
 15            government to administer the general permit; providing  
 16            that the rules are not subject to any special  
 17            rulemaking requirements relating to small business;  
 18            creating s. 373.4131, F.S.; authorizing certain  
 19            municipalities and counties to adopt stormwater  
 20            management plans and obtain conceptual permits for  
 21            urban redevelopment projects; defining the term  
 22            "stormwater management plan"; requiring the Department  
 23            of Environmental Protection and water management  
 24            districts to establish conceptual permits for urban  
 25            redevelopment projects; providing permit requirements;  
 26            providing that certain urban redevelopment projects  
 27            qualify for a general permit; providing construction;  
 28            providing an effective date.



29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56

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

Section 1. Section 218.075, Florida Statutes, is amended to read:

218.075 Reduction or waiver of permit processing fees.— Notwithstanding any other provision of law, the Department of Environmental Protection and the water management districts shall reduce or waive permit processing fees for counties with a population of 50,000 or fewer ~~less~~ on April 1, 1994, until such counties exceed a population of 75,000 and municipalities with a population of 25,000 or fewer; an entity created by special act, local ordinance, or interlocal agreement of such counties or municipalities; less, or any county or municipality not included within a metropolitan statistical area. Fee reductions or waivers shall be approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

- (1) Per capita taxable value is less than the statewide average for the current fiscal year;
- (2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;
- (3) Any condition specified in s. 218.503(1) which results in the county or municipality being in a state of financial emergency;

57 (4) Ad valorem operating millage rate for the current  
 58 fiscal year is greater than 8 mills; or

59 (5) A financial condition that is documented in annual  
 60 financial statements at the end of the current fiscal year and  
 61 indicates an inability to pay the permit processing fee during  
 62 that fiscal year.

63  
 64 The permit applicant must be the governing body of a county or  
 65 municipality, ~~or~~ a third party under contract with a county or  
 66 municipality, or an entity created by special act, local  
 67 ordinance, or interlocal agreement, and the project for which  
 68 the fee reduction or waiver is sought must serve a public  
 69 purpose. If a permit processing fee is reduced, the total fee  
 70 may ~~shall~~ not exceed \$100.

71 Section 2. Subsection (6) is added to section 373.118,  
 72 Florida Statutes, to read:

73 373.118 General permits; delegation.—

74 (6) By July 1, 2012, the department shall initiate  
 75 rulemaking to adopt a general permit for stormwater management  
 76 systems serving airside activities at airports. The general  
 77 permit applies statewide and shall be administered by any water  
 78 management district or any delegated local government pursuant  
 79 to the operating agreements applicable to part IV of this  
 80 chapter, with no additional rulemaking required. These rules are  
 81 not subject to any special rulemaking requirements related to  
 82 small business.

83 Section 3. Section 373.4131, Florida Statutes, is created  
 84 to read:

85        373.4131 Conceptual permits for urban redevelopment  
 86 projects.-

87        (1) A municipality or county that has created a community  
 88 redevelopment area or an urban infill and redevelopment area  
 89 pursuant to chapter 163 may adopt a stormwater management plan  
 90 that addresses the quantity and quality of stormwater discharges  
 91 for the redevelopment or infill area and may obtain a conceptual  
 92 permit from the water management district or the Department of  
 93 Environmental Protection.

94        (2) For purposes of this section, the term "stormwater  
 95 management plan" means a master drainage plan that, to the  
 96 extent feasible:

97        (a) Improves the quality of stormwater runoff discharged  
 98 from the project area.

99        (b) Controls the rate and volume of stormwater discharges  
 100 to the extent that offsite flooding or other adverse water  
 101 quantity impacts are not exacerbated by the proposed  
 102 redevelopment project.

103        (c) Is designed based on a feasibility assessment of  
 104 stormwater best management practices, including low impact  
 105 development techniques and regional stormwater treatment  
 106 systems, that consider the size and physical site  
 107 characteristics of the project area.

108        (3) The department and water management districts shall  
 109 establish conceptual permits for urban redevelopment projects  
 110 created under part III of chapter 163 or an urban infill and  
 111 redevelopment area designated under s. 163.2517. The conceptual  
 112 permits:

113        (a) Must allow for the rate and volume of stormwater  
 114 discharges for stormwater management systems of urban  
 115 redevelopment projects located within a community redevelopment  
 116 area created under part III of chapter 163 or an urban infill  
 117 and redevelopment area designated under s. 163.2517 to continue  
 118 up to the maximum rate and volume of stormwater discharges  
 119 within the area as of the date the stormwater management plan  
 120 was adopted.

121        (b) Must presume that stormwater discharges for stormwater  
 122 management systems of urban redevelopment projects located  
 123 within a community redevelopment area created under part III of  
 124 chapter 163 or an urban infill and redevelopment area designated  
 125 under s. 163.2517 that demonstrate a net improvement of the  
 126 quality of the discharged water that existed as of the date the  
 127 stormwater management plan was adopted for any applicable  
 128 pollutants of concern in the receiving water body do not cause  
 129 or contribute to violations of water quality criteria.

130        (c) May not prescribe additional or more stringent  
 131 limitations concerning the quantity and quality of stormwater  
 132 discharges from stormwater management systems than provided in  
 133 this section.

134        (d) Shall be issued for a duration of at least 20 years,  
 135 and may be renewed, unless a shorter duration is requested by  
 136 the applicant.

137        (4) Urban redevelopment projects that meet the criteria  
 138 established in the conceptual permit pursuant to this section  
 139 qualify for a general permit that authorizes construction and  
 140 operation of the permitted system.

CS/HB 373

2012

141        (5) Notwithstanding subsections (1)-(4), a permit issued  
142 pursuant to this section may not conflict with the requirements  
143 of a federally approved program pursuant to s. 403.0885 or with  
144 the implementation of s. 403.067(7) regarding total maximum  
145 daily loads and basin management plans.

146        Section 4. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 373 (2012)

Amendment No.

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: State Affairs Committee  
2 Representative Glorioso offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 218.075, Florida Statutes, is amended  
7 to read:

8 218.075 Reduction or waiver of permit processing fees.—  
9 Notwithstanding any other provision of law, the Department of  
10 Environmental Protection and the water management districts  
11 shall reduce or waive permit processing fees for counties with a  
12 population of 50,000 or fewer ~~less~~ on April 1, 1994, until such  
13 counties exceed a population of 75,000 and municipalities with a  
14 population of 25,000 or fewer; an entity created by special act,  
15 local ordinance, or interlocal agreement of such counties or  
16 municipalities; ~~less,~~ or any county or municipality not included  
17 within a metropolitan statistical area. Fee reductions or  
18 waivers shall be approved on the basis of fiscal hardship or  
19 environmental need for a particular project or activity. The

310199 - Amendmentdraft40173.docx  
Published On: 1/24/2012 6:08:02 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 373 (2012)

Amendment No.

20 governing body must certify that the cost of the permit  
21 processing fee is a fiscal hardship due to one of the following  
22 factors:

23 (1) Per capita taxable value is less than the statewide  
24 average for the current fiscal year;

25 (2) Percentage of assessed property value that is exempt  
26 from ad valorem taxation is higher than the statewide average  
27 for the current fiscal year;

28 (3) Any condition specified in s. 218.503(1) which results  
29 in the county or municipality being in a state of financial  
30 emergency;

31 (4) Ad valorem operating millage rate for the current  
32 fiscal year is greater than 8 mills; or

33 (5) A financial condition that is documented in annual  
34 financial statements at the end of the current fiscal year and  
35 indicates an inability to pay the permit processing fee during  
36 that fiscal year.

37

38 The permit applicant must be the governing body of a county or  
39 municipality, ~~or~~ a third party under contract with a county or  
40 municipality, or an entity created by special act, local  
41 ordinance, or interlocal agreement, and the project for which  
42 the fee reduction or waiver is sought must serve a public  
43 purpose. If a permit processing fee is reduced, the total fee  
44 may ~~shall~~ not exceed \$100.

45 Section 2. Subsection (6) is added to section 373.118,  
46 Florida Statutes, to read:

47 373.118 General permits; delegation.-

310199 - Amendmentdraft40173.docx

Published On: 1/24/2012 6:08:02 PM

Amendment No.

48       (6) By July 1, 2012, the department shall initiate  
49 rulemaking to adopt a general permit for stormwater management  
50 systems serving airside activities at airports. The general  
51 permit applies statewide and shall be administered by any water  
52 management district or any delegated local government pursuant  
53 to the operating agreements applicable to part IV of this  
54 chapter, with no additional rulemaking required. These rules are  
55 not subject to any special rulemaking requirements related to  
56 small business.

57       Section 3. Section 373.4131, Florida Statutes, is created  
58 to read:

59       373.4131 Conceptual permits for urban redevelopment  
60 projects.-

61       (1) A municipality or county that has created a community  
62 redevelopment area or an urban infill and redevelopment area  
63 pursuant to chapter 163 may adopt a stormwater adaptive  
64 management plan that addresses the quantity and quality of  
65 stormwater discharges for the redevelopment or infill area and  
66 may obtain a conceptual permit from the water management  
67 district or the Department of Environmental Protection.

68       (2) The conceptual permit established by a water  
69 management district in consultation with the department:

70       (a) Must allow for the rate and volume of stormwater  
71 discharges for stormwater management systems of urban  
72 redevelopment projects located within a community redevelopment  
73 area created under part III of chapter 163 or an urban infill  
74 and redevelopment area designated under s. 163.2517 to continue  
75 up to the maximum rate and volume of stormwater discharges



Amendment No.

76 within the area as of the date the stormwater adaptive  
77 management plan was adopted.

78 (b) Must presume that stormwater discharges for stormwater  
79 management systems of urban redevelopment projects located  
80 within a community redevelopment area created under part III of  
81 chapter 163 or an urban infill and redevelopment area designated  
82 under s. 163.2517 that demonstrate a net improvement of the  
83 quality of the discharged water that existed as of the date the  
84 stormwater adaptive management plan was adopted for any  
85 applicable pollutants of concern in the receiving water body do  
86 not cause or contribute to violations of water quality criteria.

87 (c) May not prescribe additional or more stringent  
88 limitations concerning the quantity and quality of stormwater  
89 discharges from stormwater management systems than provided in  
90 this section.

91 (d) Shall be issued for a duration of 20 years, and may be  
92 renewed, unless a shorter duration is requested by the  
93 applicant.

94 (3) Urban redevelopment projects that meet the criteria  
95 established in the conceptual permit pursuant to this section  
96 qualify for a noticed general permit that authorizes  
97 construction and operation for the duration of the conceptual  
98 permit.

99 (4) Notwithstanding subsections (1)-(3), permits issued  
100 pursuant to this section may not conflict with the requirements  
101 of a federally approved program pursuant to s. 403.0885 or with  
102 the implementation of s. 403.067(7) regarding total maximum  
103 daily loads and basin management plans.

310199 - Amendmentdraft40173.docx

Published On: 1/24/2012 6:08:02 PM

Amendment No.

104 Section 4. This act shall take effect July 1, 2012.  
105  
106

107 -----  
108 **T I T L E A M E N D M E N T**

109 Remove the entire title and insert:

110 A bill to be entitled

111 An act relating to environmental permits; amending s.  
112 218.075, F.S.; providing for an entity created by  
113 special act, local ordinance, or interlocal agreement  
114 of a county or municipality to receive certain reduced  
115 or waived permit processing fees; requiring that the  
116 project for which such fee reduction or waiver is  
117 sought serves a public purpose; amending s. 373.118,  
118 F.S.; requiring that the Department of Environmental  
119 Protection initiate rulemaking to adopt a general  
120 permit for stormwater management systems serving  
121 airside activities at airports; providing for  
122 statewide application of the general permit; providing  
123 for any water management district or delegated local  
124 government to administer the general permit; providing  
125 that the rules are not subject to any special  
126 rulemaking requirements relating to small business;  
127 creating s. 373.4131, F.S.; authorizing certain  
128 municipalities and counties to adopt stormwater  
129 adaptive management plans and obtain conceptual  
130 permits for urban redevelopment projects; providing  
131 requirements for establishment of such permits by

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 373 (2012)

Amendment No.

132 water management districts in consultation with the  
133 Department of Environmental Protection; providing that  
134 certain urban redevelopment projects qualify for a  
135 noticed general permit; providing construction;  
136 providing an effective date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 449 Public Fairs and Expositions

**SPONSOR(S):** Community & Military Affairs Subcommittee, Agriculture & Natural Resources Subcommittee, and Steube

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N, As CS	Kaiser	Blalock
2) Community & Military Affairs Subcommittee	14 Y, 0 N, As CS	Gibson	Hoagland
3) State Affairs Committee		Kaiser <i>JK</i>	Hamby <i>JHP</i>

### SUMMARY ANALYSIS

Part I of ch. 616, F.S., gives the Department of Agriculture and Consumer Services (department) statutory authority for permitting fair associations and addresses the operation and regulation of public fairs and expositions in the state. In addition to the state fair held in Tampa every year, there are approximately fifty other district, regional or county fair associations that hold annual public fairs as well as other fairs and expositions.

The bill makes several technical changes to ch. 616, F.S., which modernizes the terminology since the statute was last revised in 1993, such as replacing "peace officer" with "law enforcement officer," "chickens" with "poultry," and "occupational license fee" with "local business tax."

The bill provides a specific definition for "annual public fair" to distinguish between the annual fair events held by fair associations and other events. Because the term "concessions" is used throughout the chapter, a definition for "concessions" is provided to identify third parties that provide rides, games, food, beverages, merchandise for sale, exhibits, projects, activities, events, programs, or other uses on property under the control of the fair association.

Additional substantive changes of the bill include:

- Recognizing that the primary objective of the fair association, other than public service, is holding, conducting, and promoting public fairs or expositions.
- Providing that a fair association may also file its charter and charter amendments with the Department of State for recognition as a not-for-profit organization.
- Providing that any projects, activities, events, programs and uses authorized by ch. 616, F.S., serve an essential government purpose and are not taxable or subject to assessments.
- Providing that a fair association organized under ch. 616, F.S., is a noncommercial activity provider.
- Recognizing the Department of Transportation as being able to make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the association.
- Allowing the state or its entities and/or the mayor or city council of any municipality within the county to expend such moneys as they deem in the best interests of their counties for the development of exhibitions and resources in their counties in connection with public fairs.
- Prohibiting a fair association from conducting more than one annual public fair each calendar year.
- Reducing the number of days from 60 to 30 for a waiver to the minimum exhibit requirements to be filed with the department.
- Amending the definition of trespass, as it pertains to entering fairgrounds, to include acts that disrupt the authorized activity of a licensee or the general public on those grounds.

The bill does not appear to have a fiscal impact on state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

Fairs and expositions have been regulated by the state since 1917 when the first legislation dealing with these entities was passed. In 1974, legislation was enacted that created the Florida State Fair Authority. The authority is responsible for staging the annual state fair held in Tampa, Florida.

In addition to the state fair held in Tampa every year, there are approximately fifty other district, regional or county fair associations that hold annual fairs as well as other fairs and expositions. Forty-nine of the fair associations are members of the Florida Federation of Fairs and Livestock Shows (federation). The mission statement of the federation is "to increase the overall quality of agricultural fairs, provide members the support and guidance needed to enlighten our youth and educate the fairgoers on agriculture, trade, entertainment and heritage of Florida."<sup>1</sup>

Public fairs, expositions, and fair associations are currently regulated under ch. 616, F.S. The last major revisions to ch. 616, F.S., took place in 1993 when the statute was reviewed under the provisions of the Regulatory Sunset Act.<sup>2</sup> The bill makes various revisions to ch. 616, F.S., pertaining to public fairs and expositions.

#### Section 1

##### Present Situation

Section 616.001, F.S., provides definitions for "authority," "community fair," "county fair," "department," "district fair," "entry," "exhibit," "exhibitor," "fair association" or "association," "public fair or exposition," "regional fair" or "interstate fair," "specialized show," and "state fair."

##### Effect of Proposed Changes

The bill amends s. 616.001, F.S., to define an "annual public fair" as a "community, county, district, regional, or state fair that is held and conducted by a fair association and permitted by the Department of Agriculture and Consumer Services (department) pursuant to s. 616.15, F.S."<sup>3</sup> Providing a separate definition for "annual public fair" clarifies the difference between the official annual public fair and the other off-season uses of the fairgrounds. The bill also amends the term "public fair or exposition" to specify that it includes "a project, activity, event, or program and use by a fair association, including the annual public fair event.

The bill also defines the term "concession" to mean "use by a fair association, or a grant, lease, or license to a third party, of a portion of the land under the ownership, custody, or control of a fair association for specific uses, or the right to enter upon the land for specific purposes, such as providing rides, games, food, beverage, merchandise for sale, exhibits, projects, activities, events, programs, or other uses authorized in this chapter."<sup>4</sup> This term is used throughout ch. 616, F.S., but has never been defined in statute.

The bill amends the definitions of "community fair," "county fair," "district fair," "public fair or exposition," "regional fair," and "state fair" to include the reference to the new definition of "annual public fair."

The definition of "exhibit" is amended to specifically include parades and displays of articles or a collection of articles, whether static, interactive, or dynamic, by a fair association or a third party

<sup>1</sup> For more information see <http://www.floridafairs.org/> (last accessed January 6, 2012).

<sup>2</sup> 93-168, L.O.F.

<sup>3</sup> S. 616.15, F.S., provides the various requirements that a fair association must meet to obtain a permit in order to conduct a public fair or exposition.

<sup>4</sup> Ch. 616, F.S., Public Fairs and Expositions.

contracting with a fair association, such as exhibits of animals, art, housewares, or motor vehicles. The term "exhibitor" is also amended to include a fair association or third party contracting with a fair association.

## **Section 2**

### Present Situation

Section 616.01, F.S., provides that in order to establish a not-for-profit association for the purpose of conducting and operating public fairs or expositions, twenty-five or more persons who are residents and qualified electors of the county where the fair is to be located must submit a proposed charter to the department for review and approval. The proposed charter must also be presented to the judge of the circuit court for the county where the principal office of the association is to be located. The proposed charter also must be signed by the intended incorporators and include:

- The name of the association, which must include the word, "Inc.," and the place where the principal office is to be located.
- The general nature of its objects and powers, including a provision that the sole purpose of incorporation is conducting and operating public fairs or expositions.
- The qualifications and terms of members and the manner of their admission or expulsion. The charter may include ex officio membership as well as the number of years in a term of membership.
- The period of time for which the charter is to exist.
- The names and residences of the subscribers.
- Which officers shall manage the affairs of the charter and the time at which the officers will be elected or appointed.
- The names of the officers who are to manage its affairs until the first election or appointment under the charter.
- By whom its bylaws are to be made, altered, or rescinded.
- The longest amount of indebtedness or liability to which it may at any time subject itself.

### Effect of Proposed Changes

The bill amends s. 616.01, F.S., to incorporate references to the annual public fair, as opposed to the fair. The bill also identifies the persons establishing the charter as the "subscribers."

## **Section 3**

### Present Situation

Section 616.02, F.S., requires the proposed charter of a fair association to be acknowledged by at least three of its subscribers in the presence of an officer authorized to acknowledge deeds.

### Effect of Proposed Changes

The bill amends s. 616.02, F.S., to establish that the primary objective of the fair association, other than public service, is holding, conducting, and promoting public fairs or expositions.

## **Sections 4, 5, and 6**

### Present Situation

Section 616.03, F.S., provides that subscribers intending to apply for a charter of a fair association must provide notice to the circuit judge stating the time when the application will be made, and then must forward the notice to the department for approval. The notice must be published in a newspaper in the county where the principal office of the association is to be located once each week for 4

consecutive weeks. The notice must set forth the charter and objects of the association to be formed. The proposed charter must be submitted to and approved by the board of county commissioners of the county in which the principal office of the association is to be located. During the time of publication, the proposed charter must be on file in the office of the clerk of the circuit court. Once approved by the department and the board of county commissioners, the proposed charter, with proof of approval and publication, is then submitted to the circuit judge at the time stated in the notice. If no cause is shown to the contrary and the judge finds the proposed charter to be in proper form and so sworn to and for the primary object of public service, the judge may approve the charter and render a decree incorporating the subscribers under the charter for the objects and purposes and with the powers therein specified. The charter and decree of incorporation must be recorded in the office of the clerk of the circuit court in the county where the principal office of the association is to be located as well as the office of the department.

Section 616.05, F.S., provides that an association may amend the charter by resolution as provided in its bylaws. The proposed amendment must be submitted to the department for approval. When approved, the proposed amendment can be incorporated into the original charter, upon:

- Publication of notice in the same manner as provided in s. 616.03, F.S., outlined above;
- Placement on file in the office of the clerk of the circuit court and in the office of the department;
- The rendering of a decree of the circuit judge approving and allowing the amendment; and
- Being recorded in the clerk's office.

Section 616.051, F.S., provides that an association may dissolve a charter by resolution as provided in its bylaws. The proposal for dissolving the charter must be presented to the department for approval. Upon approval, publication of notice, as prescribed above, and proof that all indebtedness has been paid and no claims are outstanding against the association, the circuit judge may dissolve the association by decree. The judge may also order any public funds remaining in the association to be distributed as recommended by the board of directors.

### Effect of Proposed Changes

The bill amends these sections of law to update and revise some technical terms regarding the procedures for obtaining or amending a charter. For example, application must be made to the circuit court rather than the circuit judge. Also, a charter may be amended or dissolved by resolution as provided in its charter or bylaws.

The bill also provides that obtaining a charter as explained above does not prevent a fair association from also filing its charter with the Department of State pursuant to ch. 617, F.S., for notice purposes.<sup>5</sup> The bill requires a fair association that has filed its charter with the Department of State to also file a copy of any amendments to the charter with the Department of State.

## **Section 7**

### Present Situation

Section 616.07, F.S., provides that no member, officer, director or trustee of a fair association is personally liable for any of the debts of the association, and no money or property of a fair association can be distributed as profits or dividends among the members, officers, directors, or trustees of the fair association. All money and property of the fair association must, except for payment of debts and liabilities:

- Remain perpetually public property;
- Be administered by the association trustee;
- Be used exclusively for the legitimate purposes of the association; and

---

<sup>5</sup> Ch. 617, F.S., addresses not-for-profit corporations.



- Be exempt from all forms of taxation, including special assessments.

Public funds or property remaining in a fair association, when the association dissolves, must be distributed by resolution of the board of directors, upon order of the circuit judge to any county or any municipality within the county. The distribution resolution may provide terms of a public project for which the funds or property may be used. However, if the property has been contributed by a municipality or county, the property must be re-conveyed to the municipality or county that contributed the property.

### Effect of Proposed Changes

The bill amends s. 616.07, F.S., to provide that, in addition to the statutory tax exemptions described above that the fair associations currently benefit from, any projects, activities, events, programs, and uses authorized by part I, ch. 616, F.S., serve an essential governmental purpose and, therefore, are also not taxable and are not subject to assessments.<sup>6</sup> The bill also clarifies that this section does not apply to ch. 212, F.S., in order to clarify that the bill is not intended to expand the tax exemptions provided in ch. 212, F.S., for fair associations.<sup>7</sup>

## **Section 8**

### Present Situation

Section 616.08, F.S., empowers fair associations to hold, conduct, and operate public fairs and expositions annually, and in order to accomplish this goal to:

- Buy, lease, acquire and occupy lands, erect buildings and make improvements as needed;
- Develop lands, buildings and improvements;
- Sell, mortgage, lease or convey such property or any part thereof for the purpose of public fairs and expositions;
- Charge and receive compensation for admission to the fairs and expositions, for the sale or renting of space for exhibitions, and for other privileges;
- Conduct and hold public meetings;
- Supervise and conduct lectures and all kinds of demonstration work in connection with or for the improvement of agriculture, horticulture, stock raising and poultry raising, and all kinds of farming and matters connected therewith;
- Hold exhibits of agricultural and horticultural products and livestock, chickens, and other domestic animals;
- Give certificates or diplomas of excellence;
- Promote the progress of the geographical areas it represents and serves and stimulate public interest in the advantages and development of that area by providing facilities for agricultural and industrial exhibitions, public gatherings, cultural activities and other functions which the association determines will enhance the educational, physical, economic, and cultural interests of the public; and,
- Generally carry out all matters, acts, and business usual or proper in connection with public fairs and expositions.

Section 616.08, F.S., also specifies that this enumeration of particular powers does not limit any special provisions of the association's charter in carrying out its business and the conduct of its affairs as it relates to creating, defining, limiting and regulating the powers of the association or its officers or members. The treasurer or similar officer of the association must provide a sufficient bond, which is payable to the association, with a surety company authorized under the laws of the state. The bond must be in an amount equal to the value of the total monies and properties in that officer's possession

<sup>6</sup> This language aims to codify the finding that fair associations perform essential governmental purposes, and therefore, are exempt from taxation and assessments. See AGO 95-17 and *Carswell v. State*, 159 So. 15 (Fla. 1935).

<sup>7</sup> S. 212.08(7)(gg) provides certain tax exemptions related to fair associations.

or custody, in addition to the value of any money and property of the association that may reasonably be expected to come into that officer's possession or custody.

### Effect of Proposed Changes

The bill amends s. 616.08, F.S., to incorporate various references to the "annual public fair," as opposed to the "fair." The bill also provides that, in addition to the facilities that a fair association can provide to promote the progress of the geographical areas it represents, a fair association can also provide other facilities for the benefit and development of the educational, horticultural, livestock, equestrian, charitable, historical, civic, cultural, scientific, or other resources of the state, any county of the state, or any municipality or other community of any county of the state, including facilities for exhibits, concessions, entertainment events, recreational vehicle parking, auctions, trade shows, and concerts. The bill also states that a fair association organized under ch. 616, F.S., is a noncommercial activity provider.

## **Section 9**

### Present Situation

Section 616.101, F.S., requires an annual review of the accounts and records of each fair association whose fair has an annual attendance of more than 25,000. The review must be made by a qualified accountant licensed by the state. Fair associations whose fairs have an annual attendance of 25,000 or less must submit an annual financial statement signed by an officer of the county. The results of the annual reviews must be kept in the official records of each fair association and made available to all directors of the association.

A certified copy of the review must be filed with the department when the association is applying for a fair permit or upon request by the department to certify expenditures of state premium or building funds when there is evidence of violation of state laws.

### Effect of Proposed Changes

The bill amends s. 616.101, F.S., to incorporate the references to the "annual public fair," as opposed to the "fair." The bill also clarifies that when examining premiums or building funds for evidence of violation, the premiums are those awarded to exhibitors of the fair.

## **Section 10**

### Present Situation

Section 616.11, F.S., provides that any fair association can enter into a contract, lease, or agreement with any municipality or county in the state or with the state or with an agency or subdivision of the state for the donation or use and occupation of lands owned, leased, or held by the county, municipality, or the state or agency or subdivision of the state. The terms and length of time the association may use the property is subject to the agreement reached with the local government or state entity. The association has the right to charge and receive an admission fee to the fair or exposition.

The state or its entities, the board of county commissioners of any county where the fair is held, and the mayor and city council of any municipality within the county may also make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the fair associations.

The boards of county commissioners of the various counties where the fairs are held may expend in their discretion such moneys as they deem in the best interest of their counties and in the development of the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and any other resources of their counties in connection with public fairs, including offering to pay the \_\_\_\_\_ premiums for the exhibitions of resources for their respective counties.

## Effect of Proposed Changes

The bill amends s. 616.11, F.S., to specify that a fair association may use the property leased or contracted from a local government or state entity for public exposition purposes. The bill also specifies that the Department of Transportation can make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the association.

Additionally, other than the board of county commissioners within a county where a fair is held, the bill authorizes the state or an agency or subdivision of the state and the mayor or city council of any municipality within the county to expend in their discretion such moneys as they deem in the best interest of their counties and in the development of the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and any other resources of their counties in connection with public fairs, including offering to pay the premiums for the exhibitions of resources of the state, county, or municipality.

## **Section 11**

### Present Situation

Section 616.12(1), F.S., provide that every person operating an exhibition of any kind within the grounds of, and in connection with, a public fair or exposition must pay license taxes as provided by law. However, if the fair association secures a fair permit from the department and qualifies with all other provisions of ch. 616, F.S., the persons operating the exhibitions are not required to pay any license taxes but may operate under a tax exemption certificate issued to the fair association by the department. The department must set forth the proper forms and rules for carrying out the intent and purpose of this section, including the necessary tax exemption certificate, which must be signed by the tax collector, showing that the persons operating the exhibition has met all the requirements of ch. 616, F.S., and is fully exempt.

Section 616.12(2), F.S., provides that fair associations securing the required fair permit from the department are exempt from occupational license fees, occupational permit fees, or any occupational taxes assessed by the county, municipality, political subdivision, or agency, or instrumentality where the fair is held.

### Effect of Proposed Changes

The bill amends s. 616.12(1), F.S., to incorporate the reference to the annual public fair, as opposed to the fair. The bill also adds the local business tax authorized by ch. 205, F.S., to the license taxes that persons operating certain shows, exhibitions, carnivals, games, and other attractions within the grounds the grounds of any public fair are exempt from paying if the fair association satisfies the requirements of ch. 616, F.S., which includes securing the required fair permit from the department. The bill updates the language in the subsection to include the local business tax, which was formally referred to as an occupational license tax. The bill also no longer requires the tax exemption certificate to be signed by the tax collector.

The bill amends s. 616.12(2), F.S., to remove the term "occupational license fees" and replace it with the updated term "local business tax as defined by chapter 205" in reference to exemptions provided to any fair association that has secured the required annual fair permit from the department.

## **Section 12**

### Present Situation

Section 616.121, F.S., provides that persons who make a false statement either to obtain a permit to hold a public fair or exhibition or in an application for distribution of the amount paid for license taxes with the intent of obtaining the permit or any part of that amount for him/herself or for any firm or corporation in which that person has a financial interest, commits a misdemeanor of the first degree.<sup>8</sup>

### Effect of Proposed Changes

The bill amends s. 616.121, F.S., to incorporate the reference to the "annual public fair," as opposed to the "fair." This language has been reworded but the intent is unchanged.

## **Section 13**

### Present Situation

Section 616.14, F.S., provides that any fair association that conducts more than one public fair or exhibition during any calendar year is subject to revocation of its charter by the court granting the charter. In addition, any fair association that fails to conduct a public fair or exhibition for a period of 3 calendar years must, upon recommendation of the department, have its charter revoked by the court granting the charter.

### Effect of Proposed Changes

The bill specifically prohibits a fair association from conducting more than one annual public fair each calendar year.

## **Section 14**

### Present Situation

Section 616.15, F.S., provides that all public fairs and expositions conducted by a fair association must be permitted by the department. To obtain a permit, an applicant must present a permit application to the department at least 3 months before holding the fair or exposition. The application must be signed by an officer of the association and accompanied by a fee in an amount to be determined by the department. The fee may not be more than \$366 or less than \$183 and is used to process the application as well as conduct any required investigation. Fees collected under this section must be deposited into the General Inspection Trust Fund in a special account known as the "Agricultural and Livestock Fair Account."

A copy of the application must also be sent to each fair association within 50 miles of the site of the proposed fair at the same time the application is presented to the department.

In order for the department to issue the permit, the application must set forth:

- The opening and closing dates of the proposed fair or exposition.
- The name and address of the owner of the central amusement attraction to operate during the fair and exposition.
- A properly executed affidavit of the association applying for a permit certifying the existence of a binding contract between the association and the owner of the central amusement attraction covering the period for which the permit applies.
- A statement that the main purpose of the association is to conduct and operate the proposed fair or exposition for the benefit and development of educational, agricultural, horticultural,

<sup>8</sup> The penalty for a first degree misdemeanor is a term of imprisonment not exceeding one year or a fine not to exceed \$1,000.

livestock, charitable, historical, civic, cultural, scientific, and other resources of the geographical area the fair or exhibition represents and serves. The statement must be in writing and duly acknowledged by an officer of the association.

- A list of the premiums for the current fair or exposition to be conducted or a list from the previous year showing the premiums and awards to be offered to exhibitors in the various departments of the fair. The list may be submitted separately at any time not later than 60 days before the fair or exposition is to be held. The department may issue the permit within 10 days thereafter if the applicant is properly qualified.
- Proof of liability insurance in an amount of not less than \$300,000 per occurrence.
- A copy of the most recent review.
- A list of all of the current members of the board of directors of the association and their home addresses.

The department must enforce and administer the provisions of ch. 616, F.S., except for the regulation of the games, which is the responsibility of local law enforcement agencies. The department has rule-making authority to carry out the provisions of the permitting process. The department is authorized to order a full investigation of any fair association to determine whether or not it meets the requirements of ch. 616, F.S., and accordingly can withhold a permit from, deny a permit to, or withdraw a permit once issued from an association.

The department can also decide if any proposed fair or exposition can compete with another fair or exposition within 50 miles of the proposed fair or exposition with respect to the name, dates of operation, or market. Competition with another fair association is just cause for withholding a permit from a proposed fair or exposition. Preference is given to existing fair associations with established dates, locations, and names. The determination by the department is considered final.

#### Effect of Proposed Changes

The bill amends s. 616.15, F.S., to incorporate the reference to the "annual public fair," as opposed to the "fair." In addition, the bill requires the application for permit to include the contact information for members of the board of directors for the association in addition to their home addresses.

### **Section 15**

#### Present Situation

Section 616.17, F.S., provides that fair associations display a certain minimum number of exhibits at public fairs or exhibitions in order to be approved for a tax exemption certificate by the department.<sup>9</sup> However, the requirement does not limit a fair association from displaying more than the minimum number of exhibits. Specialized livestock shows and fruit or vegetable festivals must comply with their own minimum number of exhibits to obtain the tax exemption certificate from the department.<sup>10</sup>

The department may grant a waiver to the minimum exhibit requirements to a fair association that submits a waiver application at least 60 days prior to the start of the annual public fair or exposition and shows good cause why the requirements cannot be met.

A fair association providing exhibits as set forth in this section or other exhibits or concessions, whether provided directly by the association or through a third party agreement, is not subject to criminal penalties or civil damages arising out of the personal injury or death of any person, or property damage, resulting from such exhibits or concessions. The waiver of liability does not apply if the personal injury, death, or property damage was due to an act of omission committed by the fair association in bad faith, with malicious purpose, or with wanton and willful disregard of human rights, safety, or property. Third parties providing exhibits or concessions are not covered by the waiver of liability.

---

<sup>9</sup> S. 616.17(1)(a)-(j), F.S.

<sup>10</sup> S. 616.17 (2)(a)-(b), F.S.

## Effect of Proposed Changes

The bill amends s. 616.17, F.S., to incorporate the reference to the “annual public fair,” as opposed to the “fair.” The bill also requires the waiver to the minimum exhibit requirements to be provided at least 30 days prior to the start of the annual public fair as opposed to 60 days.

### **Section 16**

#### Present Situation

Section 616.185, F.S., provides that for the purposes of ch. 616, F.S., trespassing upon the grounds of the Florida State Fair Authority or any other public fair or exposition is defined to mean:

- Entering and remaining on the grounds of the fair authority or any other public fair or exhibition and committing an act which disrupts the orderly conduct of an authorized activity of the fair organization in charge or its lessees on the grounds or facility of the public fair; or
- Entering and remaining on the grounds or facilities after being directed not to enter or to leave by the executive director of the authority, chief administrative officer of the fair or exposition, or any employee or agent designated by the executive director or administrator after it has been determined that entering and remaining on the grounds is in violation of the rules and regulations of the fair authority or the public fair or such presence is disruptive to the orderly conduct of any authorized activity of the fair organization in charge or its lessees on the grounds or facilities.

Persons found guilty of trespassing on the fair authority or public fair or exhibition grounds commit a misdemeanor of the second degree.<sup>11</sup> A peace officer may arrest any person on or off the premises, without a warrant, if the officer has probable cause for believing such person has trespassed upon the grounds of the fair authority or public fair. Such arrest does not render the peace officer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

#### Effect of Proposed Changes

The bill amends s. 616.185, F.S., to revise the definition of trespassing to include a disruption of orderly conduct for the licensees or the general public, as well as the fair association and its lessees. Also, a technical change is made to identify a “peace” officer as a “law enforcement” officer.

### **Sections 17, 18 and 20**

The changes made by the bill to ss. 616.19, 616.21, and 616.23, F.S., are non-substantive, technical revisions that do not change the statutory meaning.

### **Section 19**

#### Present Situation

Section 616.23, F.S., provides that the buildings authorized by ch. 616, F.S., may be used by the county, municipality, or fair association for which the buildings are built as agricultural or livestock exhibition buildings for public fair or exposition purposes in the promotion of the agricultural and livestock industries. These buildings may also be used as office space for agricultural agents; however, no more than 20 percent of the buildings may be so used.

#### Effect of Proposed Changes

The bill amends s. 616.23, F.S., to authorize the buildings to be used for public fair and exposition purposes, regardless of whether it is for the promotion of the agricultural or livestock industries.

<sup>11</sup> The penalty for a second degree misdemeanor is a term of imprisonment not exceeding 60 days or a fine not to exceed \$500.

## **Section 21**

This section corrects a cross-reference to the definition of "fair association." In adding and amending definitions to s. 616.001, F.S., the statutory reference to "fair association" changed from s. 616.001(9), F.S., to s. 616.001(11), F.S.

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

**Section 1:** Amends s. 616.001, F.S., providing and amending definitions.

**Section 2:** Amends s. 616.01, F.S., amending conditions relating to proposed charter.

**Section 3:** Amends s. 616.02, F.S., providing the primary objective of a fair association.

**Section 4:** Amends s. 616.03, F.S., providing criteria for a fair association to file for charter and providing for a fair association to file for charter with the Department of State in addition to the Department of Agriculture and Consumer Services.

**Section 5:** Amends s. 616.05, F.S., providing criteria for a charter to be amended; and, providing for a fair association to file an amendment to the charter with the Department of State if the charter was filed with the Department of State.

**Section 6:** Amends s. 616.051, F.S., providing criteria for a charter to be dissolved.

**Section 7:** Amends s. 616.07, F.S., revising provisions regarding the distribution of public funds and property when a fair association is dissolved; clarifying that certain authorized projects, activities, events, programs, and uses serve an essential governmental purpose and, therefore, are exempt from taxation.

**Section 8:** Amends s. 616.08, F.S., requiring each fair association to hold an annual public fair; authorizing the fair association to grant a lease or license of space for exhibits, concessions, and other purposes; and requiring the fair association to stimulate public interest in the benefit and development of certain resources of the state, any county, or a municipality.

**Section 9:** Amends s. 616.101, F.S., requiring an annual review of the accounts and records of certain fair associations; and requiring an annual financial statement for certain fair associations.

**Section 10:** Amends s. 616.11, F.S., clarifying the right of the fair association to use certain property for public purposes; authorizing the Department of Transportation to make contributions to a fair association to assist it in carrying out its purpose; and authorizing state, county, and municipal governments to fund certain projects at or connected with public fairs and expositions.

**Section 11:** Amends s. 616.12, F.S., revising provisions relating to the exemption from certain local business taxes for annual public fairs held by a fair association.

**Section 12:** Amends s. 616.121, F.S., providing a penalty for false application for a permit; and conforming terminology.

**Section 13:** Amends s. 616.14, F.S., providing that a fair association may not hold more than one annual public fair a year.

**Section 14:** Amends s. 616.15, F.S., conforming terminology regarding obtaining a permit from the Department of Agriculture and Consumer Services to conduct a public fair.

**Section 15:** Amends s. 616.17, F.S., conforming terminology regarding minimum exhibits to be displayed to qualify for a tax exemption certificate; and requiring an application for a waiver to the minimum exhibits requirements be submitted 30 days before the annual public fair.

**Section 16:** Amends s. 616.185, F.S., conforming terminology regarding trespassing on the grounds of the Florida State Fair Authority or any other fair association.

**Section 17:** Amends s. 616.19, F.S., conforming terminology regarding designation of fairs.

**Section 18:** Amends s. 616.21, F.S., conforming terminology regarding conditions for expenditures for agricultural and livestock exhibit buildings.

**Section 19:** Amends s. 616.23, F.S., providing that agricultural and livestock exhibit buildings may be used for public fair or exposition purposes.

**Section 20:** Amends s. 616.24, F.S., conforming terminology.

**Section 21:** Amends s. 288.1175, F.S., correcting a cross reference.

**Section 22:** Provides 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:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

The bill has not yet been heard by the Revenue Estimating Impact Conference.

## 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:

None.

B. RULE-MAKING AUTHORITY: \_

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Agriculture and Natural Resources Subcommittee adopted three amendments to HB 449. **Amendment 1** clarified the definition of a “public fair or exposition” to mean “a project, activity, event, or program and use by a fair association, including the annual public fair event, which serves the purposes specified in s. 616.08 and benefits and develops the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and other resources of this state, or any county, municipality, or other community in this state.” **Amendment 2** removed language providing fair associations an exemption from local land use and zoning ordinances. **Amendment 3** removed language exempting fair association from inspection fees, franchise fees and taxes, utility service fees and taxes, communication service fees and taxes, surplus line fees and taxes, and impact fees. The analysis has been updated to reflect these amendments.

On January 11, 2011, the Community & Military Affairs Subcommittee adopted two technical amendments to CS/HB 449. **Amendment 1** addressed a concern raised by the Department of Revenue’s analysis that the language in s. 616.07, F.S., exempting money and property of the fair association from all forms of taxation, including special assessments, and exempting any projects, activities, events, programs, and uses authorized by part I of ch. 616, F.S., from taxation and assessments could be interpreted to expand the tax exemptions provided by ch. 212, F.S., to fair associations. Since the legislative intent was not to expand the tax exemptions provided by ch. 212, F.S., the sentence “this section does not apply to chapter 212” was added. **Amendment 2** also addressed a concern raised by the Department of Revenue’s analysis. There was confusion regarding whether the word “department” that was added to the existing list of governmental entities in s. 616.12(2),F.S., which may assess a tax or fee was referring to the Department of Revenue, the Department of Agriculture and Consumer Services, or to a department within local government. The amendment simply removed the word “department” in order to avoid confusion. The analysis has been updated to reflect these amendments.

1                   A bill to be entitled  
2           An act relating to public fairs and expositions;  
3           amending s. 616.001, F.S.; redefining existing terms  
4           and defining the terms "annual public fair" and  
5           "concession"; amending s. 616.01, F.S., relating to  
6           requirements for the proposed charter of an annual  
7           public fair; revising provisions to conform to changes  
8           made by the act; amending s. 616.02, F.S.; providing  
9           that the primary objective of a fair association is  
10          the holding, conducting, and promoting of public fairs  
11          or expositions; amending s. 616.03, F.S.; providing  
12          that a fair association may file its duly approved  
13          charter with the Department of State in addition to  
14          the Department of Agriculture and Consumer Services  
15          for notice purposes; amending s. 616.05, F.S.;  
16          providing the process by which a fair association may  
17          amend its charter; requiring a fair association that  
18          files its charter with the Department of State to file  
19          a copy of amendments to its charter with that  
20          department; amending s. 616.051, F.S.; revising  
21          provisions regarding the process by which a fair  
22          association may dissolve its charter; amending s.  
23          616.07, F.S.; revising provisions regarding the  
24          distribution of public funds and property when a fair  
25          association is dissolved; clarifying that certain  
26          authorized projects, activities, events, programs, and  
27          uses serve an essential governmental purpose and,  
28          therefore, are exempt from taxation; providing for

29 applicability of such exemptions; amending s. 616.08,  
 30 F.S.; requiring each fair association to hold an  
 31 annual public fair; authorizing the fair association  
 32 to license certain property and to grant, lease, rent,  
 33 or license space for exhibits and concessions;  
 34 requiring the fair association to stimulate public  
 35 interest in the benefit and development of certain  
 36 resources of the state, any county, or a municipality,  
 37 including facilities for specified uses; providing  
 38 that certain fair associations are noncommercial  
 39 activity providers; amending s. 616.101, F.S.;  
 40 revising provisions related to the review of  
 41 association accounts and records; amending s. 616.11,  
 42 F.S.; clarifying the rights of the association to use  
 43 certain property for public purposes; adding the  
 44 Department of Transportation to the list of  
 45 governmental entities that may make contributions to a  
 46 fair association to assist it in carrying out its  
 47 purpose; authorizing state, county, and municipal  
 48 governments to fund certain projects at or connected  
 49 with public fairs and expositions; amending s. 616.12,  
 50 F.S.; revising provisions relating to the exemption  
 51 from certain local business taxes for annual public  
 52 fairs held by a fair association; amending s. 616.121,  
 53 F.S., relating to a penalty imposed for making false  
 54 application for a permit; replacing the term  
 55 "exhibitions" with the term "annual public fair" to  
 56 conform to changes made by the act; amending s.

57 616.14, F.S.; prohibiting a fair association from  
 58 conducting more than one annual public fair each  
 59 calendar year; amending ss. 616.15 and 616.17, F.S.,  
 60 relating to procedures for obtaining a permit from the  
 61 Department of Agriculture and Consumer Services to  
 62 conduct a public fair; revising provisions to conform  
 63 to changes made by the act; revising requirements for  
 64 obtaining a departmental waiver from minimum exhibit  
 65 requirements; amending s. 616.185, F.S.; revising  
 66 provisions prohibiting the offense of trespass upon  
 67 the grounds or facilities of a public fair; amending  
 68 s. 616.19, F.S.; revising provisions relating to the  
 69 designation of fairs; amending s. 616.21, F.S.;  
 70 revising provisions related to the expenditure of  
 71 appropriated funds; amending s. 616.23, F.S.; removing  
 72 certain limitations on the use of buildings by  
 73 counties, municipalities, or fair associations;  
 74 amending s. 616.24, F.S.; revising provisions related  
 75 to enforcement; amending s. 288.1175, F.S.; conforming  
 76 cross-references; providing an effective date.

77

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

79

80 Section 1. Section 616.001, Florida Statutes, is amended  
 81 to read:

82 616.001 Definitions.—As used in this chapter, the term:

83 (1) "Annual public fair" means a community, county,  
 84 district, regional, or state fair that is held and conducted by

85 a fair association and permitted by the department pursuant to  
 86 s. 616.15.

87 (2)~~(1)~~ "Authority" means the Florida State Fair Authority.

88 (3)~~(2)~~ "Community fair" means an annual public a fair that  
 89 ~~which~~ serves an area of less than an entire county, has and the  
 90 exhibits that of which are in accordance with s. 616.17, and  
 91 gives in which premiums or awards ~~are given~~ to exhibitors ~~of the~~  
 92 ~~fair~~. Agricultural products shall be produced in the community  
 93 the exhibit represents. The majority of the board of directors  
 94 of the fair shall reside, be employed, or operate a business in  
 95 the community the fair represents.

96 (4) "Concession" means use by a fair association, or a  
 97 grant, lease, or license to a third party, of a portion of the  
 98 land under the ownership, custody, or control of a fair  
 99 association for specific uses, or the right to enter upon the  
 100 land for specific purposes, such as providing rides, games,  
 101 food, beverage, merchandise for sale, exhibits, projects,  
 102 activities, events, programs, or other uses authorized in this  
 103 chapter.

104 (5)~~(3)~~ "County fair" means an annual public a fair that  
 105 ~~which~~ serves an entire county and provides exhibitors with  
 106 premiums or awards for the exhibits that of which are in  
 107 accordance with s. 616.17 ~~and in which premiums or awards are~~  
 108 ~~given to exhibitors of the fair~~. Agricultural products must  
 109 ~~shall~~ be typical of those produced in the county the exhibit  
 110 represents ~~in meeting minimum exhibit requirements~~. The majority  
 111 of the board of directors of the fair shall reside, be employed,  
 112 or operate a business in the county that the fair association

113 represents.

114 ~~(6)-(4)~~ "Department" means the Department of Agriculture  
 115 and Consumer Services.

116 ~~(7)-(5)~~ "District fair" means an annual public a fair that  
 117 ~~which~~ serves at least five counties and has the exhibits that  
 118 meet the requirements of which are in accordance with s. 616.17.

119 ~~A district, which~~ fair shall pay at least not less than a  
 120 ~~minimum of \$25,000~~ in cash premiums or awards to exhibitors ~~of~~  
 121 ~~the fair~~. Agricultural products must shall be typical of those  
 122 produced in the counties county the exhibit represents.

123 Livestock may originate from outside the district, but must be  
 124 registered in the exhibitor's name at least 30 days before the  
 125 opening day of the fair. Each county is shall be encouraged to  
 126 have proportionate exhibits, typical of its respective natural  
 127 resources. Each county shall have exhibits representing in some  
 128 ~~phase of~~ basic resources in agriculture and industry.

129 ~~(8)-(6)~~ "Entry" means one item entered for competition or  
 130 show. An entry may ~~or may not~~ constitute an exhibit, depending  
 131 upon the regulations ~~as~~ stated in the premium book.

132 ~~(9)-(7)~~ "Exhibit" means one or more entries entered for  
 133 exhibition and constituting a unit. An exhibit may consist of  
 134 one or more entries, depending upon the regulations ~~as~~ stated in  
 135 the premium book. The term includes parades and displays of  
 136 articles or a collection of articles, whether static,  
 137 interactive, or dynamic, by a fair association or a third party  
 138 contracting with a fair association, such as exhibits of  
 139 animals, art, housewares, or motor vehicles.

140 ~~(10)-(8)~~ "Exhibitor" means an individual, group of

141 individuals, or business, including a fair association or third  
 142 party contracting with a fair association, which has an exhibit  
 143 ~~having an entry or entries in a show or fair.~~

144 ~~(11)(9)~~ "Fair association" or "association" means an  
 145 association not for profit incorporated under this chapter for  
 146 the purpose of conducting and operating public fairs or  
 147 expositions.

148 ~~(12)(10)~~ "Public fair or exposition" means a project,  
 149 activity, event, or program, and use by a fair association,  
 150 including, but not limited to, the annual public fair, which  
 151 serves the purposes specified in s. 616.08 and benefits and  
 152 develops ~~or exposition not for profit for the purpose of the~~  
 153 ~~benefit and development of the educational, agricultural,~~  
 154 horticultural, livestock, charitable, historical, civic,  
 155 cultural, scientific, and other resources of this the state, or  
 156 any county, or counties of the state, or any municipality, or  
 157 other community in this of any county of the state.

158 ~~(13)(11)~~ "Regional fair" or "interstate fair" means an  
 159 annual public a fair of this state and other several states, one  
 160 ~~of which is Florida,~~ in which fair exhibits meet the  
 161 requirements of ~~are in accordance with~~ s. 616.17. Agricultural  
 162 products must shall be typical of those produced in the area the  
 163 exhibit represents.

164 ~~(14)(12)~~ "Specialized show" means a show or exhibition  
 165 exhibiting and emphasizing ~~a~~ livestock or poultry ~~show,~~ or a  
 166 fruit or vegetable festival, and must shall meet the minimum  
 167 exhibit requirements specified as defined in s. 616.17. A  
 168 specialized show may qualify under one of the definitions in

169 subsections ~~(2)~~, (3), (5), (7), and (15) ~~(13)~~.

170 (15)~~(13)~~ "State fair" means an annual public a fair that  
 171 ~~which~~ serves the entire state. Exhibits must comply ~~shall be in~~  
 172 ~~accordance~~ with s. 616.17, and cash premiums or awards may be  
 173 given to exhibitors ~~of the fair~~.

174 Section 2. Section 616.01, Florida Statutes, is amended to  
 175 read:

176 616.01 Number of persons required; requisites of proposed  
 177 charter.—Twenty-five or more persons who are residents and  
 178 qualified electors of the county in which ~~wherein~~ the annual  
 179 public fair is to be located, who wish ~~wishing~~ to form an  
 180 association not for profit for the purpose of conducting and  
 181 operating public fairs or expositions, may become incorporated  
 182 in the following manner. The subscribers ~~They~~ shall submit the  
 183 proposed charter to the department for review and approval. If  
 184 the proposed charter is approved, the subscribers shall sign and  
 185 ~~then~~ present the proposed charter to the judge of the circuit  
 186 court for the county in which the principal office of the  
 187 association will ~~is to~~ be located. The a proposed charter must  
 188 specify ~~signed by the intended incorporators, which shall set~~  
 189 ~~forth~~:

190 (1) The name of the association and the place where the  
 191 principal office is to be located. The name of the association  
 192 shall include the word, "Inc."

193 (2) The general nature of the objectives ~~its objects~~ and  
 194 powers of the association, including a provision that the  
 195 association is incorporated for the sole purpose of conducting  
 196 and operating public fairs or expositions.



197 (3) The qualifications and terms of association members  
 198 and criteria for ~~the manner of~~ their admission and expulsion.  
 199 Provision may be made in the charter for ex officio membership,  
 200 and ~~memberships may be for terms of years.~~

201 (4) The time for which the association ~~it~~ is to exist.

202 (5) The name ~~names~~ and residence ~~residences~~ of each  
 203 subscriber ~~the subscribers.~~

204 (6) Procedures for the election of and governance by what  
 205 officers, who may ~~its affairs are to be managed, and the time at~~  
 206 ~~which the officers will~~ be elected or appointed.

207 (7) The designation ~~names~~ of ~~the~~ officers who will ~~are to~~  
 208 manage the ~~its~~ affairs of the association until the first  
 209 election or appointment under the charter.

210 (8) Procedures for the adoption, amendment, or rescission  
 211 of ~~By whom its~~ bylaws of the association ~~are to be made,~~  
 212 ~~altered, or rescinded.~~

213 (9) The highest amount of indebtedness or liability that  
 214 may be accrued by the association ~~to which it may at any time~~  
 215 ~~subject itself.~~

216 Section 3. Section 616.02, Florida Statutes, is amended to  
 217 read:

218 616.02 Acknowledgment of charter.—The proposed charter of  
 219 a fair association shall be acknowledged by at least three of  
 220 its subscribers, ~~each a person of good character and reputation,~~  
 221 before an officer authorized to make acknowledgment of deeds, ~~7~~  
 222 ~~which~~ Subscribers shall also make and take ~~subscribe to~~ an oath,  
 223 which must ~~to~~ be attached to the proposed charter, stating that  
 224 the primary objective ~~object~~ of the association is public

225 | service and holding, conducting, and promoting public fairs or  
 226 | expositions; that money and other available assets in value  
 227 | exceeding \$5,000 have ~~there has been~~ provided for the purposes  
 228 | of the association ~~property, money, and other available assets~~  
 229 | ~~in value exceeding \$5,000; and that the association will operate~~  
 230 | ~~intends~~ in good faith to carry out the purposes and objectives  
 231 | ~~objects~~ set forth in its charter.

232 |         Section 4. Section 616.03, Florida Statutes, is amended to  
 233 | read:

234 |         616.03 Notice of application; approval and record of  
 235 | charter.—A notice of intention to apply to the circuit court  
 236 | judge for the charter of a fair association must specify,  
 237 | stating the date that ~~time when the~~ application will be made,  
 238 | shall be sent to the department for approval, and ~~then~~ shall be  
 239 | published in a newspaper in the county where the principal  
 240 | office of the association will ~~is to~~ be located once each week  
 241 | for 4 consecutive weeks. The notice must, ~~setting forth~~ briefly  
 242 | summarize the charter and objectives ~~objects~~ of the proposed  
 243 | ~~association to be formed~~. The proposed charter shall be  
 244 | submitted to and approved by the board of county commissioners  
 245 | of the county in which the principal office of the association  
 246 | will ~~is to~~ be located. After ~~Upon~~ approval by ~~of~~ the department  
 247 | and the board of county commissioners, the proposed charter and  
 248 | ~~with~~ proof of ~~both~~ approval and publication shall be submitted  
 249 | to the circuit judge on the date specified ~~at the time named~~ in  
 250 | the notice, ~~and,~~ If no cause is shown to the contrary and ~~if~~  
 251 | the judge finds that the proposed charter is to be in proper  
 252 | form and will serve ~~so sworn to and for~~ the primary objective

253 ~~object~~ of public service, the judge shall approve the charter  
 254 and issue an order ~~render a decree~~ incorporating the subscribers  
 255 under the charter for the objectives ~~objects~~ and purposes  
 256 specified in the charter and ~~with the powers therein specified~~.  
 257 The charter and order ~~decree~~ of incorporation shall ~~then~~ be  
 258 recorded in the office of the clerk of the circuit court in the  
 259 county where the principal office of the association will ~~is to~~  
 260 be located and provided to in the office ~~of the~~ department.  
 261 After the order is recorded, ~~Thenceforth~~ the subscribers and  
 262 their associates are ~~shall be~~ incorporated with the objectives  
 263 and powers established in the charter and under ~~by~~ the name  
 264 given in the charter and ~~with the objects and powers set forth~~  
 265 ~~therein~~. During the publication period, the proposed charter,  
 266 ~~during the time of publication,~~ shall be on file in the office  
 267 of the clerk of the circuit court. This section does not  
 268 preclude a fair association from also filing its duly approved  
 269 charter with the Department of State pursuant to chapter 617 for  
 270 notice purposes.

271 Section 5. Section 616.05, Florida Statutes, is amended to  
 272 read:

273 616.05 Amendment of charter.—A ~~Any~~ fair association may  
 274 ~~desiring to~~ propose an amendment to ~~of~~ its charter may do so by  
 275 resolution as provided in its charter or bylaws.

276 (1) The proposed amendment shall be submitted to the  
 277 department for approval.

278 (2) After the department approves the proposed amendment,  
 279 it will be incorporated into the original charter ~~When approved,~~  
 280 ~~the proposed amendment,~~ upon:

281        (a) Publication of notice in the same manner as provided  
 282 in s. 616.03;~~7~~

283        (b) Filing the order of the circuit judge approving the  
 284 amendment with ~~Placement on file in~~ the office of the clerk of  
 285 the circuit court and ~~in the office of the department, the~~  
 286 ~~rendering of a decree of the circuit judge approving and~~  
 287 ~~allowing the amendment;~~~~7~~ and

288        (c) Being recorded in the clerk's office, ~~shall be~~  
 289 ~~incorporated into the original charter.~~

290  
 291 If a fair association has filed its charter with the Department  
 292 of State pursuant to chapter 617, a copy of any amendment to the  
 293 charter must be filed with the Department of State for notice  
 294 purposes.

295        Section 6. Section 616.051, Florida Statutes, is amended  
 296 to read:

297        616.051 Dissolving a charter.—~~A~~ Any fair association may  
 298 ~~desiring to~~ dissolve its charter ~~may do so~~ by resolution as  
 299 provided in its charter or bylaws. The proposal for dissolving  
 300 the charter shall be submitted to the department for approval.  
 301 Upon approval and ~~upon~~ publication of notice and proof that all  
 302 indebtedness has been paid and no claims are outstanding against  
 303 the association, the circuit judge may, by decree, dissolve the  
 304 association and order its remaining public funds ~~remaining~~ to be  
 305 distributed as recommended by the board of directors.

306        Section 7. Section 616.07, Florida Statutes, is amended to  
 307 read:

308        616.07 Members not personally liable; property of

309 association held in trust; exempt from taxation.—

310 (1) A ~~No~~ member, officer, director, or trustee of a fair  
 311 association is not ~~shall be~~ personally liable for any of the  
 312 debts of the association, ~~and no~~ money or property of a fair  
 313 association may not ~~shall~~ be distributed as profits or dividends  
 314 among its members, officers, directors, or trustees, ~~but~~

315 (2) All money and property of the association, except that  
 316 necessary shall, ~~except~~ for the payment of its just debts and  
 317 liabilities, are ~~be and remain~~ perpetually public property,  
 318 shall be administered by the association as trustee, and shall  
 319 ~~to~~ be used exclusively for the legitimate purpose of the  
 320 association. So long as they are used for that purpose, all  
 321 money and property of the association are, and shall be, so long  
 322 as so used, exempt from all forms of taxation, including special  
 323 assessments, and any projects, activities, events, programs, and  
 324 uses authorized by this part serve an essential governmental  
 325 purpose and, therefore, are not taxable and are not subject to  
 326 assessments. This subsection does not apply to chapter 212.

327 (3) ~~(2)~~ Upon order of the circuit judge, any public funds  
 328 or property remaining in a fair association when the association  
 329 is dissolved shall be distributed by resolution of the board of  
 330 directors, ~~upon order of the circuit judge~~ to any county or any  
 331 municipality within the county. The board, and may designate  
 332 provide in the distribution resolution the public project that  
 333 will benefit from ~~on which~~ the funds ~~shall be used~~ or the manner  
 334 in which the property will be used. If the use to which the  
 335 ~~property shall be put; however, where~~ property has been  
 336 contributed by a municipality or county, the property shall be

337 reconveyed to the municipality or county that gave the property  
 338 to the association making the contribution of said property.

339 Section 8. Section 616.08, Florida Statutes, is amended to  
 340 read:

341 616.08 Additional powers of association.—~~Each~~ Every fair  
 342 association shall ~~have the power to~~ hold, conduct, and operate  
 343 public fairs and expositions, including an annual public fair.  
 344 ~~annually and~~ For that such purpose, a fair association may ~~to~~  
 345 buy, lease, acquire, and occupy lands, and erect buildings and  
 346 improvements of any kind on all kinds thereon, ~~and develop~~ those  
 347 lands, ~~buildings, and improvements;~~ ~~to~~ sell, mortgage, lease,  
 348 license, or convey any such property or any part thereof, in its  
 349 discretion, from time to time for the purpose of public fairs or  
 350 expositions; ~~to~~ charge and receive compensation for admission to  
 351 those public fairs and expositions, and grant a lease or license  
 352 or rent for the sale or renting of space for exhibits,  
 353 concessions ~~exhibitions,~~ and ~~for other purposes~~ privileges; ~~to~~  
 354 conduct and hold public meetings; ~~to~~ supervise and conduct  
 355 lectures and ~~all kinds of~~ demonstration work in connection with  
 356 or for the improvement of agriculture, horticulture,  
 357 stockraising and poultry raising, and all kinds of farming and  
 358 related matters ~~connected therewith;~~ ~~to~~ hold exhibits of  
 359 agricultural and horticultural products and livestock, poultry,  
 360 equine ~~chickens,~~ and other domestic animals; ~~to~~ give  
 361 certificates or diplomas of excellence; ~~to~~ promote the progress  
 362 of the geographical area it represents and serves and stimulate  
 363 public interest in the advantages and development of that area  
 364 by providing facilities for the benefit and development of the

365 educational, agricultural, horticultural, livestock, equestrian,  
 366 charitable, historical, civic, cultural, scientific, and other  
 367 resources of the state, any county of the state, or any  
 368 municipality or other community of any county of the state,  
 369 including facilities for exhibits, concessions, and industrial  
 370 exhibitions, public gatherings, cultural activities,  
 371 entertainment events, recreational vehicle parking, auctions,  
 372 trade shows, concerts, and other functions that which the  
 373 association determines will enhance the educational, physical,  
 374 economic, and cultural interests of the public; and generally to  
 375 do, perform, and carry out all matters, acts, and business usual  
 376 or proper in connection with public fairs and expositions. ~~but~~  
 377 This enumeration of particular powers does ~~shall~~ not diminish ~~be~~  
 378 ~~in derogation of~~ or limit any special provisions of the charter  
 379 of the association ~~inserted~~ for the regulation of its business,  
 380 and the conduct of its affairs of creating, defining, limiting,  
 381 and regulating the powers of the association or its officers or  
 382 members. ~~provided,~~ The treasurer or similar officer of the  
 383 association shall ~~be required to~~ give a good and sufficient bond  
 384 with a surety company duly authorized under the laws of the  
 385 state, payable to the association and in an amount equal to the  
 386 value of the total amount of money and other property in that  
 387 officer's possession or custody, in addition to the value of any  
 388 money and property of the association which that may reasonably  
 389 be expected to come into that officer's possession or custody. A  
 390 fair association organized under this chapter is a noncommercial  
 391 activity provider.

392 Section 9. Section 616.101, Florida Statutes, is amended

393 to read:

394           616.101 Annual review of accounts and records. ~~Once each~~  
 395 ~~year, a review of~~ The accounts and records of every fair  
 396 association whose annual public fair has an annual attendance of  
 397 more than 25,000, ~~based on sound accounting practices and~~  
 398 ~~procedures,~~ shall be reviewed annually ~~made~~ by a qualified  
 399 accountant licensed by the state. A fair association whose  
 400 annual public fair has an annual attendance of 25,000 or fewer  
 401 ~~less~~ must submit an annual financial statement that has been  
 402 signed by an officer of the county. The results of the ~~all such~~  
 403 reviews shall be kept in the official records of each  
 404 association, available to all directors of the association. A  
 405 certified copy of the review shall be filed with ~~in the office~~  
 406 ~~of~~ the department:

407           (1) On request by the department to certify expenditures  
 408 of the premiums awarded to exhibitors of a fair ~~state premium~~ or  
 409 of building funds when there is evidence of violation of state  
 410 laws; or

411           (2) When the association is applying for a fair permit.

412           Section 10. Section 616.11, Florida Statutes, is amended  
 413 to read:

414           616.11 Association authorized to contract with  
 415 municipality, county, or state for use of land; admission fees;  
 416 state, counties, and municipalities authorized to make  
 417 contributions.—Any fair association may enter into any contract,  
 418 lease, or agreement with any municipality or county in the state  
 419 or with the state or agency or subdivision of the state ~~thereof~~  
 420 for the donation to or the use and occupation by the association



421 of any land owned, leased, or held by the county or municipality  
 422 or the state or agency or subdivision of the state ~~thereof~~  
 423 during a ~~such~~ time and on the such terms approved by ~~as~~ the  
 424 county or municipality or the state or agency or subdivision  
 425 ~~thereof may authorize~~, with the right ~~on the part~~ of the  
 426 association to use the property for public ~~charge~~ and ~~receive an~~  
 427 ~~admission fee to the fair or~~ exposition purposes ~~or any part~~  
 428 ~~thereof~~. The state, the Department of Transportation and ~~or~~ any  
 429 other agency or subdivision of the state ~~thereof~~, the board of  
 430 county commissioners of any county within which the fair or  
 431 exhibition is held, and the mayor and city council of any  
 432 municipality within the county may also make contributions of  
 433 money, property, or services to fair associations to assist in  
 434 carrying out the purposes of the associations under ~~as~~  
 435 ~~authorized by~~ this chapter. The state or any agency or  
 436 subdivision of the state, boards of county commissioners of the  
 437 various counties of the state, and the mayor and city council of  
 438 any municipality within the county may expend ~~in their~~  
 439 ~~discretion~~ such sums of money as they deem necessary for the  
 440 best interests of their counties and in aiding the development  
 441 of the educational, agricultural, horticultural, livestock,  
 442 charitable, historical, civic, cultural, scientific, and any  
 443 other resources of their counties at and in connection with  
 444 public fairs and expositions, including the offering and paying  
 445 of premiums for the exhibitions of resources of the state,  
 446 county, or municipality ~~their respective counties~~.

447 Section 11. Section 616.12, Florida Statutes, is amended  
 448 to read:

449 616.12 Licenses upon certain shows; distribution of fees;  
 450 exemptions.—

451 (1) Each ~~Every~~ person who operates ~~may operate under any~~  
 452 ~~terms whatsoever, including a lease arrangement,~~ any traveling  
 453 show, exhibition, amusement enterprise, carnival, vaudeville,  
 454 exhibit, minstrel, rodeo, theatrical, game or test of skill,  
 455 riding device, dramatic repertoire, ~~or~~ other show or amusement,  
 456 or concession, ~~(including a concession operating in a tent,~~  
 457 enclosure, or other temporary structure, ~~whether covered or~~  
 458 ~~uncovered)~~ within the grounds of, and in connection with, any  
 459 annual public fair or exposition held by a fair association  
 460 shall pay the license taxes ~~now or hereafter~~ provided by law.  
 461 However, if in the event the association satisfies the  
 462 requirements fully qualifies with all other provisions of this  
 463 chapter, including securing the required fair permit from the  
 464 department, the ~~traveling show, exhibition, amusement~~  
 465 ~~enterprise, carnival, vaudeville, minstrel, rodeo, theatrical,~~  
 466 ~~game or test of skill, riding device, dramatic repertoire, or~~  
 467 ~~other show or amusement (including a concession operating in a~~  
 468 ~~tent, enclosure, or other temporary structure, whether covered~~  
 469 ~~or uncovered) within the grounds of, and in connection with, any~~  
 470 ~~such fair or exposition is not required to pay any such license~~  
 471 taxes and local business tax authorized in chapter 205 are  
 472 waived and the department shall issue tax, ~~but shall operate~~  
 473 ~~under a tax exemption certificate issued by the department.~~ The  
 474 department shall adopt ~~prescribe~~ the proper forms and rules to  
 475 administer ~~for carrying out the purpose and intent expressed in~~  
 476 this section, including the necessary tax exemption certificate,

477 ~~to be signed by the tax collector,~~ showing that the fair  
 478 association has met all requirements and that the traveling  
 479 show, exhibition, amusement enterprise, carnival, vaudeville,  
 480 exhibit, minstrel, rodeo, theatrical, game or test of skill,  
 481 riding device, dramatic repertoire, ~~or~~ other show or amusement,  
 482 or concession (including a concession operating in a tent,  
 483 enclosure, or other temporary structure, whether covered or  
 484 uncovered) has met in full all requirements of this chapter and  
 485 accordingly is fully exempt.

486 (2) Any fair association securing the required annual fair  
 487 permit from the department is exempt from local business tax as  
 488 defined by chapter 205 ~~occupational license fees,~~ occupational  
 489 permit fees, or any occupational taxes assessed by any county,  
 490 municipality, political subdivision, ~~or~~ agency, or  
 491 instrumentality thereof.

492 Section 12. Section 616.121, Florida Statutes, is amended  
 493 to read:

494 616.121 Making false application.-Any person who, with  
 495 fraudulent intent, makes or causes to be made any false  
 496 statement in an application for a permit to hold an annual ~~a~~  
 497 public fair ~~or exposition~~ or in an application for distribution  
 498 of the amount paid for license taxes under the provisions of  
 499 this chapter, ~~with fraudulent intent of obtaining that permit or~~  
 500 ~~amount,~~ and by that false statement obtains that permit or  
 501 distribution, any part of that amount for himself or herself or  
 502 ~~for any firm or corporation in which that person has a financial~~  
 503 ~~interest, or for whom that person is acting,~~ commits a  
 504 misdemeanor of the first degree, punishable as provided in s.

505 775.082 or s. 775.083.

506 Section 13. Section 616.14, Florida Statutes, is amended  
507 to read:

508 616.14 Number of fairs; penalty.—

509 (1) A fair association may not conduct more than one  
510 annual public fair each calendar year. Any fair association that  
511 conducts more than one public fair ~~or exposition~~ during any one  
512 calendar year is subject to revocation of its charter by the  
513 court granting the charter.

514 (2) Any fair association that does not conduct an annual a  
515 public fair ~~or exposition~~ for a period of 3 calendar years  
516 shall, upon the recommendation of the department, have its  
517 charter revoked by the court granting the charter.

518 Section 14. Section 616.15, Florida Statutes, is amended  
519 to read:

520 616.15 Permit from Department of Agriculture and Consumer  
521 Services required.—

522 (1) An annual ~~No~~ public fair ~~or exposition~~ may not be  
523 conducted by a fair association without a permit issued by the  
524 department. ~~The permit shall be issued in the following manner:~~  
525 The association shall present to the department an application  
526 for a ~~the~~ permit, signed by an officer of the association, at  
527 least 3 months before holding the annual public fair. ~~The or~~  
528 ~~exposition; this~~ application shall be accompanied by a fee in an  
529 amount to be determined by the department ~~not to exceed \$366 or~~  
530 ~~be less than \$183~~ for processing the application and making any  
531 required investigation. The application fee must be at least  
532 \$183 and may not exceed \$366. ~~The Fees collected under this~~

533 subsection shall be deposited in the General Inspection Trust  
 534 Fund of the State Treasury in a special account to be known as  
 535 the "Agricultural and Livestock Fair Account." A copy of the  
 536 application must be sent to each fair association located within  
 537 50 miles of the site of the proposed annual public fair ~~or~~  
 538 ~~exposition~~ at the same time the application is sent to the  
 539 department. The department may issue a ~~the~~ permit if the  
 540 applicant provides ~~if the application sets forth:~~

541 (a) The opening and closing dates of the proposed annual  
 542 public fair ~~or exposition~~.

543 (b) The name and address of the owner of the central  
 544 amusement attraction that will ~~to~~ operate during the annual  
 545 public fair ~~or exposition~~.

546 (c) An affidavit properly executed by the president or  
 547 ~~other~~ chief executive officer of the applicant association  
 548 certifying the existence of a binding contract entered into by  
 549 the association ~~or exposition~~ and the owner of the central  
 550 amusement attraction covering the period for which the permit  
 551 from the department is applied. The contract ~~or contracts~~  
 552 between the parties shall be available for inspection by duly  
 553 authorized agents of the department in administering this  
 554 chapter.

555 (d) A written statement that the main purpose of the  
 556 association is to conduct and operate a public ~~the proposed~~ fair  
 557 and ~~or~~ exposition, including the annual fair, for the benefit  
 558 and development of the educational, agricultural, horticultural,  
 559 livestock, charitable, historical, civic, cultural, scientific,  
 560 and other resources of the geographical area the fair

561 association ~~or exposition~~ represents and serves. The statement  
 562 must ~~shall be in writing,~~ shall be subscribed, and shall be  
 563 acknowledged by an officer of the association before an officer  
 564 authorized to take acknowledgments.

565 (e) A premium list of the current annual public fair ~~or~~  
 566 ~~exposition~~ to be conducted or a copy of the previous year's  
 567 premium list showing all premiums and awards to be offered to  
 568 exhibitors in various departments of the annual public fair,  
 569 which may include, but are not limited to, ~~such as~~ art  
 570 exhibition, beef cattle, county exhibits, dairy cattle,  
 571 horticulture, swine, women's department, 4-H Club activities,  
 572 Future Farmers of America activities, Future Homemakers of  
 573 America activities, poultry and egg exhibits, and community  
 574 exhibits, ~~the foregoing being a list of the usual exhibitors of~~  
 575 ~~a fair and not to be construed as limiting the premium list to~~  
 576 ~~these departments.~~ The premium list, which may be submitted  
 577 separately from the application, must be submitted at least at  
 578 any time not later than 60 days before the holding of the annual  
 579 public fair begins operation or exposition, and the department  
 580 ~~shall issue the permit as provided in this section within 10~~  
 581 ~~days thereafter if the applicant is properly qualified.~~

582 (f) Proof of liability insurance insuring the association  
 583 against liability for injury to persons, in an amount of not  
 584 less than \$300,000 per occurrence.

585 (g) A copy of the most recent review.

586 (h) A list of all current members of the board of  
 587 directors of the association and their contact information,  
 588 including home address ~~addresses.~~

589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616

The department shall issue the permit within 10 days after it receives all the information and the applicant qualifies pursuant to this section.

(2) The department shall administer and enforce the provisions of this chapter except as to the regulation of games, which shall be regulated by local law enforcement agencies. The department shall adopt ~~is authorized to make and publish~~ rules to administer, ~~not inconsistent with~~ this chapter, including rules governing ~~as to~~ the form and contents of the application for the permit and any reports that it may deem necessary in enforcing the provisions of this chapter.

(3) Notwithstanding any fair association meeting the requirements set forth in subsection (1), the department may order a full investigation to determine if ~~whether or not~~ the fair association meets ~~in full~~ the requirements of s. 616.01, and ~~accordingly~~ may withhold a permit from, deny a permit to, or withdraw a permit once issued to the association. The department shall also consider whether any proposed annual public fair ~~or exposition~~, as set forth in an application for a permit, will compete with another annual public fair ~~or exposition~~ within 50 miles of the proposed annual public fair ~~or exposition~~ with respect to name, dates of operation, or market. The department may deny, withhold, or withdraw a permit from a fair association if the department determines that such fair association will compete with another association. The department shall give preference to existing fair associations with established dates, locations, and names. The determination by the department is

617 ~~shall be~~ final.

618 Section 15. Subsections (1) and (3) of section 616.17,  
619 Florida Statutes, are amended to read:

620 616.17 Minimum exhibits.—

621 (1) An annual ~~No~~ public fair ~~or exposition~~ conducted by a  
622 fair association may not be approved by the department for a tax  
623 exemption certificate unless the fair association ~~or exposition~~  
624 displays at least the following ~~minimum~~ exhibits, ~~but this~~  
625 ~~requirement may not be construed as a limitation on the number~~  
626 ~~of exhibits which the fair or exposition may have:~~

627 (a) Three exhibits from 4-H Clubs or Future Farmers of  
628 America chapters which are officially approved by those clubs or  
629 chapters.

630 (b) Three exhibits of community, individual, or county  
631 farm displays.

632 (c) Three exhibits of field crops in at least three  
633 different crops.

634 (d) Three exhibits of horticultural products.

635 (e) Three culinary exhibits such as canned fruits, canned  
636 vegetables, canned pickles or juices, jams, jellies, cakes,  
637 bread, candies, or eggs.

638 (f) Three exhibits of household arts such as homemade  
639 spreads, towels, luncheon sets, rugs, clothing, or baby apparel.

640 (g) Three exhibits of fruit or vegetable crops in at least  
641 three different crops.

642 (h) Three exhibits of arts, crafts, photography, or  
643 antiques or of scout handiwork.

644 (i) Three exhibits from home demonstration, home



645 economics, educational, religious, or civic groups.

646 (j) Three exhibits of livestock such as dairy cows, beef  
647 cattle, hogs, sheep, poultry, horses, or mules.

648 (3) The department may provide a waiver to the minimum  
649 exhibit requirements of this section to any fair association  
650 that submits an application for the waiver to the department, at  
651 least 30 ~~60~~ days before ~~prior to~~ the annual public fair ~~or~~  
652 ~~exposition~~ in need of the waiver, and shows good cause why the  
653 requirements of this section cannot be met.

654 Section 16. Section 616.185, Florida Statutes, is amended  
655 to read:

656 616.185 Trespass upon grounds or facilities of public fair  
657 ~~or exposition~~; penalty; arrests.-

658 (1) For the purposes of this chapter, "trespass" upon the  
659 grounds of the Florida State Fair Authority or any other ~~public~~  
660 fair association ~~or exposition~~ permitted under s. 616.15 means:

661 (a) Entering and remaining upon any grounds or facilities  
662 owned, operated, or controlled by the Florida State Fair  
663 Authority or any other association ~~public fair or exposition~~  
664 permitted under s. 616.15 and committing any act that ~~which~~  
665 disrupts the orderly conduct of any authorized activity of the  
666 fair association ~~organization~~ in charge, or its lessees,  
667 licensees, or the general public on those grounds or facilities;  
668 or

669 (b) Entering and remaining on those grounds or facilities  
670 after being directed not to enter or to leave them by the  
671 executive director of the authority, chief administrative  
672 officer of the fair association ~~or exposition~~, or any employee

673 or agent of the association ~~thereof~~ designated by the executive  
 674 director or administrator to maintain order on those grounds and  
 675 facilities, after a determination by the executive director,  
 676 administrator, employee, or agent that the entering or remaining  
 677 on those grounds or facilities is in violation of the rules and  
 678 regulations of the Florida State Fair Authority or permitted  
 679 ~~public fair association or exposition~~ or is disrupting the  
 680 orderly conduct of any authorized activity of the fair  
 681 association organization in charge, or its lessees, licensees,  
 682 or the general public on those grounds or facilities.

683 (2) Any person ~~found guilty of~~ committing the offense of  
 684 trespass upon the grounds of the Florida State Fair Authority or  
 685 any other ~~public fair association or exposition~~ permitted under  
 686 s. 616.15 commits ~~is guilty of~~ a misdemeanor of the second  
 687 degree, punishable as provided in s. 775.082 or s. 775.083.

688 (3) A law enforcement ~~peace~~ officer may arrest any person  
 689 on or off the premises, without a warrant, if the officer has  
 690 probable cause for believing such person has committed the  
 691 offense of trespass upon the grounds of the Florida State Fair  
 692 Authority or any ~~public fair association or exposition~~ permitted  
 693 under s. 616.15. Such an arrest does ~~shall~~ not render the law  
 694 enforcement ~~peace~~ officer criminally or civilly liable for false  
 695 arrest, false imprisonment, or unlawful detention.

696 Section 17. Section 616.19, Florida Statutes, is amended  
 697 to read:

698 616.19 Designation of fairs.—Any ~~public fair association~~  
 699 ~~or exposition heretofore or hereafter~~ created pursuant to this  
 700 chapter shall be designated by the name stated in the permit

701 required or stated by its fair association and is ~~shall be~~  
 702 recognized by the state as equal in dignity to the Florida State  
 703 Fair and as fully recognized as the Florida State Fair.

704 Section 18. Section 616.21, Florida Statutes, is amended  
 705 to read:

706 616.21 Agricultural and livestock exhibit buildings;  
 707 conditions for expenditures. ~~No part of~~ Appropriated funds may  
 708 not be expended except upon approval and with the recommendation  
 709 of the department. Further, ~~the no part of such an~~ appropriation  
 710 may not be expended for the construction of a building unless  
 711 ~~and until a good~~ fee simple title to the land on which the  
 712 building is to be constructed is vested in the county,  
 713 municipality, or fair association for which the building is to  
 714 be constructed.

715 Section 19. Section 616.23, Florida Statutes, is amended  
 716 to read:

717 616.23 Use of buildings.—The buildings authorized by ss.  
 718 616.21-616.23 may be used by the county, municipality, or fair  
 719 association for ~~which the buildings are built as agricultural or~~  
 720 ~~livestock exhibition buildings for~~ public fair or exposition  
 721 purposes ~~in the promotion of the agricultural and livestock~~  
 722 ~~industries~~. These buildings may be used as office space for  
 723 agricultural agents; however, no more than 20 percent of the  
 724 buildings may be so used.

725 Section 20. Subsection (2) of section 616.24, Florida  
 726 Statutes, is amended to read:

727 616.24 Enforcement.—

728 (2) It is the duty of each ~~every~~ state attorney, law

729 enforcement officer as defined by chapter 943, and other  
 730 appropriate county or municipal officer to enforce this chapter  
 731 and the rules adopted pursuant thereto and to assist the  
 732 department and its inspectors and agents in the enforcement of  
 733 this chapter and the rules adopted pursuant thereto.

734 Section 21. Paragraph (a) of subsection (4) and subsection  
 735 (6) of section 288.1175, Florida Statutes, are amended to read:

736 288.1175 Agriculture education and promotion facility.—

737 (4) The Department of Agriculture and Consumer Services  
 738 shall certify a facility as an agriculture education and  
 739 promotion facility if the Department of Agriculture and Consumer  
 740 Services determines that:

741 (a) The applicant is a unit of local government as defined  
 742 in s. 218.369, or a fair association as defined in s.  
 743 616.001(11) ~~616.001(9)~~, which is responsible for the planning,  
 744 design, permitting, construction, renovation, management, and  
 745 operation of the agriculture education and promotion facility or  
 746 holds title to the property on which such facility is to be  
 747 developed and located.

748 (6) Funds may not be expended to develop or subsidize  
 749 privately owned facilities, except for facilities owned by fair  
 750 associations as defined in s. 616.001(11) ~~616.001(9)~~.

751 Section 22. This act shall take effect July 1, 2012.



**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	12 Y, 0 N	Lolley	Massengale
3) State Affairs Committee		Kaiser <i>[Signature]</i>	Hamby <i>[Signature]</i>

**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.

## 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;

---

<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 a 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;

<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 Consumer 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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

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

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

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

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

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

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

(2) The Department of Agriculture and Consumer Services  
 shall accept fingerprints of an applicant under this section  
 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; ~~or~~  
 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 539 Pub. Rec./Florida Historic Capitol and Legislative Research Center and Museum  
SPONSOR(S): Frishe  
TIED BILLS: IDEN./SIM. BILLS: SB 374

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N	Williamson	Williamson
2) Rules & Calendar Committee	18 Y, 0 N	Thomas	Birtman
3) State Affairs Committee		Williamson	Hamby

SUMMARY ANALYSIS

Current law provides several public record exemptions for the identity of a donor or prospective donor to an organization who wishes to remain anonymous. Examples include the Cultural Endowment Program, the direct support organization for the Florida Agricultural Museum, and the direct support organization for the John and Mable Ringling Museum of Art.

The bill creates a public record exemption for information that would identify a donor or prospective donor to the direct-support organization for the Florida Historic Capitol and the Legislative Research Center and Museum who desires to remain anonymous. It provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.

**Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it appears to require a two-thirds vote for final passage.**



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity to justify the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.<sup>1</sup>

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>2</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. Under this provision, only the identity of an individual may be exempted.
- Protects trade or business secrets.

###### Public Record Exemptions, Donor Information

Current law provides several public record exemptions for the identity of a donor or prospective donor to an organization who wishes to remain anonymous. Examples include the Cultural Endowment Program,<sup>3</sup> the direct support organization for the Florida Agricultural Museum,<sup>4</sup> and the direct support organization for the John and Mable Ringling Museum of Art.<sup>5</sup>

###### Direct-Support Organization, Legislative Research Center and Museum

In 2009, the Legislature authorized the Legislative Research Center and Museum at the Historic Capitol and the Capitol Curator<sup>6</sup> to establish a direct-support organization (DSO) to provide assistance and promotional support through fundraising for the Florida Historic Capitol and the Legislative Research Center and Museum.<sup>7</sup> The DSO must be a not-for-profit Florida corporation that is incorporated under chapter 617, F.S.,<sup>8</sup> and approved by the Department of State.<sup>9</sup>

---

<sup>1</sup> See s. 24(c), Art. I of the State Constitution.

<sup>2</sup> See s. 119.15, F.S.

<sup>3</sup> Section 265.605(2), F.S.

<sup>4</sup> Section 570.903(6), F.S.

<sup>5</sup> Section 1004.45(2)(h), F.S.

<sup>6</sup> The Florida Historic Capitol Curator is appointed by and serves at the pleasure of the President of the Senate and the Speaker of the House of Representatives. The curator is responsible for: promoting and encouraging state knowledge and appreciation of the Florida Historic Capitol; collecting, researching, exhibiting, interpreting, preserving and protecting the history, artifacts, objects, furnishings and other materials related to the Florida Historic Capitol, other than archaeological materials; and developing, directing, supervising, and maintaining the interior design and furnishings within the Florida Historic Capitol. In conjunction with the Legislative Research Center and Museum at the Historic Capitol, the curator also may assist the Florida Historic Capitol in the performance of certain monetary duties. See s. 272.135, F.S.

<sup>7</sup> Section 3, chapter 2009-179, L.O.F.; codified as s. 272.136, F.S.

<sup>8</sup> Chapter 617, F.S., relates to not for profit corporations.

<sup>9</sup> Section 272.136(2), F.S.

The DSO is governed by a nine-member board of directors who must have a demonstrated capacity for supporting the mission of the Historic Capitol. Initial appointments to the board are made by the President of the Senate and the Speaker of the House of Representatives and, thereafter, by the board.<sup>10</sup>

If the DSO is no longer authorized, fails to comply with the statutory requirements, fails to maintain its tax-exempt status, or ceases to exist, then all funds obtained through grants, gifts, and donations in the DSO's account revert to the state and are deposited into an account designated by the Legislature.<sup>11</sup>

The DSO received its not-for-profit designation in October 2010 and has since been receiving contributions.

### **Effect of Bill**

The bill creates a public record exemption for the identity of a donor or prospective donor to the direct-support organization for the Florida Historic Capitol and the Legislative Research Center and Museum who desires to remain anonymous. The personal identifying information is confidential and exempt<sup>12</sup> from public records requirements. The anonymity of a donor or prospective donor must be maintained in the auditor's report for annual financial audits.

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.<sup>13</sup>

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

Section 1 amends s. 272.136, F.S., to create a public record exemption for the direct-support organization for the Florida Historic Capitol and the Legislative Research Center and Museum.

Section 2 provides a public necessity statement.

Section 3 provides 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:**

---

<sup>10</sup> Section 272.136(1), F.S.

<sup>11</sup> Section 272.136(6), F.S.

<sup>12</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

<sup>13</sup> See s. 24(c), Art. I of the State Constitution.

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:

Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it appears to require a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates a public record exemption for the "identity of a donor or prospective donor" to the direct-support organization (DSO) and for "all information identifying such donor or prospective donor" to the DSO. The language appears redundant. In order to avoid redundancy, the sponsor may want to consider an amendment to revise the language as follows:

Any information identifying a donor or prospective donor to the direct-support organization who desires to remain anonymous is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1                   A bill to be entitled  
 2           An act relating to public records; amending s.  
 3           272.136, F.S.; exempting from public record  
 4           requirements all identifying information of a donor or  
 5           prospective donor to the direct-support organization  
 6           of the Florida Historic Capitol and the Legislative  
 7           Research Center and Museum; providing for future  
 8           repeal and legislative review of the exemption under  
 9           the Open Government Sunset Review Act; providing a  
 10          statement of public necessity; providing an effective  
 11          date.

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

14  
 15          Section 1. Subsection (7) is added to section 272.136,  
 16          Florida Statutes, to read:

17          272.136 Direct-support organization.—The Legislative  
 18          Research Center and Museum at the Historic Capitol and the  
 19          Capitol Curator may establish a direct-support organization to  
 20          provide assistance and promotional support through fundraising  
 21          for the Florida Historic Capitol and the Legislative Research  
 22          Center and Museum, including, but not limited to, their  
 23          educational programs and initiatives.

24          (7)(a) The identity of a donor or prospective donor to the  
 25          direct-support organization who desires to remain anonymous and  
 26          all information identifying such donor or prospective donor is  
 27          confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 28          of the State Constitution. Such anonymity shall be maintained in

29 any auditor's report created pursuant to the annual financial  
 30 audit required under subsection (5).

31 (b) This subsection is subject to the Open Government  
 32 Sunset Review Act in accordance with s. 119.15 and shall stand  
 33 repealed on October 2, 2017, unless reviewed and saved from  
 34 repeal through reenactment by the Legislature.

35 Section 2. The Legislature finds that it is a public  
 36 necessity that information identifying a donor or prospective  
 37 donor to the direct-support organization for the Florida  
 38 Historic Capitol and the Legislative Research Center and Museum  
 39 be made confidential and exempt from public records requirements  
 40 if such donor or prospective donor desires to remain anonymous.  
 41 In order to encourage private support for the direct-support  
 42 organization, it is a public necessity to promote the giving of  
 43 gifts to, and the raising of private funds for, the acquisition,  
 44 renovation, rehabilitation, and the programming and preservation  
 45 of the Florida Historic Capitol and the Legislative Research  
 46 Center and Museum. An essential element of an effective plan for  
 47 promoting the giving of private gifts and the raising of private  
 48 funds is the need to protect the identity of prospective and  
 49 actual donors who desire to remain anonymous. If the identity of  
 50 prospective and actual donors who desire to remain anonymous is  
 51 subject to disclosure, there is a chilling effect on donations  
 52 because donors are concerned about disclosure of personal  
 53 information leading to theft and, in particular, identity theft,  
 54 including personal safety and security. Therefore, the  
 55 Legislature finds that it is a public necessity to make  
 56 confidential and exempt from public records requirements

HB 539

2012


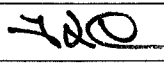
57 | information that would identify a donor or prospective donor to  
58 | the direct-support organization for the Florida Historic Capitol  
59 | and the Legislative Research Center and Museum if such donor or  
60 | prospective donor wishes to remain anonymous.

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



HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 577 City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County  
**SPONSOR(S):** Young and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 976

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	15 Y, 0 N	Nelson	Hoagland
2) State Affairs Committee		Meadows 	Hamby 

**SUMMARY ANALYSIS**

The Firefighters and Police Pension Fund for the City of Tampa was created by special act in 1933. HB 577 authorizes the City of Tampa to enter into a supplemental contract with firefighters and police officers to increase the amount of pension benefits received by a widow/widower or child/children if a member dies in the line of duty. The bill also allows a joint annuitant who is a lawfully wedded spouse to be eligible for a "13th check."

According to the Actuarial Statement of Fiscal Soundness provided by the Department of Management Services, Division of Retirement, the bill complies with the requirements of s. 14, Art. X of the State Constitution, satisfies the actuarial cost impact provisions of part VII of ch. 112, F.S., and has no fiscal impact on the state. The cost of additional benefits will be paid by increases in the city and member contributions.

The bill provides an effective date of October 1, 2012.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### State Constitution: Governmental Unit Retirement and Pension Systems

Section 14, Art. X of the State Constitution provides that a governmental unit responsible for a retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide an increase in benefits to members or beneficiaries without concurrent provisions for funding the increase on a sound actuarial basis.

##### Florida Statutes: The Florida Protection of Public Employee Retirement Benefits Act

Part VII of ch. 112, F. S., the “Florida Protection of Public Employee Retirement Benefits Act,” was adopted by the Legislature to implement the provisions of s. 14, Art. X of the State Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. The act is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees, which is funded in whole or in part by public funds.

Section 112.63, F.S., provides that a unit of local government may not agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and furnished a copy of such statement to the Division of Retirement, Department of Management Services. The statement also is required to indicate whether the proposed changes are in compliance with s.14, Art. X of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

Pursuant to s.11(a)(21), Art. III of the State Constitution, s. 112.67, F.S., prohibits special laws in conflict with the requirements of the Act.

##### Firefighter and Police Pensions: Chapters 175 and 185, F.S.

Chapters 175 and 185, F.S., respectively, provide the statutory authority for municipal and special fire control district firefighter pensions, and municipal police pensions. These acts were established by the Legislature to provide a “uniform retirement system” providing defined benefit plans for firefighters and police officers, and setting standards for operation and funding of these systems. Retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the retirement trust funds.

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive—access to premium tax revenues—to encourage the establishment of firefighter retirement plans by Florida cities. Fourteen years later, in 1953, the Legislature enacted ch. 185, F.S., which created a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.

Funding for these pension plans comes from four sources: net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”), employee contributions, other revenue sources, and mandatory payments by the city of any extra amount needed to keep the plan solvent. To qualify for premium tax dollars, plans must meet requirements found in chs. 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the

Division of Retirement in the Department of Management Services, but day-to-day operational control rests with local boards of trustees. Most Florida firefighters and municipal law enforcement officers participate in these plans.

### City of Tampa Firefighters and Police Pension Fund

The Firefighters and Police Pension Fund for the City of Tampa originally was created through a special act in 1933 (ch. 16721, L.O.F.). This act was substantially rewritten by Ordinance No 4746-A, enacted September 30, 1969, which was approved, ratified, validated and confirmed by ch. 74-613, L.O.F., and further amended by Ordinance 89-314, enacted December 21, 1989, and approved, ratified, validated and confirmed by ch. 90-391, L.O.F. Subsequently, the act has been amended by the following laws:

- ch. 92-231, L.O.F.,
- ch. 94-463, L.O.F.,
- ch. 98-515, L.O.F.,
- ch. 2000-485, L.O.F.,
- Ordinance Number 2001-133, enacted July 3, 2001 (authorized by ch. 200-485, L.O.F.),
- ch. 2001-288, L.O.F.,
- ch. 2002-369, L.O.F.,
- Ordinance Number 2003-22, enacted January 28, 2003 (authorized by ch. 2000-485, L.O.F.),
- ch. 2004-427, L.O.F.,
- ch. 2007-304, L.O.F., and
- ch. 2011-240, L.O.F.

The provisions of these laws are incorporated into a pension contract and appropriate supplemental pension contracts, which are signed by each individual plan member.

The contract provides for pension plan administration, funding, membership and benefits. The general administration and responsibility for the proper operation of the pension system is vested in a board of trustees consisting of nine persons: three members of the city administration appointed by the mayor, three members of the fire department elected by active and retired firefighters, and three members of the police department elected by active and retired police officers.

### **Effect of Proposed Changes**

HB 577 amends various provisions contained in the uncodified special acts relating to the City of Tampa Firefighters and Police Officers Pension Fund. These changes have been negotiated between the City and Tampa Police Benevolent Association and the International Association of Firefighters, Local 754. The PBA membership ratified its contract on November 17, 2011, and ratification of the firefighters' contract is pending.

The changes to the pension contract contained in the bill will be made available in a supplemental pension contract. A current member is not required to sign this contract, but is not permitted to select some of the adjustments and reject others. A person who becomes a member of the fund on or after October 1, 2012, will be required, as a condition of membership, to sign a pension contract that includes the provisions of the bill, and make additional contributions as required to fund the changes.

The bill modifies the Tampa Firefighters and Police Officers Pension Contract as follows:

- Section 8 is amended to expand eligibility for death benefits to include full-time students up to the age of 23 who are children of firefighters or police officers killed in the line of duty. Currently, those benefits only are available to widows or widowers, or children under the age of 18.
- Section 8 also is amended to increase benefits to widow or widowers from 50 to 65 percent of a member's final year's earnings, and provide for a minimum benefit for the widow or widower of a

firefighter or police officer killed in the line of duty prior to October 1, 1969, of \$1,500 per month (base salary plus PRAA or post-retirement adjustment account, which is a cost of living adjustment). Surviving children' benefits are increased from 7.5 to 15 percent of the final year's earnings, subject to a limitation of 95 percent (increased from 65 percent) for a widow or widower and children combined. Upon death of the widow or widower, the child allowance is increased to 30 percent from 15 percent, not to exceed a total of 60 (increased from 50) percent of a member's final earnings. Payments to surviving spouses and children who are currently receiving benefits increase on the first payment day after October 1, 2012.

Presently, there are 21 widows/widowers and five minor children who will be affected by these increases in pension benefits. The benefits had not been changed since 1969, and current amounts were considered inadequate.

An Actuarial Impact Statement for the Pension was provided to the Plan Administrator, Jennifer Campbell, on September 8, 2011, and provides that the proposed change to Section 8 will increase the pension fund's actuarial accrued liability as of October 1, 2010, by \$1,278,228 and the fiscal 2012 contribution by \$179,562 (or .20 percent of projected payroll). Therefore, member contributions would increase by \$76,736 (or .09 percent of projected payroll) and the city contribution would increase by \$102,826 (or .11 percent of projected payroll).

- Section 27, entitled the "13th CHECK PROGRAM," additionally is amended to extend the eligibility criteria for the 13<sup>th</sup> check to a joint annuitant who is a lawfully wedded spouse. Current eligible recipients of the 13<sup>th</sup> check include retirees and eligible surviving spouses.

The 13<sup>th</sup> check benefit is a gain-sharing benefit. Since 2007, if the pension fund earns greater than 10 percent in a fiscal year, and demonstrates cumulative actuarial gains, then an "extra" or "13<sup>th</sup> check" may be paid. If the fund loses money, does not earn greater than 10 percent, or cannot demonstrate cumulative actuarial gains, then a 13<sup>th</sup> check is not issued for that fiscal year.

This benefit was added in 1998 when the pension offered only one form of benefit: payments to retirees, and a 65 percent eligible surviving spousal continuation. Chapter 99-01, L.O.F., provided additional optional forms of benefit payments that allow members to choose, for example, a joint annuitant with 100 percent continuation.

The act provides an effective date of October 1, 2012.

#### B. SECTION DIRECTORY:

Section 1: Authorizes the City of Tampa to enter into supplemental contracts with pension fund members.

Section 2: Amends the City of Tampa Firefighters and Police Officers Pension Plan.

Section 3: Provides for the act's changes to the pension to be provided in a supplemental contract.

Section 4: Provides for ratification of previous contract provisions.

Section 5: Provides a severability clause.

Section 6: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN?                      October 5, 2011

WHERE?                                *The Tampa Tribune*, a daily newspaper of general circulation published in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED?    Yes     No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED?    Yes, attached     No

D. ECONOMIC IMPACT STATEMENT FILED?    Yes, attached     No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **Drafting Issues**

None.

#### **Other Comments**

In a November 2011 study released by the Leroy Collins Institute, "Report Card: Florida Municipal Pension Plans," the Tampa Firefighters and Police Officers Pension Fund was awarded an "A," and determined to be funded at 99.43 percent, based on an actuarial date of 2008. According to the report, an "A" grade "indicates that a pension plan appears to be well funded and sustainable; however, sustainability can change rather quickly with a substantive drop in the value of the invested assets or an increase in pension benefits that increases the size of the liability."

The Actuarial Statement of Fiscal Soundness provided by the Department of Management Services, Division of Retirement,<sup>1</sup> provides:

- This bill complies with the requirements of Article X, Section 14 of the Constitution.
- This bill satisfies the actuarial cost impact provisions of Chapter 112, Part VII, Florida Statutes.
- No fiscal impact to the state. Cost of additional benefit would be paid by increases in the City of Tampa and member contributions. See actuarial impact statement prepared by the plan actuary.<sup>2</sup>

---

<sup>1</sup> Statement prepared by Joseph Edmonds, Enrolled Actuary, 11-3518, dated November 15, 2011.

<sup>2</sup> Page 6 of this analysis.

**The City of Tampa Pension Fund for  
Firefighters and Police Officers  
Actuarial Impact Study**

	October 1, 2010		
	Before Changes	After Proposed Changes	Difference
<b>1. Number of Members</b>			
a. Active Members	1,268	1,268	
b. Deferred Vested Members	10	10	
c. Retired Members:			
i. Service	1,316	1,316	
ii. Disabled	336	336	
iii. Beneficiaries	279	279	
iv. Sub-total	1,931	1,931	
d. Total Members	3,209	3,209	
<b>2. Payroll</b>			
a. Total Covered Payroll	\$88,544,208	\$88,544,208	
b. Projected Payroll	\$92,085,976	\$92,085,976	
<b>3. Total Retired Member Benefits</b>	\$59,506,337	\$59,632,889	\$126,552
<b>4. Annual Cost</b>			
a. Entry Age Normal Accrued Liability	\$786,527,647	\$787,805,875	\$1,278,228
b. Actuarial Value of Assets	\$719,908,405	\$719,908,405	\$0
c. Unfunded Accrued Liability	\$66,619,242	\$67,897,470	\$1,278,228
d. Unfunded Liability Payment	\$9,855,189	\$9,990,782	\$135,593
e. Entry Age Normal Cost & Administrative Expense	\$19,888,845	\$19,922,490	\$33,645
f. Interest Adjustment	\$1,814,455	\$1,824,779	\$10,324
g. Total Annual Cost	\$31,558,489	\$31,738,051	\$179,562
<b>5. Minimum Required Contribution</b>			
a. Total Required Contribution	\$31,558,489	\$31,738,051	\$179,562
b. Estimated Member Contributions	\$10,813,290	\$10,890,026	\$76,736
c. Net Amount Payable by City	\$14,489,808	\$14,592,634	\$102,826
d. Estimated State Contributions	\$6,255,391	\$6,255,391	\$0
<b>6. Minimum Required Contribution (as a % of Projected Payroll)</b>			
a. Total Required Contribution	34.27%	34.47%	0.20%
b. Estimated Member Contributions	11.74%	11.83%	0.09%
c. Net Amount Payable by City	15.74%	15.85%	0.11%
d. Estimated State Contributions	6.79%	6.79%	0.00%

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to the City Pension Fund for  
 3           Firefighters and Police Officers in the City of Tampa,  
 4           Hillsborough County; authorizing the City of Tampa to  
 5           enter into a supplemental contract with certain  
 6           firefighters and police officers to increase the  
 7           amount of pension received by a widow or widower or  
 8           child or children should a member lose his or her life  
 9           or later die from injuries or causes occurring while  
 10          in the discharge of duties; allowing a joint annuitant  
 11          who is also a lawfully wedded spouse to be eligible  
 12          for a 13th check; confirming in part the City of Tampa  
 13          Firefighters and Police Officers Pension Contract;  
 14          providing for severability; providing an effective  
 15          date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:  
 18

19           Section 1. The City of Tampa is authorized and empowered  
 20 to enter into a supplemental contract with each and every  
 21 firefighter or police officer who was an active member of the  
 22 City Pension Fund for Firefighters and Police Officers in the  
 23 City of Tampa on or after October 1, 2012, or who hereafter  
 24 enters into a pension contract with the City.

25           Section 2. Sections 8 and 27 of the City of Tampa  
 26 Firefighters and Police Officers Pension Contract as prescribed  
 27 by Section 28-17 of the City of Tampa Code [Ordinance No. 4746-  
 28 A, enacted September 30, 1969], as amended by Section 28-19 of

HB 577

2012

29 the City of Tampa Code [Ordinance No. 6038-A, enacted September  
 30 17, 1974], pursuant to chapter 74-613, Laws of Florida, as  
 31 further amended by Ordinance No. 89-314, enacted December 21,  
 32 1989, and approved, ratified, validated, and confirmed by  
 33 chapter 90-391, Laws of Florida, and as further amended by  
 34 chapter 92-231, Laws of Florida, chapter 94-463, Laws of  
 35 Florida, chapter 98-515, Laws of Florida, chapter 2000-485, Laws  
 36 of Florida, Ordinance No. 2001-133, enacted July 3, 2001,  
 37 chapter 2001-288, Laws of Florida, chapter 2002-369, Laws of  
 38 Florida, Ordinance No. 2003-22, enacted January 23, 2003,  
 39 chapter 2004-427, Laws of Florida, chapter 2007-304, Laws of  
 40 Florida, and chapter 2011-240, Laws of Florida, are amended to  
 41 read:

42 Section 8. If any member of either department shall lose his  
 43 life or later die from injuries or causes occurring while in the  
 44 discharge of his duties, and shall leave a widow or widower, or  
 45 child or children under the age of eighteen (18) years, or age  
 46 twenty-three (23) if a full-time student, the Board shall  
 47 authorize and direct payment of a pension to the widow or widower  
 48 and/or child or children, but only in the following amounts and on  
 49 the following conditions:

50 (A) To the widow or widower in equal monthly installments  
 51 an amount equal to sixty-five ~~fifty~~ per centum (65% ~~50%~~) of the  
 52 member's final year's earnings, computed from date of death,  
 53 until death. For the widow or widower of a firefighter or police  
 54 officer killed in the line of duty prior to October 1, 1969, the  
 55 minimum benefit under this section shall be \$1,500 per month  
 56 (Base plus PRAA). For the widow or widower of any member of this

57 Pension Fund who prior to October 16, 1992, was a member of  
 58 Division B of the General Employees Pension Plan as established  
 59 by Chapter 81-497, Laws of Florida, as amended, upon the  
 60 reaching social security normal retirement age, except as  
 61 provided in Section 28(C) of this Contract, the benefit paid to  
 62 the widow or widower shall be reduced by an amount equal to the  
 63 actual social security benefit earned by the member for  
 64 employment as a firefighter or police officer for the City to  
 65 the extent that such employment is considered to be creditable  
 66 service under this Fund; provided, however, that if the widow or  
 67 widower does not receive the member's accrued social security  
 68 benefit, there shall be no reduction in benefits paid to such  
 69 widow or widower. The effect of such reduction shall be that the  
 70 sum of the benefit paid herein and said social security benefit  
 71 shall be equal to the amount of the benefit otherwise payable  
 72 herein. The widow or widower of each such member shall, upon  
 73 demand by the Board, authorize the Social Security  
 74 Administration to release any information necessary to calculate  
 75 such reduction. The Board shall not make any payment for the  
 76 benefit payable herein for any period during which such widow or  
 77 widower willfully fails or refuses to authorize the release of  
 78 such information in the manner and within the time prescribed by  
 79 rules adopted by the Board.

80 (B) For each child until he or she shall have reached the  
 81 age of eighteen (18) years, or until such child or children  
 82 shall die or marry before reaching the age of eighteen (18)  
 83 years, or age twenty-three (23) if a full-time student, in equal  
 84 monthly installments an amount equal to fifteen ~~seven and one-~~



85 ~~half~~ per centum (15% ~~7½%~~) of the final year's earnings, computed  
 86 from date of death, subject to a limitation of a total of  
 87 ninety-five ~~sixty-five~~ per centum (95% ~~65%~~) of final yearly  
 88 earnings for widow or widower and children combined. Children's  
 89 pensions shall terminate at death or marriage as well as  
 90 reaching age eighteen (18), or age twenty-three (23) if a full-  
 91 time student. Adopted children shall participate.

92 (C) Upon death of the widow or widower, the fifteen ~~seven~~  
 93 ~~and one-half~~ per centum (15% ~~7½%~~) child allowance shall be  
 94 increased to thirty fifteen per centum (30% ~~15%~~) for each child,  
 95 and shall be paid in trust to eligible children, not to exceed a  
 96 total of sixty fifty per centum (60% ~~50%~~) of member's final  
 97 earnings.

98 (D) The trusteeship and disbursement of the pension to any  
 99 child or children is to be determined by the Board of Trustees.

100 (E) No pension shall be allowed to any stepchild or  
 101 stepchildren of a deceased member.

102 (F) In the absence of an eligible surviving spouse or  
 103 minor children, to the extent required by the Florida Statutes,  
 104 in the event of the death of a member prior to retirement, the  
 105 member's designated beneficiary shall be entitled to the  
 106 benefits otherwise payable to the member at normal retirement  
 107 age for ten (10) years certain.

108 (G) In the case of a surviving widow or widower and a  
 109 surviving child as defined in this act, who is in pay status on  
 110 October 1, 2012, the benefit received shall be increased on the  
 111 first payment date after October 1, 2012.

HB 577

2012

112 Section 27. 13th CHECK PROGRAM - Notwithstanding any other  
 113 provisions of this contract, and subject to the provisions of  
 114 this section, the 13th Check Program is a program which  
 115 authorizes the Board of Trustees to establish and make a  
 116 supplemental pension distribution, pursuant to the following  
 117 terms and conditions:

118 (A) Eligibility - The following persons shall be eligible  
 119 for the supplemental pension distribution payable no later than  
 120 June 30, 2002, and each June 30 annually thereafter:

121 (1) All retired members who have terminated employment as  
 122 a firefighter or police officer in the fire department or police  
 123 department, respectively, who, on the October 1 immediately  
 124 preceding the June 30 by which distributions are to be made,  
 125 were eligible to receive pension benefits for at least 1 year.  
 126 For purposes of this section only, a DROP participant shall be  
 127 considered a retired member and, during the DROP calculation  
 128 period, a DROP participant shall be eligible for the 13th check  
 129 benefit, provided that, on the October 1 immediately preceding  
 130 the June 30 by which distributions are to be made, such DROP  
 131 participant had participated in the DROP for at least 1 year.†

132 (2) All qualifying spouses who were eligible to receive  
 133 pension benefits pursuant to Section 8 or Section 9 for at least  
 134 1 year on the October 1 immediately preceding the June 30 by  
 135 which distributions are to be made.†~~and~~

136 (3) All qualifying surviving spouses, who on the October 1  
 137 immediately preceding the June 30 by which distributions are to  
 138 be made, were eligible for receipt of Section 8 or Section 9  
 139 benefits but who have not received such pension benefits for at

HB 577

2012

140 least 1 year provided that the deceased member was eligible for  
 141 receipt of pension benefits on October 1 of the prior year.

142 (4) A joint annuitant who is also a lawfully wedded spouse  
 143 of the retiree and who was eligible to receive pension benefits  
 144 pursuant to Section 7 for at least 1 year on the October 1  
 145 immediately preceding the June 30 by which distributions are  
 146 made.

147 (5) A joint annuitant who is also a lawfully wedded spouse  
 148 of the retiree and who on the October 1 immediately preceding  
 149 the June 30 by which distributions are to be made was eligible  
 150 for receipt of Section 7 benefits but who has not received such  
 151 pension benefits for at least 1 year, provided that the deceased  
 152 member was eligible for receipt of pension benefits on October 1  
 153 of the prior year.

154 (B) 13th Check Account

155 (1) There is hereby created a 13th check account within  
 156 the Fund, which shall consist of those employees' contributions  
 157 set forth in subparagraph 27(B)(2) in excess of those  
 158 contributions otherwise required by Section 2 for the normal  
 159 annual cost of benefits, other than benefits arising from post  
 160 retirement adjustments made pursuant to Section 23 and other  
 161 than benefits arising from the 13th Check Program, plus any  
 162 interest earnings thereon up to and including September 30,  
 163 2001. Effective for earnings paid on the first pay date after  
 164 October 1, 2001, employee contributions to the 13th Check  
 165 account shall cease, and the 13th Check Account shall be funded  
 166 by investment returns in excess of 10% (limited to 3%) on the  
 167 base plan liabilities for persons eligible for the 13th check.

HB 577

2012

168 For purposes of this Section, the "base plan" shall mean those  
 169 assets of the Fund excluding the Post Retirement Adjustment  
 170 Account, DROP account assets, and the 13th check account. The  
 171 amount available for the 13th check shall be calculated as of  
 172 fiscal year end commencing September 30, 2001 for the fiscal  
 173 year ending September 30, 2001 for payment no later than June  
 174 30, 2002, and each June 30 annually thereafter; provided,  
 175 however, the calculation of the amount payable no later than  
 176 June 30, 2002, shall include employee contributions to the 13th  
 177 check account for earnings paid through the last pay date  
 178 immediately prior to October 1, 2001. Subject to the  
 179 requirements of part VII of chapter 112, Florida Statutes,  
 180 effective October 1, 2007, the 13th Check Account shall be  
 181 funded by investment returns in excess of 10 percent (limited to  
 182 1 percent) on the base plan plus the Post Retirement Adjustment  
 183 Account market value of assets at each fiscal year ending  
 184 September 30. For purposes of this section, the term "base plan"  
 185 means those assets of the fund excluding the Post Retirement  
 186 Adjustment Account, DROP account assets, and the 13th Check  
 187 Account. The amount available for the 13th Check shall be  
 188 calculated as of fiscal year end commencing September 30, 2007,  
 189 for the fiscal year ending September 30, 2007, for payment no  
 190 later than June 30, 2008, and each June 30 annually thereafter.  
 191 The City shall not be required to make contributions toward the  
 192 13th check program.

193 (2) Notwithstanding any other provision of this contract,  
 194 commencing October 1, 1998, employees covered under this  
 195 contract shall continue to contribute pursuant to Section 2 at

HB 577

2012

196 the rates required for employees to fund the normal annual cost  
 197 of benefits, other than benefits arising from post retirement  
 198 adjustments made pursuant to Section 23 and other than benefits  
 199 arising from the 13th check program made pursuant to this  
 200 section, plus an additional 100 percent of 9.874 percent of the  
 201 full scale contribution rate (FSCR) set forth in Section 2(D) to  
 202 the 13th check program. Employee contributions to the 13th check  
 203 shall cease effective for earnings paid on the last pay date  
 204 immediately prior to October 1, 2001.

205 (C) Amount of the 13th Check - The amount of the 13th  
 206 check shall be determined as follows:

207 (1)(a) The amount of the 13th check shall be the same for  
 208 all retired members, regardless of years of service, age, years  
 209 retired, or monthly installment.

210 (b) All eligible surviving spouses shall be entitled to 50  
 211 percent of what the eligible retired member would have received  
 212 but for death.

213 (c) If a retired member is eligible on October 1 but dies  
 214 before payment of the 13th check by the following June 30, the  
 215 retired member's spouse shall receive the full amount of the  
 216 payment, and if there is no surviving spouse, the retired  
 217 member's designated beneficiary or beneficiaries, or if none,  
 218 the retired member's estate shall receive the payment.

219 (2) The Board of Trustees shall establish by rule adopted  
 220 no later than May 31, 2002 and each May 31 thereafter, the  
 221 amount of the 13th check funded pursuant to Section 27(B)(1),  
 222 subject to the following:

223 (a) The amount of the 13th check, or a method for  
 224 calculating the amount of the 13th check in a manner that is  
 225 definitely determinable and in accordance with the requirements  
 226 of the Internal Revenue Code applicable to a qualified  
 227 governmental plan; and

228 (b) Certification by the Fund's actuary that the amount of  
 229 the payment will be funded on a sound actuarial basis as  
 230 required by Section 14, Article X of the State Constitution.

231 (D) Conflict of Laws - To the extent that any provision of  
 232 this section is in conflict with sections 112.60-112.67, Florida  
 233 Statutes, or those provisions of chapters 175 and 185, Florida  
 234 Statutes, that apply to local law plans established by municipal  
 235 ordinance or special act, or provisions of Florida Statutes made  
 236 applicable to pension funds established by special act, or to  
 237 the extent that any provision of this section would result in  
 238 the loss of tax exempt status of the Pension Fund, the Board of  
 239 Trustees is hereby delegated the authority to adopt by rules  
 240 changes to this section in order to comply with said laws, which  
 241 shall have the force of law and shall be considered part of this  
 242 pension contract.

243 (E) Administration of Program - The Board of Trustees  
 244 shall make such rules as are necessary for the effective and  
 245 efficient administration of this section, provided that such  
 246 rules are not inconsistent with the terms of any collective  
 247 bargaining agreement entered into by the City and the certified  
 248 bargaining agents for firefighters and police officers  
 249 concerning the 13th Check Program. Notwithstanding any other  
 250 provision of this section to the contrary, any provision of this

251 section shall be construed and administered in such manner that  
 252 such program will qualify as a qualified governmental pension  
 253 plan under existing or hereafter enacted provisions of the  
 254 Internal Revenue Code of the United States, and the Board of  
 255 Trustees may adopt any rule to accomplish the purpose of this  
 256 section as is necessary to retain tax qualification, which rules  
 257 shall have the force of law and shall be considered part of this  
 258 pension contract.

259       Section 3. The changes to the pension contract in this act  
 260 for firefighters and police officers who are active members of  
 261 the City Pension Fund for Firefighters and Police Officers in  
 262 the City of Tampa on or after October 1, 2012, shall be made  
 263 available in a supplemental pension contract, and an individual  
 264 shall not be permitted to select some of said changes and reject  
 265 other of said changes. Any firefighter or police officer who is  
 266 entitled to benefits under the City Pension Fund for  
 267 Firefighters and Police Officers in the City of Tampa who is  
 268 actively employed as a firefighter or police officer in the City  
 269 of Tampa on or after October 1, 2012, shall have the opportunity  
 270 to sign such supplemental pension contract before October 1,  
 271 2012. However, any person who becomes a member of the City  
 272 Pension Fund for Firefighters and Police Officers in the City of  
 273 Tampa on or after October 1, 2012, shall be required as a  
 274 condition of membership into said Pension Fund to sign a pension  
 275 contract which includes the provisions of this act, and shall be  
 276 required to make contributions if required as a result of such  
 277 benefits.

278           Section 4. The City of Tampa Firefighters and Police  
 279 Officers Pension Contract as prescribed by Section 28-17 of the  
 280 City of Tampa Code [Ordinance No. 4746-A, enacted September 30,  
 281 1969], as amended by Section 28-19 of the City of Tampa Code  
 282 [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to  
 283 chapter 74-613, Laws of Florida; as further amended by Ordinance  
 284 No. 89-314, enacted December 21, 1989, and approved, ratified,  
 285 validated, and confirmed by chapter 90-391, Laws of Florida; as  
 286 further amended by chapter 92-231, Laws of Florida, chapter 94-  
 287 463, Laws of Florida, chapter 98-515, Laws of Florida, chapter  
 288 2000-485, Laws of Florida, Ordinance No. 2001-133, enacted July  
 289 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369,  
 290 Laws of Florida, Ordinance No. 2003-22, enacted January 23,  
 291 2003, chapter 2004-427, Laws of Florida, chapter 2007-304, Laws  
 292 of Florida, and chapter 2011-240, Laws of Florida, is in all  
 293 other respects approved, ratified, validated, and confirmed.

294           Section 5. If any provision of this act or its application  
 295 to any person or circumstance is held to be invalid, the  
 296 invalidity shall not affect other provisions or applications of  
 297 this act which can be given effect without the invalid provision  
 298 or application, and to this end the provisions of this act are  
 299 severable.


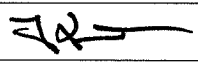
300           Section 6. This act shall take effect October 1, 2012.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 7021      PCB ANRS 12-01      Department of Agriculture and Consumer Services  
**SPONSOR(S):** Agriculture & Natural Resources Subcommittee, Crisafulli  
**TIED BILLS:** None    **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	13 Y, 0 N, As CS	Lolley	Massengale
2) State Affairs Committee		Kaiser 	Hamby 

**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.
  - 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.

## 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.

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

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

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.

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

---

<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.

---

<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 permit holder 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

<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.

---

<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

---

<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 discontinuation 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

#### *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.

### Effect of Proposed Changes

#### *Florida Agricultural Exposition*

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

---

<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.

## *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. 570.0705, F.S., prohibiting members of certain advisory bodies from receiving per diem or travel expenses.

**Section 16:** Repeals s. 570.071, F.S., relating to the Florida Agricultural Exposition.

**Section 17:** Amends s. 570.074, F.S., renaming and revising the policy jurisdiction of the department's Office of Energy and Water.

**Section 18:** Amends s. 570.18, F.S., correcting a cross-reference.

**Section 19:** Repeals s. 570.29, F.S., relating to the divisions of the department.

**Section 20:** Repeals s. 570.34, F.S., relating to the Plant Industry Technical Council.

**Section 21:** 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 22 and 23:** Amends s. 570.53, F.S., correcting cross-references.

**Section 24:** 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 25:** Amends s. 573.118, F.S., revising requirements for the accounting and review of collections and expenditures from agricultural commodity marketing order assessments.

**Section 26:** Amends s. 576.045, F.S., revising the expiration dates of certain provisions regulating fertilizers that contain nitrogen and phosphorous.

**Section 27:** Amends s. 576.071, F.S., removing a reference to the Fertilizer Technical Council.

**Section 28:** Repeals s. 576.091, F.S., relating to the Fertilizer Technical Council.

**Section 29:** Repeals s. 578.30, F.S., relating to the Seed Technical Council.

**Section 30:** Amends s. 580.041, F.S., revising the reporting requirements and penalties for violations by distributors of commercial feed.

**Section 31:** 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 32:** Repeals s. 580.151, F.S., relating to the Commercial Feed Technical Council.

**Section 33:** Amends s. 581.011, F.S., removing a reference to the Plant Industry Technical Council.

**Section 34:** 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 35:** 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 36 and 37:** 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 38:** Amends s. 582.30, F.S., revising requirements and procedures for the dissolution or discontinuance of a soil and water conservation district.

**Section 39:** 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 40:** Repeals s. 585.155, F.S., relating to the inspection and vaccination of cattle for brucellosis.

**Section 41:** Repeals s. 589.03, F.S., relating to compensation and allowance for members of the Florida Forestry Council.

**Section 42:** Amends s. 589.19, F.S., renaming the "Wounded Warrior Special Hunt Areas" of the state forests.

**Section 43:** Amends s. 589.277, F.S., revising requirements for the deposit of contributions for tree planting programs.

**Section 44:** 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 45, 46 and 47:** 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 49:** Repeals s. 597.006, F.S., relating to the Aquaculture Interagency Coordinating Council.

**Section 50:** 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 51:** 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

	FY 2012-13	FY 2013-14
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

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

General Inspection Trust Fund

	FY 2012-13	FY 2013-14
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.

	FY 2012-13	FY 2013-14
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:

None.

#### 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.

On January 18, 2012, the Agriculture and Natural Resources Appropriation Subcommittee adopted one amendment to HB 7021.

- The amendment removes section 15 of the bill, which would have added subsection (42) to s. 570.07 authorizing the department to accept grants or other funds to distribute to individuals when such funds are provided pursuant to an agreement, to avoid confusion regarding the department's ability to distribute funds without a legislative appropriation.

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. 570.0705, F.S.; prohibiting members of  
 42 | certain advisory bodies from receiving per diem or  
 43 | travel expenses; deleting a provision that prohibits  
 44 | members from receiving compensation for their  
 45 | services; repealing s. 570.071, F.S., relating to the  
 46 | Florida Agricultural Exposition and the receipt and  
 47 | expenditure of funds for the exposition; amending s.  
 48 | 570.074, F.S.; renaming and revising the policy  
 49 | jurisdiction of the department's Office of Energy and  
 50 | Water; amending s. 570.18, F.S.; conforming cross-  
 51 | references; repealing s. 570.29, F.S., relating to  
 52 | divisions of the Department of Agriculture and  
 53 | Consumer Services; repealing s. 570.34, F.S., relating  
 54 | to the Plant Industry Technical Council; creating s.  
 55 | 570.451, F.S.; creating the Agricultural Feed, Seed,  
 56 | and Fertilizer Advisory Council; providing for the

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

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

113 Council; amending s. 589.19, F.S.; renaming the  
 114 "Wounded Warrior Special Hunt Areas" of the state  
 115 forests; conforming obsolete references to the former  
 116 Division of Forestry; amending s. 589.277, F.S.;  
 117 revising requirements for the deposit of contributions  
 118 for tree planting programs; conforming obsolete  
 119 references to the former Division of Forestry;  
 120 amending s. 590.02, F.S.; specifying that state and  
 121 local government agencies other than the Florida  
 122 Forest Service may not enforce regulations of  
 123 broadcast burning or agricultural and silvicultural  
 124 pile burning except under certain circumstances;  
 125 conforming obsolete references to the former Division  
 126 of Forestry; amending ss. 597.0021 and 597.003, F.S.;  
 127 deleting references to the Aquaculture Interagency  
 128 Coordinating Council to conform to the repeal by the  
 129 act of provisions creating the council; amending s.  
 130 597.004, F.S.; authorizing the waiver of aquaculture  
 131 registration fees for certain schools; amending s.  
 132 597.005, F.S.; revising the composition of the  
 133 Aquaculture Review Council to conform to the repeal by  
 134 the act of provisions creating the Aquaculture  
 135 Interagency Coordinating Council; revising the  
 136 legislative committees to whom the Aquaculture Review  
 137 Council must provide analyses of unresolved industry  
 138 issues; repealing s. 597.006, F.S., relating to the  
 139 Aquaculture Interagency Coordinating Council; amending  
 140 s. 616.252, F.S.; providing for the reimbursement of

141 members of the Florida State Fair Authority for per  
 142 diem and travel expenses; providing an effective date.

143

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

145

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

148 20.14 Department of Agriculture and Consumer Services.—  
 149 There is created a Department of Agriculture and Consumer  
 150 Services.

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

153 (m) Food, Nutrition, and Wellness.

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

156 253.002 Department of Environmental Protection, water  
 157 management districts, Fish and Wildlife Conservation Commission,  
 158 and Department of Agriculture and Consumer Services; duties with  
 159 respect to state lands.—

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

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



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

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

215 379.2523 Aquaculture definitions; marine aquaculture  
 216 products, producers, and facilities.—

217 (5) The department shall:

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

222 (6) The Fish and Wildlife Conservation Commission shall  
 223 encourage the development of aquaculture in the state through  
 224 the following:

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

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

238 2. Conducting research programs to evaluate candidate  
 239 species when funding and staff are available.

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

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

253 Section 4. Paragraph (c) of subsection (3) of section  
 254 379.2524, Florida Statutes, is amended to read:

255 379.2524 Commercial production of sturgeon.—

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

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

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

266 388.161 District boards of commissioners; powers and  
 267 duties.—

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

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

281 388.201 District budgets; hearing.—

282 (4) The governing board:

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

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

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

293 388.323 Disposal of surplus property.—Surplus property  
 294 shall be disposed of according to the provisions set forth in s.  
 295 274.05 with the following exceptions:

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

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

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

309 Section 9. Subsection (2) of section 388.46, Florida  
 310 Statutes, is amended to read:  
 311 388.46 Florida Coordinating Council on Mosquito Control;  
 312 establishment; membership; organization; responsibilities.—  
 313 (2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.—  
 314 (a) Membership.—The Florida Coordinating Council on  
 315 Mosquito Control shall be comprised of the following  
 316 representatives or their authorized designees:  
 317 1. The Secretary of Environmental Protection. and  
 318 2. The State Surgeon General. †  
 319 3.2. The executive director of the Fish and Wildlife  
 320 Conservation Commission. †  
 321 4.3. The state epidemiologist. ;  
 322 5.4. The Commissioner of Agriculture. † ~~and~~  
 323 6. The Board of Trustees of the Internal Improvement Trust  
 324 Fund.  
 325 7.5. Representatives from:  
 326 a. The University of Florida, Institute of Food and  
 327 Agricultural Sciences, Florida Medical Entomological Research  
 328 Laboratory. †  
 329 ~~b. Florida Agricultural and Mechanical University;~~  
 330 b.e. The United States Environmental Protection Agency. †  
 331 c.d. The United States Department of Agriculture, Insects  
 332 Affecting Man Laboratory. †  
 333 d.e. The United States Fish and Wildlife Service. †  
 334 8.f. Two mosquito control directors to be nominated by the  
 335 Florida Mosquito Control Association, two representatives of  
 336 Florida environmental groups, and two private citizens who are

337 property owners whose lands are regularly subject to mosquito  
 338 control operations, to be appointed to 4-year terms by the  
 339 Commissioner of Agriculture; ~~and~~

340 ~~g. The Board of Trustees of the Internal Improvement Trust~~  
 341 ~~Fund.~~

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

358 (c) Responsibilities.—The council shall:

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

362 ~~2. Identify and recommend to Florida Agricultural and~~  
 363 ~~Mechanical University research priorities for arthropod control~~  
 364 ~~practices and technologies.~~

365       ~~2.3.~~ Develop and recommend to the department a request for  
366 proposal process for arthropod control research.

367       ~~3.4.~~ Identify potential funding sources for research or  
368 implementation projects and evaluate and prioritize proposals  
369 upon request by the funding source.

370       ~~4.5.~~ Prepare and present reports, as needed, on arthropod  
371 control activities in the state to the Pesticide Review Council,  
372 ~~the Florida Coastal Management Program Interagency Management~~  
373 ~~Committee,~~ and other governmental organizations, as appropriate.

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

378       493.6104 Advisory council.—

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

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

385       500.09 Rulemaking; analytical work.—

386       (3) The department may adopt rules necessary for the  
387 efficient enforcement of this chapter. Such rules must be  
388 consistent with those adopted under the federal act in regard to  
389 food and, to this end, may adopt by reference those rules and  
390 the current edition of the model Food Code issued by the Food  
391 and Drug Administration and Public Health Service of the United  
392 States Department of Health and Human Services, when applicable

393 and practicable.

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

396 500.147 Inspection of food establishments and vehicles,  
 397 ~~food safety pilot program.~~

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

408 ~~(a) A good inspection history over a specified time~~  
 409 ~~period.~~

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

413 ~~(c) An active food training program in place for~~  
 414 ~~employees.~~

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

417 ~~(e) Written sanitation standard operation procedures in~~  
 418 ~~place and the food establishment's verification records made~~  
 419 ~~available for review by the department.~~

420 ~~(f) Freezer/refrigeration units and hot-cold temperature~~



421 ~~logs or recording charts made available for review by the~~  
 422 ~~department.~~

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

425 Section 13. Subsections (4) through (7) of section  
 426 502.014, Florida Statutes, are renumbered as subsections (3)  
 427 through (6), respectively, and present subsection (3) of that  
 428 section is amended to read:

429 502.014 Powers and duties.—

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

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

438 502.053 Permits and ~~licenses~~; fees; requirements;  
 439 exemptions; temporary permits.—

440 (1) PERMITS AND LICENSES.—

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

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

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

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

469 (2) FEES.—

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

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

475 (3) REQUIREMENTS.—

476 (a) To obtain a ~~frozen dessert plant permit or milkfat~~

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

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

487 Section 15. Subsection (9) of section 570.0705, Florida  
 488 Statutes, is amended to read:

489 570.0705 Advisory committees.—From time to time the  
 490 commissioner may appoint any advisory committee to assist the  
 491 department with its duties and responsibilities.

492 (9) Notwithstanding s. 20.052(4)(d), members of each  
 493 advisory committee, council, board, working group, task force,  
 494 or other advisory body created by law within the department or  
 495 created by the department under this section may not be  
 496 reimbursed for per diem or travel expenses as provided in s.  
 497 112.061 shall receive no compensation for their services.

498 Section 16. Section 570.071, Florida Statutes, is  
 499 repealed.

500 Section 17. Section 570.074, Florida Statutes, is amended  
 501 to read:

502 570.074 Department of Agriculture and Consumer Services;  
 503 ~~energy and water policy~~.—The commissioner may create an Office  
 504 of Agricultural Energy and Water Policy under the supervision of

505 a senior manager exempt under s. 110.205 in the Senior  
 506 Management Service. The commissioner may designate the bureaus  
 507 and positions in the various organizational divisions of the  
 508 department that report to this office relating to any matter  
 509 over which the department has jurisdiction in matters relating  
 510 to ~~energy and~~ water policy affecting agriculture, application of  
 511 such policies, and coordination of such matters with state and  
 512 federal agencies.

513 Section 18. Section 570.18, Florida Statutes, is amended  
 514 to read:

515 570.18 Organization of departmental work.—In the  
 516 assignment of functions to the divisions of the department  
 517 created in s. 20.14 ~~570.29~~, the department shall retain within  
 518 the Division of Administration, in addition to executive  
 519 functions, those powers and duties enumerated in s. 570.30. The  
 520 department shall organize the work of the other divisions in  
 521 such a way as to secure maximum efficiency in the conduct of the  
 522 department. The divisions created in s. 20.14 ~~570.29~~ are solely  
 523 to make possible the definite placing of responsibility. The  
 524 department shall be conducted as a unit in which every employee,  
 525 including each division director, is assigned a definite  
 526 workload, and there shall exist between division directors a  
 527 spirit of cooperative effort to accomplish the work of the  
 528 department.

529 Section 19. Section 570.29, Florida Statutes, is repealed.

530 Section 20. Section 570.34, Florida Statutes, is repealed.

531 Section 21. Section 570.451, Florida Statutes, is created  
 532 to read:

533        570.451 Agricultural Feed, Seed, and Fertilizer Advisory  
 534 Council.-

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

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

539        (a) One representative of the department.

540        (b) One representative of the dean for extension of the  
 541 Institute of Food and Agricultural Sciences at the University of  
 542 Florida.

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

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

548  
 549 Each member shall be appointed for a term of not to exceed 4  
 550 years and shall serve until his or her successor is appointed.

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

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

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

565 (d) The meetings, powers and duties, procedures, and  
 566 recordkeeping of the council shall be in accordance with the  
 567 provisions of s. 570.0705 relating to advisory committees  
 568 established within the department.

569 (4) The council shall:

570 (a) Receive reports of relevant enforcement activity  
 571 conducted by the Division of Agricultural Environmental  
 572 Services, including the number of inspections, the number of  
 573 administrative actions, the number of complaints received and  
 574 investigated, and the dispositions of complaints.

575 (b) Provide advice to the department on the conduct of  
 576 relevant enforcement activities.

577 (c) Receive reports on disciplinary actions.

578 (d) Make recommendations to the commissioner for actions  
 579 to be taken with respect to the regulation of agricultural feed,  
 580 seed, and fertilizer.

581 Section 22. Paragraph (e) of subsection (6) of section  
 582 570.53, Florida Statutes, is amended to read:

583 570.53 Division of Marketing and Development; powers and  
 584 duties.—The powers and duties of the Division of Marketing and  
 585 Development include, but are not limited to:

586 (6)

587 (e) Extending in every practicable way the distribution  
 588 and sale of Florida agricultural products throughout the markets

589 of the world as required of the department by s. ~~ss.~~ 570.07(7),  
 590 (8), (10), and (11) ~~and 570.071~~ and chapters 571, 573, and 574.

591 Section 23. Subsection (2) of section 570.54, Florida  
 592 Statutes, is amended to read:

593 570.54 Director; duties.—

594 (2) It shall be the duty of the director of this division  
 595 to supervise, direct, and coordinate the activities authorized  
 596 by ss. 570.07(4), (7), (8), (10), (11), (12), (17), (18), and  
 597 (20), ~~570.071~~, 570.21, 534.47-534.53, and 604.15-604.34 and  
 598 chapters 504, 571, 573, and 574 and to exercise other powers and  
 599 authority as authorized by the department.

600 Section 24. Subsection (7) of section 573.112, Florida  
 601 Statutes, is amended to read:

602 573.112 Advisory council.—

603 (7) Notwithstanding any provision of this section, the  
 604 Citrus Research and Development Foundation, Inc., a direct-  
 605 support organization of the University of Florida established  
 606 pursuant to s. 1004.28, shall serve as the advisory council for  
 607 a citrus research marketing order, provide the department with  
 608 advice on administering the order, and, in accordance with the  
 609 order, conduct citrus research and perform other duties assigned  
 610 by the department. Notwithstanding s. 1004.28(3) or any  
 611 provision of this section, the foundation's board of directors  
 612 shall be composed of 13 members, including 10 citrus growers, 2  
 613 representatives of the university's Institute of Food and  
 614 Agricultural Sciences, and 1 member appointed by the  
 615 Commissioner of Agriculture, who are each entitled to  
 616 reimbursement from the foundation for per diem and travel

617 expenses as provided in s. 112.061.

618 Section 25. Subsection (4) of section 573.118, Florida  
619 Statutes, is amended to read:

620 573.118 Assessment; funds; review of accounts ~~audit~~;  
621 loans.—

622 (4) In the event of levying and collecting of assessments,  
623 for each fiscal year in which assessment funds are received by  
624 the department, the department shall maintain records of  
625 collections and expenditures for each marketing order separately  
626 within the state's accounting system. If requested by an  
627 advisory council, department staff shall cause to be made a  
628 thorough review ~~annual audit~~ of the ~~books and~~ accounts ~~by a~~  
629 ~~certified public accountant~~, such review ~~audit~~ to be completed  
630 within 60 days after the request is received ~~end of the fiscal~~  
631 ~~year~~. The department and all producers and handlers covered by  
632 the marketing order shall be properly advised of the details of  
633 the review ~~annual official audit~~ of the account ~~accounts as~~  
634 ~~shown by the certified public accountant~~ within 30 days after ~~of~~  
635 the review ~~audit~~.

636 Section 26. Subsection (8) of section 576.045, Florida  
637 Statutes, is amended to read:

638 576.045 Nitrogen and phosphorus; findings and intent;  
639 fees; purpose; best management practices; waiver of liability;  
640 compliance; rules; exclusions; expiration.—

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

644 Section 27. Section 576.071, Florida Statutes, is amended



645 to read:

646 576.071 Commercial value.—The commercial value used in  
 647 assessing penalties for any deficiency shall be determined by  
 648 using annualized plant nutrient values contained in one or more  
 649 generally recognized journals ~~recommended by the Fertilizer~~  
 650 ~~Technical Council.~~

651 Section 28. Section 576.091, Florida Statutes, is  
 652 repealed.

653 Section 29. Section 578.30, Florida Statutes, is repealed.

654 Section 30. Paragraph (c) of subsection (1) and subsection  
 655 (3) of section 580.041, Florida Statutes, are amended to read:

656 580.041 Master registration; fee; refusal or cancellation  
 657 of registration; reporting.—

658 (1)

659 (c) Registration shall be conditioned on the distributor's  
 660 compliance with all provisions of this chapter and rules adopted  
 661 under this chapter ~~thereof~~, including:

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

666 2. Maintaining a bookkeeping system and records necessary  
 667 to indicate accurately the type and tonnage of commercial feeds  
 668 sold in this state ~~that will allow the department to verify the~~  
 669 ~~accuracy of the reported tonnage.~~

670 3. Reporting within 30 days after the end of each quarter,  
 671 in the format prescribed by the department, the number of tons  
 672 of feed distributed in the state during each of the following

673 reporting periods: July through September, October through  
 674 December, January through March, and April through June.

675 4.3. Allowing the department to verify the accuracy of  
 676 reported type and tonnage and to otherwise examine pertinent  
 677 records at reasonable times.

678 (3) The department may refuse, suspend, or cancel the  
 679 master registration of, or impose one or more of the penalties  
 680 provided in s. 580.121, against any distributor or registrant  
 681 who violates or fails to comply with the provisions of this  
 682 chapter.

683 Section 31. Section 580.131, Florida Statutes, is amended  
 684 to read:

685 580.131 Penalty payable to consumer.—

686 (1) Any consumer who purchases without notice a commercial  
 687 feed or feedstuff that is ~~has been~~ distributed in violation of  
 688 this chapter or rules adopted under this chapter shall, in any  
 689 legal or administrative action that may be instituted, recover  
 690 penalties as follows:

691 (a)(1) If a certified laboratory analysis shows that any  
 692 feed bearing a guarantee of 20 percent protein<sub>7</sub> or less<sub>7</sub> falls  
 693 more than 1 percent protein below the guarantee, or if the  
 694 analysis shows that any feed bearing a guarantee of more than 20  
 695 percent protein falls more than 2 percent protein below the  
 696 guarantee, \$4 per ton for each percent protein deficiency shall  
 697 be assessed against the manufacturer or distributor.

698 (b)(2) If a certified laboratory analysis shows that any  
 699 feed is deficient in fat by more than 0.5 ~~five-tenths~~ percent  
 700 fat, \$4 per ton for each percent fat deficiency shall be

701 assessed against the manufacturer or distributor.

702 (c)~~(3)~~ If a certified laboratory analysis shows that any  
 703 feed bearing a maximum guarantee of not more than 20 percent  
 704 fiber exceeds this guarantee by more than 1 percent fiber, or if  
 705 the analysis shows that any feed bearing a maximum guarantee of  
 706 more than 20 percent fiber exceeds this guarantee by more than 2  
 707 percent fiber, \$4 per ton for each percent fiber excess shall be  
 708 assessed against the manufacturer or distributor.

709 (d)~~(4)~~ If a certified laboratory analysis shows that any  
 710 commercial feed is deficient or excessive in the required drug,  
 711 mineral, or nutritive guarantees other than protein, fat, or  
 712 fiber, a penalty of \$4 per ton shall be assessed against the  
 713 manufacturer or distributor for each deficiency or excessive  
 714 level found.

715 (e)~~(5)~~ If a certified laboratory analysis shows that any  
 716 commercial feed or feedstuff is found to be adulterated as  
 717 provided in s. 580.071, a penalty of \$4 per ton shall be  
 718 assessed against the manufacturer or distributor for each  
 719 violation found.

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

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

728 (2) (a) Within 60 days after the department notifies a

729 registrant in writing of any penalty assessed under this  
 730 section, the registrant shall pay the penalty to the consumer.  
 731 If the consumer's identity cannot be determined, the registrant  
 732 shall, within the 60-day period, pay the assessed penalty to the  
 733 department.

734 (b) A registrant who, within the 60-day period, fails to  
 735 pay the full amount of the assessed penalty to the consumer or  
 736 the department, as applicable, in addition to the penalty  
 737 assessed under this section, is also subject to the penalties  
 738 provided in s. 580.121.

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

743 Section 32. Section 580.151, Florida Statutes, is  
 744 repealed.

745 Section 33. Subsection (30) of section 581.011, Florida  
 746 Statutes, is amended to read:

747 581.011 Definitions.—As used in this chapter:

748 ~~(30) "Technical council" means the Plant Industry~~  
 749 ~~Technical Council.~~

750 Section 34. Subsection (3) of section 581.145, Florida  
 751 Statutes, is amended to read:

752 581.145 Aquatic plant nursery registration; special permit  
 753 requirements.—

754 (3) Notwithstanding any other provision of state or  
 755 federal law, the Department of Agriculture and Consumer Services  
 756 shall issue, by request, a permit to the aquaculture producer to

757 engage in the business of transporting and selling ~~exporting~~  
 758 water hyacinths (Eichhornia spp.) only to other states or  
 759 countries that permit such transportation and sale ~~other than~~  
 760 ~~the United States and only~~ when such ~~water hyacinths are~~  
 761 ~~cultivated in a nursery for the sole purpose of exportation and~~  
 762 ~~the aquaculture activities have activity has~~ been certified by  
 763 the Department of Agriculture and Consumer Services. In  
 764 accordance with any appropriate state or federal law or United  
 765 States treaty, a ~~no~~ Florida aquaculture producer may not ~~shall~~  
 766 ship water hyacinths to other states or countries ~~other than the~~  
 767 ~~United States~~ under such a permit for the purpose of importing  
 768 water hyacinths back into Florida ~~the United States, nor shall~~  
 769 ~~drop shipments be made to any other destination within the~~  
 770 ~~United States. This subsection does not provision shall in no~~  
 771 ~~way~~ restrict or interfere with the ~~Department of Environmental~~  
 772 ~~Protection's~~ efforts of the Fish and Wildlife Conservation  
 773 Commission, or the efforts ~~those~~ of any other agency or local  
 774 government with responsibilities for the management of noxious  
 775 aquatic plants, to control or eradicate noxious nonnursery  
 776 aquatic plants, including water hyacinths. This subsection may  
 777 ~~provision shall~~ not be considered ~~a consideration~~ in the  
 778 approval or the release of biological control agents for water  
 779 hyacinths or any other noxious aquatic plants.

780 Section 35. Section 582.06, Florida Statutes, is amended  
 781 to read:

782 582.06 Soil and Water Conservation Council; powers and  
 783 duties.—

784 (1) COMPOSITION.—

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

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

794        ~~(b) Twelve members shall include one representative each~~  
 795 ~~from the Department of Environmental Protection, the five water~~  
 796 ~~management districts, the Institute of Food and Agricultural~~  
 797 ~~Sciences at the University of Florida, the United States~~  
 798 ~~Department of Agriculture Natural Resources Conservation~~  
 799 ~~Service, the Florida Association of Counties, and the Florida~~  
 800 ~~League of Cities and two representatives of environmental~~  
 801 ~~interests.~~

802        (b)(e) All members shall be appointed by the commissioner.  
 803 ~~Members appointed pursuant to paragraph (b) shall be appointed~~  
 804 ~~by the commissioner from recommendations provided by the~~  
 805 ~~organization or interest represented.~~

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

810        (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;  
 811 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and  
 812 recordkeeping of the Soil and Water Conservation Council, ~~and~~

813 ~~per diem and reimbursement of expenses of council members,~~ shall  
 814 be governed by the provisions of s. 570.0705 relating to  
 815 advisory committees established within the department.

816 Section 36. Subsections (2), (3), (4), (6), (8), and (9)  
 817 of section 582.20, Florida Statutes, are amended to read:

818 582.20 Powers of districts and supervisors.—A soil and  
 819 water conservation district organized under the provisions of  
 820 this chapter shall constitute a governmental subdivision of this  
 821 state, and a public body corporate and politic, exercising  
 822 public powers, and such district and the supervisors thereof,  
 823 shall have the following powers, in addition to others granted  
 824 in other sections of this chapter:

825 (2) To conduct demonstrational projects within the  
 826 district's boundaries, territory within another district's  
 827 boundaries subject to the other district's approval, or  
 828 territory not contained within any district's boundaries  
 829 ~~district~~ on lands owned or controlled by this state or any of  
 830 its agencies, with the cooperation of the agency administering  
 831 and having jurisdiction thereof, and on any other lands within  
 832 the district's boundaries, territory within another district's  
 833 boundaries subject to the other district's approval, or  
 834 territory not contained within any district's boundaries  
 835 ~~district~~ upon obtaining the consent of the owner and occupiers  
 836 of such lands or the necessary rights or interests in such  
 837 lands, in order to demonstrate by example the means, methods,  
 838 and measures by which soil and soil resources may be conserved,  
 839 and soil erosion in the form of soil blowing and soil washing  
 840 may be prevented and controlled, and works of improvement for

841 flood prevention or the conservation, development and  
 842 utilization of soil and water resources, and the disposal of  
 843 water may be carried out;

844 (3) To carry out preventive and control measures and works  
 845 of improvement for flood prevention or the conservation,  
 846 development and utilization of soil and water resources, and the  
 847 disposal of water within the district's boundaries, territory  
 848 within another district's boundaries subject to the other  
 849 district's approval, or territory not contained within any  
 850 district's boundaries ~~district~~, including, but not limited to,  
 851 engineering operations, methods of cultivation, the growing of  
 852 vegetation, changes in use of land, and the measures listed in  
 853 s. 582.04 on lands owned or controlled by this state or any of  
 854 its agencies, with the cooperation of the agency administering  
 855 and having jurisdiction thereof, and on any other lands within  
 856 the district's boundaries, territory within another district's  
 857 boundaries subject to the other district's approval, or  
 858 territory not contained within any district's boundaries  
 859 ~~district~~ upon obtaining the consent of the owner and the  
 860 occupiers of such lands or the necessary rights or interests in  
 861 such lands;

862 (4) To cooperate, or enter into agreements with, and  
 863 within the limits of appropriations duly made available to it by  
 864 law, to furnish financial or other aid to, any agency,  
 865 governmental or otherwise, or any owner or occupier of lands  
 866 within the district's boundaries, territory within another  
 867 district's boundaries subject to the other district's approval,  
 868 or territory not contained within any district's boundaries



869 ~~district~~, in the carrying on of erosion control or prevention  
 870 operations and works of improvement for flood prevention or the  
 871 conservation, development and utilization, of soil and water  
 872 resources and the disposal of water within the district's  
 873 boundaries, territory within another district's boundaries  
 874 subject to the other district's approval, or territory not  
 875 contained within any district's boundaries, ~~district~~, subject to  
 876 such conditions as the supervisors may deem necessary to advance  
 877 the purposes of this chapter;

878 (6) To make available, on such terms as it shall  
 879 prescribe, to landowners and occupiers within the district's  
 880 boundaries, territory within another district's boundaries  
 881 subject to the other district's approval, or territory not  
 882 contained within any district's boundaries ~~district~~,  
 883 agricultural and engineering machinery and equipment,  
 884 fertilizer, seeds and seedlings, and such other material or  
 885 equipment, as will assist such landowners and occupiers to carry  
 886 on operations upon their lands for the conservation of soil  
 887 resources and for the prevention or control of soil erosion and  
 888 for flood prevention or the conservation, development and  
 889 utilization, of soil and water resources and the disposal of  
 890 water;

891 (8) To develop comprehensive plans for the conservation of  
 892 soil and water resources and for the control and prevention of  
 893 soil erosion and for flood prevention or the conservation,  
 894 development and utilization of soil and water resources, and the  
 895 disposal of water within the district's boundaries, territory  
 896 within another district's boundaries subject to the other

897 district's approval, or territory not contained within any  
 898 district's boundaries ~~district~~, which plans shall specify in  
 899 such detail as may be possible the acts, procedures,  
 900 performances, and avoidances which are necessary or desirable  
 901 for the effectuation of such plans, including the specification  
 902 of engineering operations, methods of cultivation, the growing  
 903 of vegetation, cropping programs, tillage practices, and changes  
 904 in use of land; control of artesian wells; and to publish such  
 905 plans and information and bring them to the attention of owners  
 906 and occupiers of lands within the district's boundaries,  
 907 territory within another district's boundaries subject to the  
 908 other district's approval, or territory not contained within any  
 909 district's boundaries ~~district~~;

910 (9) To take over, by purchase, lease, or otherwise, and to  
 911 administer any soil-conservation, erosion-control, erosion-  
 912 prevention project, or any project for flood-prevention or for  
 913 the conservation, development and utilization of soil and water  
 914 resources, and the disposal of water, located within the  
 915 district's ~~its~~ boundaries, territory within another district's  
 916 boundaries subject to the other district's approval, or  
 917 territory not contained within any district's boundaries,  
 918 undertaken by the United States or any of its agencies, or by  
 919 this state or any of its agencies; to manage as agent of the  
 920 United States or any of its agencies, or of the state or any of  
 921 its agencies, any soil-conservation, erosion-control, erosion-  
 922 prevention, or any project for flood-prevention or for the  
 923 conservation, development, and utilization of soil and water  
 924 resources, and the disposal of water within the district's ~~its~~

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

943 Section 37. Section 582.29, Florida Statutes, is amended  
 944 to read:

945 582.29 State agencies to cooperate.—Agencies of this state  
 946 which shall have jurisdiction over, or be charged with, the  
 947 administration of any state-owned lands, and of any county, or  
 948 other governmental subdivision of the state, which shall have  
 949 jurisdiction over, or be charged with the administration of, any  
 950 county-owned or other publicly owned lands, lying within the  
 951 boundaries of any district organized under this chapter, the  
 952 boundaries of another district subject to that district's

953 approval, or territory not contained within the boundaries of  
 954 any district organized under this chapter, shall cooperate to  
 955 the fullest extent with the supervisors of such districts in the  
 956 effectuation of programs and operations undertaken by the  
 957 supervisors under the provisions of this chapter. The  
 958 supervisors of such districts shall be given free access to  
 959 enter and perform work upon such publicly owned lands. The  
 960 provisions of land use regulations adopted shall be in all  
 961 respects observed by the agencies administering such publicly  
 962 owned lands.

963 Section 38. Subsection (3) of section 582.30, Florida  
 964 Statutes, is amended, and subsection (5) is added to that  
 965 section, to read:

966 582.30 Discontinuance of districts; referendum;  
 967 commissioner's authority.—

968 (3) In the alternative, ~~upon review and recommendation of~~  
 969 ~~the Soil and Water Conservation Council regarding the continued~~  
 970 ~~viability of a district,~~ the Commissioner of Agriculture may  
 971 dissolve or discontinue a such district if: ~~the commissioner~~  
 972 ~~certifies that the continued operation of the district is not~~  
 973 ~~administratively practicable and feasible.~~

974 (a) Upon review and recommendation of the Soil and Water  
 975 Conservation Council, the council determines that the continued  
 976 operation of the district is not administratively practicable  
 977 and feasible under the provisions of this chapter;

978 (b) The If A district fails has failed to comply with any  
 979 ~~of the audit or and financial reporting requirement requirements~~  
 980 of chapter 189, or fails to comply with any requirement of s.

981 582.20(1)-(9), and the commissioner, after review and  
 982 confirmation by the department's inspector general reviews and  
 983 confirms in writing that the district has failed to comply with  
 984 such requirement; or, may certify dissolution or discontinuance  
 985 of such district without prior review and recommendation of the  
 986 Soil and Water Conservation Council.

987 (c) The department receives a resolution adopted by the  
 988 supervisors of the district requesting that the commissioner  
 989 issue a certificate determining that the continued operation of  
 990 the district is not administratively practicable and feasible  
 991 under the provisions of this chapter.

992 (4) If the requirements for dissolution or discontinuance  
 993 of a district are satisfied under subsection (1), subsection  
 994 (2), or subsection (3), the department shall publish notice of a  
 995 such proposed certification determining that the continued  
 996 operation of the district is not administratively practicable  
 997 and feasible under the provisions of this chapter. The notice of  
 998 dissolution or discontinuance shall be published once a week for  
 999 2 weeks in a newspaper of general circulation within the county  
 1000 or counties in which wherein the district is located, stating  
 1001 the name of the district and a general description of the  
 1002 territory included in the district, and requiring that any  
 1003 comments or objections to the proposed certification,  
 1004 dissolution or any claims against the assets of the district,  
 1005 must be filed with the department clerk not later than 60 days  
 1006 after following the date of last publication.

1007 (5) (a) Upon expiration of the 60-day period after the date  
 1008 of last publication, the commissioner, upon review of any

1009 comments or objections received under subsection (4), may issue  
 1010 a certificate determining that the continued operation of the  
 1011 district is not administratively practicable and feasible under  
 1012 the provisions of this chapter.

1013 (b) If the commissioner issues a certificate determining  
 1014 that the continued operation of a district is not  
 1015 administratively practicable and feasible under the provisions  
 1016 of this chapter, the department shall file the original  
 1017 certificate with the Department of State and shall provide a  
 1018 copy of the certificate to the supervisors of the district at  
 1019 the district's principal office designated under s.  
 1020 582.15(1)(c).

1021 Section 39. Section 582.31, Florida Statutes, is amended  
 1022 to read:

1023 582.31 Certification of results of referendum;  
 1024 dissolution.—Upon receipt from the Department of Agriculture and  
 1025 Consumer Services of a certification that the department has  
 1026 determined that the continued operation of the district is not  
 1027 administratively practicable and feasible, pursuant to the  
 1028 provisions of this chapter, the supervisors shall forthwith  
 1029 proceed to terminate the affairs of the district. The  
 1030 supervisors shall dispose of all property belonging to the  
 1031 district at public auction and shall pay over the proceeds of  
 1032 such sale to be converted into the State Treasury, which amount  
 1033 shall be placed to the credit of the district ~~department~~ for the  
 1034 purpose of liquidating any legal obligations the ~~said~~ district  
 1035 may have at the time of its discontinuance. The supervisors  
 1036 shall thereupon file an application, duly verified, with the

CS/HB 7021

2012

1037 Department of State for the discontinuance of the ~~such~~ district,  
 1038 and shall transmit with such application the certificate of the  
 1039 Department of Agriculture and Consumer Services setting forth  
 1040 the determination of the department that the continued operation  
 1041 of the ~~such~~ district is not administratively practicable and  
 1042 feasible. The application shall recite that the property of the  
 1043 district has been disposed of and the proceeds paid over as in  
 1044 this section provided, and shall set forth a full accounting of  
 1045 such properties and proceeds of the sale. The Department of  
 1046 State shall issue to the supervisors a certificate of  
 1047 dissolution and shall record such certificate in an appropriate  
 1048 book of record in its office.

1049 Section 40. Section 585.155, Florida Statutes, is  
 1050 repealed.

1051 Section 41. Section 589.03, Florida Statutes, is repealed.

1052 Section 42. Section 589.19, Florida Statutes, is amended  
 1053 to read:

1054 589.19 Creation of certain state forests; naming of  
 1055 certain state forests.—

1056 (1) When the Board of Trustees of the Internal Improvement  
 1057 Trust Fund, any state agency, or any agency created by state  
 1058 law, authorized to accept reforestation lands in the name of the  
 1059 state, approves the recommendations of the Florida Forest  
 1060 Service ~~Division of Forestry~~ in reference to the acquisition of  
 1061 land and acquires ~~acquire~~ such land, the ~~said~~ board, state  
 1062 agency, or agency created by state law, may formally designate  
 1063 and dedicate any area as a reforestation project, or state  
 1064 forest, and where so designated and dedicated such area shall be

CS/HB 7021

2012

1065 under the administration of the Florida Forest Service, ~~division~~  
 1066 which is ~~shall be~~ authorized to manage and administer such ~~said~~  
 1067 area according to the purpose for which it was designated and  
 1068 dedicated.

1069 (2) The first state forest acquired by the Board of  
 1070 Trustees of the Internal Improvement Trust Fund in Baker County  
 1071 is to be named the John M. Bethea State Forest. This is to honor  
 1072 Mr. John M. Bethea who was Florida's fourth state forester and  
 1073 whose distinguished career in state government spanned 46 years  
 1074 and who is a native of Baker County.

1075 (3) The state forest managed by the Florida Forest Service  
 1076 ~~Division of Forestry~~ in Seminole County is to be named the  
 1077 Charles H. Bronson State Forest to honor Charles H. Bronson, the  
 1078 tenth Commissioner of Agriculture, for his distinguished  
 1079 contribution to this state's agriculture and natural resources.

1080 (4) (a) The Florida Forest Service ~~Division of Forestry~~  
 1081 shall designate one or more areas of state forests as an  
 1082 "Operation Outdoor Freedom a ~~"Wounded Warrior~~ Special Hunt Area"  
 1083 to honor wounded veterans and servicemembers. The purpose of  
 1084 such designated areas is to provide special outdoor recreational  
 1085 opportunities for eligible veterans and servicemembers.

1086 (b) The Florida Forest Service ~~division~~ shall limit guest  
 1087 admittance to such designated areas to any person who:

1088 1. Is an active duty member of any branch of the United  
 1089 States Armed Forces and has a combat-related injury as  
 1090 determined by his or her branch of the United States Armed  
 1091 Forces; or

1092 2. Is a veteran who served during a period of wartime



1093 service as defined in s. 1.01(14) or peacetime service as  
 1094 defined in s. 296.02 and:

1095 a. Has a service-connected disability as determined by the  
 1096 United States Department of Veterans Affairs; or

1097 b. Was discharged or released from military service  
 1098 because of a disability acquired or aggravated while serving on  
 1099 active duty.

1100 (c) The Florida Forest Service ~~division~~ may grant  
 1101 admittance to such designated areas to a person who is not an  
 1102 eligible veteran or servicemember for purposes of accompanying  
 1103 an eligible veteran or servicemember who requires the person's  
 1104 assistance to use such designated areas.

1105 (d) Funding required for specialized accommodations shall  
 1106 be provided through the Friends of Florida State Forests Program  
 1107 created under s. 589.012.

1108 (e) The Florida Forest Service ~~division~~ may adopt rules to  
 1109 administer this subsection.

1110 Section 43. Section 589.277, Florida Statutes, is amended  
 1111 to read:

1112 589.277 Tree planting programs.—

1113 (1) The ~~Division of Forestry of the Florida~~ Forest Service  
 1114 ~~Department of Agriculture and Consumer Services~~ shall administer  
 1115 federal, state, and privately sponsored tree planting programs  
 1116 designed to assist private rural landowners and urban  
 1117 communities.

1118 (2) Contributions from governmental and private sources  
 1119 for tree planting programs may be accepted into the Federal  
 1120 Grants Trust Fund or the Incidental Trust Fund of the Florida

1121 Forest Service.

1122 (3) The Florida Forest Service shall ~~Division of Forestry~~  
 1123 ~~is authorized and directed to~~ develop and implement guidelines  
 1124 and procedures under which the financial resources of the fund  
 1125 allocated for tree planting programs may be utilized for urban  
 1126 and rural reforestation.

1127 (4) Grants to municipalities, counties, nonprofit  
 1128 organizations, and qualifying private landowners may be made  
 1129 from allocated moneys in the fund for the purpose of purchasing,  
 1130 planting, and maintaining native tree species.

1131 (5) The Florida Forest Service ~~Division of Forestry~~ shall  
 1132 assist the Department of Education in developing programs that  
 1133 teach the importance of trees in the urban, rural, and global  
 1134 environment.

1135 Section 44. Section 590.02, Florida Statutes, is amended  
 1136 to read:

1137 590.02 Florida Forest Service; Division powers, authority,  
 1138 and duties; liability; building structures; Florida Center for  
 1139 Wildfire and Forest Resources Management Training.-

1140 (1) The Florida Forest Service ~~division~~ has the following  
 1141 powers, authority, and duties:

1142 (a) To enforce the provisions of this chapter;

1143 (b) To prevent, detect, suppress, and extinguish wildfires  
 1144 wherever they may occur on public or private land in this state  
 1145 and to do all things necessary in the exercise of such powers,  
 1146 authority, and duties;

1147 (c) To provide firefighting crews, who shall be under the  
 1148 control and direction of the Florida Forest Service ~~division~~ and

1149 its designated agents;

1150 (d) To appoint center managers, forest area supervisors,  
 1151 forestry program administrators, a forest protection bureau  
 1152 chief, a forest protection assistant bureau chief, a field  
 1153 operations bureau chief, deputy chiefs of field operations,  
 1154 district managers, forest operations administrators, senior  
 1155 forest rangers, investigators, forest rangers, firefighter  
 1156 rotorcraft pilots, and other employees who may, at the Florida  
 1157 Forest Service's ~~division's~~ discretion, be certified as forestry  
 1158 firefighters pursuant to s. 633.35(4). Other provisions of law  
 1159 notwithstanding, center managers, district managers, forest  
 1160 protection assistant bureau chief, and deputy chiefs of field  
 1161 operations shall have Selected Exempt Service status in the  
 1162 state personnel designation;

1163 (e) To develop a training curriculum for forestry  
 1164 firefighters which must contain the basic volunteer structural  
 1165 fire training course approved by the Florida State Fire College  
 1166 of the Division of State Fire Marshal and a minimum of 250 hours  
 1167 of wildfire training;

1168 (f) To make rules to accomplish the purposes of this  
 1169 chapter;

1170 (g) To provide fire management services and emergency  
 1171 response assistance and to set and charge reasonable fees for  
 1172 performance of those services. Moneys collected from such fees  
 1173 shall be deposited into the Incidental Trust Fund of the Florida  
 1174 Forest Service ~~division~~; and

1175 (h) To require all state, regional, and local government  
 1176 agencies operating aircraft in the vicinity of an ongoing

1177 wildfire to operate in compliance with the applicable state  
 1178 Wildfire Aviation Plan.

1179 (2) The Florida Forest Service's ~~Division~~ employees, and  
 1180 the firefighting crews under their control and direction, may  
 1181 enter upon any lands for the purpose of preventing and  
 1182 suppressing wildfires and investigating smoke complaints or open  
 1183 burning not in compliance with authorization and to enforce the  
 1184 provisions of this chapter.

1185 (3) Employees of the Florida Forest Service ~~division~~ and  
 1186 of federal, state, and local agencies, and all other persons and  
 1187 entities that are under contract or agreement with the Florida  
 1188 Forest Service ~~division~~ to assist in firefighting operations as  
 1189 well as those entities, called upon by the Florida Forest  
 1190 Service ~~division~~ to assist in firefighting may, in the  
 1191 performance of their duties, set counterfires, remove fences and  
 1192 other obstacles, dig trenches, cut firelines, use water from  
 1193 public and private sources, and carry on all other customary  
 1194 activities in the fighting of wildfires without incurring  
 1195 liability to any person or entity.

1196 (4)(a) The department may build structures,  
 1197 notwithstanding chapters 216 and 255, not to exceed a cost of  
 1198 \$50,000 per structure from existing resources on forest lands,  
 1199 federal excess property, and unneeded existing structures. These  
 1200 structures must meet all applicable building codes.

1201 (b) Notwithstanding s. 553.80(1), the department shall  
 1202 exclusively enforce the Florida Building Code as it pertains to  
 1203 wildfire and law enforcement facilities under the jurisdiction  
 1204 of the department.

1205           (5) The Florida Forest Service ~~division~~ shall organize its  
 1206 operational units to most effectively prevent, detect, and  
 1207 suppress wildfires, and to that end, may employ the necessary  
 1208 personnel to manage its activities in each unit. The Florida  
 1209 Forest Service ~~division~~ may construct lookout towers, roads,  
 1210 bridges, firelines, and other facilities and may purchase or  
 1211 fabricate tools, supplies, and equipment for firefighting. The  
 1212 Florida Forest Service ~~division~~ may reimburse the public and  
 1213 private entities that it engages to assist in the suppression of  
 1214 wildfires for their personnel and equipment, including aircraft.

1215           (6) The Florida Forest Service ~~division~~ shall undertake  
 1216 privatization alternatives for fire prevention activities  
 1217 including constructing fire lines and conducting prescribed  
 1218 burns and, where appropriate, entering into agreements or  
 1219 contracts with the private sector to perform such activities.

1220           (7) The Florida Forest Service ~~division~~ may organize,  
 1221 staff, equip, and operate the Florida Center for Wildfire and  
 1222 Forest Resources Management Training. The center shall serve as  
 1223 a site where fire and forest resource managers can obtain  
 1224 current knowledge, techniques, skills, and theory as they relate  
 1225 to their respective disciplines.

1226           (a) The center may establish cooperative efforts involving  
 1227 federal, state, and local entities; hire appropriate personnel;  
 1228 and engage others by contract or agreement with or without  
 1229 compensation to assist in carrying out the training and  
 1230 operations of the center.

1231           (b) The center shall provide wildfire suppression training  
 1232 opportunities for rural fire departments, volunteer fire

1233 departments, and other local fire response units.

1234 (c) The center will focus on curriculum related to, but  
 1235 not limited to, fuel reduction, an incident management system,  
 1236 prescribed burning certification, multiple-use land management,  
 1237 water quality, forest health, environmental education, and  
 1238 wildfire suppression training for structural firefighters.

1239 (d) The center may assess appropriate fees for food,  
 1240 lodging, travel, course materials, and supplies in order to meet  
 1241 its operational costs and may grant free meals, room, and  
 1242 scholarships to persons and other entities in exchange for  
 1243 instructional assistance.

1244 (e) An advisory committee consisting of the following  
 1245 individuals or their designees must review program curriculum,  
 1246 course content, and scheduling: the director of the Florida  
 1247 Forest Service ~~Division of Forestry~~; the assistant director of  
 1248 the Florida Forest Service ~~Division of Forestry~~; the director of  
 1249 the School of Forest Resources and Conservation of the  
 1250 University of Florida; the director of the Division of  
 1251 Recreation and Parks of the Department of Environmental  
 1252 Protection; the director of the Division of the State Fire  
 1253 Marshal; the director of the Florida Chapter of The Nature  
 1254 Conservancy; the executive vice president of the Florida  
 1255 Forestry Association; the president of the Florida Farm Bureau  
 1256 Federation; the executive director of the Fish and Wildlife  
 1257 Conservation Commission; the executive director of a water  
 1258 management district as appointed by the Commissioner of  
 1259 Agriculture; the supervisor of the National Forests in Florida;  
 1260 the president of the Florida Fire Chief's Association; and the

1261 executive director of the Tall Timbers Research Station.

1262 (8) The Cross City Work Center shall be named the L. Earl  
 1263 Peterson Forestry Station. This is to honor Mr. L. Earl  
 1264 Peterson, Florida's sixth state forester, whose distinguished  
 1265 career in state government has spanned 44 years, and who is a  
 1266 native of Dixie County.

1267 (9) (a) Notwithstanding ss. 273.055 and 287.16, the  
 1268 department may retain, transfer, warehouse, bid, destroy, scrap,  
 1269 or otherwise dispose of surplus equipment and vehicles that are  
 1270 used for wildland firefighting.

1271 (b) All money received from the disposition of state-owned  
 1272 equipment and vehicles that are used for wildland firefighting  
 1273 shall be retained by the department. Money received pursuant to  
 1274 this section is appropriated for and may be disbursed for the  
 1275 acquisition of exchange and surplus equipment used for wildland  
 1276 firefighting, and for all necessary operating expenditures  
 1277 related to such equipment, in the same fiscal year and the  
 1278 fiscal year following the disposition. The department shall  
 1279 maintain records of the accounts into which the money is  
 1280 deposited.

1281 (10) (a) The Florida Forest Service ~~division~~ has exclusive  
 1282 authority to require and issue authorizations for broadcast  
 1283 burning and agricultural and silvicultural pile burning. An  
 1284 agency, commission, department, county, municipality, or other  
 1285 political subdivision of the state may not adopt or enforce  
 1286 laws, regulations, rules, or policies pertaining to broadcast  
 1287 burning or agricultural and silvicultural pile burning unless an  
 1288 emergency order is declared in accordance with s. 252.38(3).

1289 (b) The Florida Forest Service ~~division~~ may delegate to a  
 1290 county or municipality its authority, as delegated by the  
 1291 Department of Environmental Protection pursuant to ss.  
 1292 403.061(28) and 403.081, to require and issue authorizations for  
 1293 the burning of yard trash and debris from land clearing  
 1294 operations in accordance with s. 590.125(6).

1295 Section 45. Subsection (3) of section 597.0021, Florida  
 1296 Statutes, is amended to read:

1297 597.0021 Legislative intent.—

1298 (3) It is the intent of the Legislature that the  
 1299 Aquaculture Review Council is ~~and the Aquaculture Interagency~~  
 1300 ~~Coordinating Council~~ are established to provide a means of  
 1301 communication between the aquaculture industry and the  
 1302 regulatory agencies.

1303 Section 46. Paragraphs (b) and (d) of subsection (1) of  
 1304 section 597.003, Florida Statutes, are amended to read:

1305 597.003 Powers and duties of Department of Agriculture and  
 1306 Consumer Services.—

1307 (1) The department is hereby designated as the lead agency  
 1308 in encouraging the development of aquaculture in the state and  
 1309 shall have and exercise the following functions, powers, and  
 1310 duties with regard to aquaculture:

1311 (b) Coordinate the development, annual revision, and  
 1312 implementation of a state aquaculture plan. The plan shall  
 1313 include prioritized recommendations for research and development  
 1314 as suggested by the Aquaculture Review Council, ~~the Aquaculture~~  
 1315 ~~Interagency Coordinating Council~~, and public and private  
 1316 institutional research, extension, and service programs.



1317 (d) Provide staff for the Aquaculture Review Council ~~and~~  
 1318 ~~the Aquaculture Interagency Coordinating Council.~~

1319 Section 47. Paragraph (h) of subsection (1) of section  
 1320 597.004, Florida Statutes, is amended to read:

1321 597.004 Aquaculture certificate of registration.—

1322 (1) CERTIFICATION.—Any person engaging in aquaculture must  
 1323 be certified by the department. The applicant for a certificate  
 1324 of registration shall submit the following to the department:

1325 (h) An ~~One hundred dollar~~ annual registration fee of \$100.  
 1326 The annual registration fee is waived for each elementary,  
 1327 middle, or high school and each vocational school that  
 1328 participates in the aquaculture certification program.

1329 Section 48. Subsection (1), paragraphs (a) and (b) of  
 1330 subsection (2), and paragraph (h) of subsection (3) of section  
 1331 597.005, Florida Statutes, are amended to read:

1332 597.005 Aquaculture Review Council.—

1333 (1) COMPOSITION.—There is created within the department  
 1334 the Aquaculture Review Council to consist of eight ~~nine~~ members  
 1335 as follows: the chair of the State Agricultural Advisory Council  
 1336 or designee; ~~the chair of the Aquaculture Interagency~~  
 1337 ~~Coordinating Council;~~ and seven additional members to be  
 1338 appointed by the commissioner, including an alligator farmer, a  
 1339 food fish farmer, a shellfish farmer, a tropical fish farmer, an  
 1340 aquatic plant farmer, a representative of the commercial fishing  
 1341 industry, and a representative of the aquaculture industry at  
 1342 large. Members shall be appointed for 4-year terms. Each member  
 1343 shall be selected from no fewer than two or more than three  
 1344 nominees submitted by recognized statewide organizations

1345 representing each industry segment or the aquaculture industry  
 1346 at large. In the absence of nominees, the commissioner shall  
 1347 appoint persons who otherwise meet the qualifications for  
 1348 appointment to the council. Members shall serve until their  
 1349 successors are duly qualified and appointed. An appointment to  
 1350 fill a vacancy shall be for the unexpired portion of the term.

1351 (2) MEETINGS; PROCEDURES; RECORDS.—

1352 (a) The members of the council shall meet at least  
 1353 quarterly; shall elect a chair, a vice chair, and a secretary,  
 1354 ~~and an industry representative to the Aquaculture Interagency~~  
 1355 ~~Coordinating Council~~; and shall use accepted rules of procedure.  
 1356 The terms of such officers shall be for 1 year.

1357 (b) The council shall meet at the call of its chair, at  
 1358 the request of a majority of its membership, at the request of  
 1359 the department, or at such times as may be prescribed by its  
 1360 rules of procedure. ~~However, the council shall hold a joint~~  
 1361 ~~annual meeting with the Aquaculture Interagency Coordinating~~  
 1362 ~~Council.~~

1363 (3) RESPONSIBILITIES.—The primary responsibilities of the  
 1364 Aquaculture Review Council are to:

1365 (h) For any problem that cannot be solved through simple  
 1366 cooperation or negotiation, provide an issue analysis ~~to the~~  
 1367 ~~Aquaculture Interagency Coordinating Council~~ and to the chairs  
 1368 of the legislative agriculture appropriations committees. The  
 1369 analysis shall include, but not be limited to, specific facts  
 1370 and industry hardships, regulatory provisions, questions  
 1371 relative to the issue, and suggestions for solving the problem.

1372 Section 49. Section 597.006, Florida Statutes, is  
 1373 repealed.

1374 Section 50. Subsection (3) of section 616.252, Florida  
 1375 Statutes, is amended to read:

1376 616.252 Florida State Fair Authority; membership; number,  
 1377 terms, compensation.—

1378 (3) Members of the authority are not entitled to  
 1379 compensation for their services as members but shall be  
 1380 reimbursed by the authority for per diem and travel expenses as  
 1381 provided in s. 112.061 ~~and may not be reimbursed for travel~~  
 1382 ~~expenses~~. Except for the nonvoting youth member, each member may  
 1383 be compensated for any special or full-time service performed in  
 1384 the authority's behalf as officers or agents of the authority.

1385 Section 51. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7021 (2012)

Amendment No.

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: State Affairs Committee  
2 Representative Mayfield offered the following:

3  
4 **Amendment**

5 Remove lines 978-986 and insert:

6 (b) The If A district fails has failed to comply with any  
7 ~~of the audit or and financial reporting requirement requirements~~  
8 ~~of chapter 189, and the commissioner, after review and~~  
9 ~~econfirmation by the department's inspector general reviews and~~  
10 confirms in writing that the district has failed to comply with  
11 such requirement; or, may certify dissolution or discontinuance  
12 ~~of such district without prior review and recommendation of the~~  
13 ~~Soil and Water Conservation Council.~~  
14

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7021 (2012)

Amendment No.

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: State Affairs Committee  
2 Representative Mayfield offered the following:

3  
4       **Amendment (with title amendment)**

5       Between lines 1048 and 1049, insert:

6       Section 40. Subsection (1) of section 582.32, Florida  
7 Statutes, is amended to read:

8       582.32 Continuance of existing contracts, etc.—

9       (1) Upon issuance of a certificate of dissolution, s.  
10 189.4045(2) shall apply, and all land use regulations  
11 theretofore adopted and in force within such districts shall be  
12 of no further force and effect. ~~All contracts theretofore~~  
13 ~~entered into, to which the district or supervisors are parties,~~  
14 ~~shall remain in force and effect for the period provided in such~~  
15 ~~contracts. The Department of Agriculture and Consumer Services~~  
16 ~~shall be substituted for the district or supervisors as party to~~  
17 ~~such contracts. The department shall be entitled to all benefits~~  
18 ~~and subject to all liabilities under such contracts and shall~~  
19 ~~have the same right and liability to perform, to require~~

504963 - Amendment 2.docx

Published On: 1/24/2012 6:10:46 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7021 (2012)

Amendment No.

20 ~~performance, and to modify or terminate such contracts by mutual~~  
21 ~~consent or otherwise, as the supervisors of the district would~~  
22 ~~have had. Such dissolution shall not affect the lien of any~~  
23 ~~judgment entered under the provisions of this chapter, nor the~~  
24 ~~pendency of any action instituted under the provisions of this~~  
25 ~~chapter, and the department shall succeed to all the rights and~~  
26 ~~obligations of the district or supervisors as to such liens and~~  
27 ~~actions.~~

-----  
31  
32 **T I T L E A M E N D M E N T**

33 Remove line 108 and insert:

34 State Treasury; amending s. 582.32, F.S.; revising the  
35 procedures on continuing existing contracts; repealing s.  
36 585.155, F.S.; relating  
37



**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	13 Y, 0 N	Massengale	Massengale
2) State Affairs Committee		Deslatte <i>SD</i>	Hamby

**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.

---

<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

---

<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.

<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.

1                                   A bill to be entitled  
 2           An act relating to the Fish and Wildlife Conservation  
 3           Commission; amending s. 320.08058, F.S.; revising  
 4           requirements for the distribution of the Florida  
 5           panther license plate annual use fee; amending s.  
 6           379.208, F.S.; revising a funding source of the Marine  
 7           Resources Conservation Trust Fund from excise taxes to  
 8           vessel registration fees; eliminating a requirement  
 9           that undistributed funds be carried over to the next  
 10          fiscal year; amending s. 379.2342, F.S.; deleting  
 11          requirements relating to the publication of the  
 12          Florida Wildlife Magazine and the creation of the  
 13          Florida Wildlife Magazine Advisory Council; amending  
 14          s. 379.3581, F.S.; removing a limitation for the  
 15          duration and frequency of issuance of a special  
 16          authorization for supervised hunting; amending s.  
 17          379.366, F.S.; reducing the fee amount for a soft-  
 18          shell blue crab endorsement; amending s. 380.511,  
 19          F.S.; revising a cross-reference to conform to changes  
 20          made by the act; amending s. 921.0022, F.S.; adding  
 21          certain spiny lobster trap violations to the offense  
 22          severity ranking chart of the Criminal Punishment  
 23          Code; providing effective dates.

24  
 25   Be It Enacted by the Legislature of the State of Florida:

26  
 27           Section 1. Paragraph (b) of subsection (5) of section  
 28   320.08058, Florida Statutes, is amended to read:

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 or 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

HB 7025

2012

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

199 ~~(c) 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

214

215

216

HB 7025

2012

			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			

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

HB 7025

2012

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



HB 7025

2012

			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.
238			

HB 7025

2012

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.

HB 7025

2012

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

HB 7025

2012

			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.

HB 7025

2012

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

HB 7025

2012

257	893.13(1)(f)1.	1st	specified business site. 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.		

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7025 (2012)

Amendment No.

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: State Affairs Committee  
2 Representative Holder offered the following:

3  
4 **Amendment (with title amendment)**

5 Between lines 147 and 148, insert:

6 Section 4. Paragraph (a) is amended and paragraph (f) is  
7 added to subsection (7) of section 379.354, Florida Statutes, to  
8 read:

9 379.354 Recreational licenses, permits, and authorization  
10 numbers; fees established.-

11 (7) VESSEL LICENSES.-

12 (a) Except as provided in paragraph (f), ~~N~~ no person may  
13 operate any vessel wherein a fee is paid, either directly or  
14 indirectly, for the purpose of taking, attempting to take, or  
15 possessing any saltwater fish for noncommercial purposes unless  
16 she or he has obtained a license for each vessel for that  
17 purpose, and has paid the license fee pursuant to paragraphs (b)  
18 and (c) for such vessel.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7025 (2012)

Amendment No.

19 (b) A license for any person who operates any vessel  
20 licensed to carry more than 10 customers, wherein a fee is paid,  
21 either directly or indirectly, for the purpose of taking or  
22 attempting to take saltwater fish, is \$800 per year. The  
23 license must be kept aboard the vessel at all times.

24 (c)1. A license for any person who operates any vessel  
25 licensed to carry no more than 10 customers, or for any person  
26 licensed to operate any vessel carrying 6 or fewer customers,  
27 wherein a fee is paid, either directly or indirectly, for the  
28 purpose of taking or attempting to take saltwater fish, is \$400  
29 per year.

30 2. A license for any person licensed to operate any vessel  
31 carrying 6 or fewer customers but who operates a vessel carrying  
32 4 or fewer customers, wherein a fee is paid, either directly or  
33 indirectly, for the purpose of taking or attempting to take  
34 saltwater fish, is \$200 per year. The license must be kept  
35 aboard the vessel at all times.

36 3. A person who operates a vessel required to be licensed  
37 pursuant to paragraph (b) or this paragraph may obtain a license  
38 in her or his own name, and such license shall be transferable  
39 and apply to any vessel operated by the purchaser, provided that  
40 the purchaser has paid the appropriate license fee.

41 (d) A license for a recreational vessel not for hire and for  
42 which no fee is paid, either directly or indirectly, by guests  
43 for the purpose of taking or attempting to take saltwater fish  
44 noncommercially is \$2,000 per year. The license may be  
45 purchased at the option of the vessel owner and must be kept  
46 aboard the vessel at all times. A log of species taken and the

376649 - Amendment 1.docx

Published On: 1/24/2012 6:09:03 PM



Amendment No.

47 | date the species were taken shall be maintained and a copy of  
48 | the log filed with the commission at the time of renewal of the  
49 | license.

50 | (e) The owner, operator, or custodian of a vessel the  
51 | operator of which has been licensed pursuant to paragraph (a)  
52 | must maintain and report such statistical data as required by,  
53 | and in a manner set forth in, the rules of the commission.

54 | (f) If the operator of a vessel that carries scuba divers  
55 | for a fee, either directly or indirectly, maintains the  
56 | appropriate vessel license under this subsection based upon the  
57 | number of persons the vessel is licensed to carry and any  
58 | applicable permits, the individual scuba divers engaged in  
59 | taking or attempting to take saltwater products are not required  
60 | to obtain individual fishing licenses and permits. However, if  
61 | such vessel operator does not have the appropriate license, the  
62 | scuba divers engaged in taking or attempting to take saltwater  
63 | products must have individual fishing licenses and any  
64 | applicable permits.

65 | -----  
66 |  
67 | **T I T L E A M E N D M E N T**

68 | Remove line 14 and insert:

69 | s. 379.354, F.S.; provides that an individual diver is not  
70 | required to hold a fishing license while on a vessel for hire if  
71 | the vessel operator maintains the appropriate license and  
72 | permits; amending s. 379.3581, F.S.; removing a limitation for  
73 | the  
74 |