



Agriculture & Natural Resources Subcommittee

**Tuesday, December 6, 2011
3:30 pm
Reed Hall (102 HOB)**

**Dean Cannon
Speaker**

**Steve Crisafulli
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Natural Resources Subcommittee

Start Date and Time: Tuesday, December 06, 2011 03:30 pm
End Date and Time: Tuesday, December 06, 2011 06:00 pm
Location: Reed Hall (102 HOB)
Duration: 2.50 hrs

Consideration of the following bill(s):

HB 449 Public Fairs and Expositions by Steube
HB 503 Environmental Regulation by Patronis

Consideration of the following proposed committee bill(s):

PCB ANRS 12-01 -- Department of Agriculture and Consumer Services
PCB ANRS 12-02 -- Statewide Environmental Resource Permitting
PCB ANRS 12-03 -- Fish and Wildlife Conservation Commission

NOTICE FINALIZED on 11/29/2011 16:14 by Love.John

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 449 Public Fairs and Expositions

SPONSOR(S): Steube

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Kaiser <i>dk</i>	Blalock <i>AFB</i>
2) Community & Military Affairs Subcommittee			
3) Finance & Tax Committee			
4) State Affairs Committee			

SUMMARY ANALYSIS

Part I of Chapter 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 Chapter 616, F.S., that modernize 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 Chapter 616, F.S., serve an essential government purpose and are not taxable or subject to assessments.
- Exempting fair associations in existence as of July 1, 2011 from local land use and zoning ordinances that are in conflict with public fair and exposition uses and purposes or with any development or improvement fulfilling such uses and purposes.
- Providing that a fair association organized under Chapter 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 monies 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.
- Waiving the local business tax, the license taxes, inspection fees, franchise fees and taxes, utility surplus line fees and taxes and impact fees once the fair permit has been secured from the department.
- 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 appears to have a fiscal impact on state government. See Fiscal Comments section for further clarification. The bill exempts fair associations from certain local taxes and fees, and therefore, appears to have a fiscal impact on local governments. However, the Revenue Estimating Conference has not yet reviewed this legislation, so the fiscal impact is currently indeterminate.

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

STORAGE NAME: h0449.ANRS.DOCX

DATE: 11/29/2011

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 which 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."¹

Public fairs, expositions, and fair associations are currently regulated under chapter 616, F.S. The last major revisions to chapter 616, F.S., took place in 1993 when the statute was reviewed under the provisions of the Regulatory Sunset Act.² This bill makes various revisions to chapter 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."³ The term "public fair or exposition," defined in current law, describes the various uses and events authorized on fairgrounds, and not only includes trade shows and other expositions, but also refers to the annual public fair event. 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 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."⁴ This term is used throughout chapter 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."

¹ <http://www.floridafairs.org/>

² 93-168, Laws of Florida

³ Section 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.

⁴ Chapter 616, F.S., Public Fairs and Expositions

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 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 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 Chapter 617, F.S., for notice purposes.⁵ The bill requires that a fair association that has filed its charter with the Department of State must 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;

⁵ Chapter 617, F.S., addresses not-for-profit corporations.

- Be used exclusively for the legitimate purposes of the association; and
- 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, chapter 616, F.S., serve an essential governmental purpose and, therefore, are not taxable and not subject to assessments.

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 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.

According to the Federation of Fairs and Livestock Shows, some land and facilities used by fair associations have become partially or totally surrounded by urban growth. This has resulted in

disputes because in some cases the uses authorized in Chapter 616, F.S., are contradictory with local land use and zoning ordinances. In an advisory legal opinion⁶ issued by the Attorney General's Office on July 13, 2010, it was made evident that land use and zoning ordinances of a municipality are applicable to real property located within the municipality and occupied and operated by a fair association.

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 Chapter 616, F.S., and in existence as of July 1, 2011, is exempt from local land use and zoning ordinances that are in conflict with public fair and exposition uses and purposes or with any development or improvement fulfilling such uses and purposes. The bill states that a fair association organized under this chapter 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.

⁶ AGO 2010-28

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 monies 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 monies 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 Chapter 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 Chapter 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 provides that if a fair association satisfies the requirements of Chapter 616, F.S., which includes securing the required fair permit from the department, the local business tax authorized in Chapter 205, F.S., is waived, along with the license taxes.⁷ The bill no longer requires the tax exemption certificate to be signed by the tax collector.

⁷ The local business tax was formerly referred to as an occupational license tax.

The bill amends s. 616.12(2), F.S., to provide an exemption from the local business tax as defined by Chapter 205, F.S.⁸, inspection fees, franchise fees and taxes, utility service fees and taxes, communication service fees and taxes, surplus line fees and taxes, and impact fees for fair associations securing 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.⁹

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 section of statute is 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.

⁸ Ibid

⁹ The penalty for a first degree misdemeanor is a term of imprisonment not exceeding one year or a fine not to exceed \$1,000.

- 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, 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 Chapter 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 Chapter, 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.¹⁰ 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.¹¹

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.

¹⁰ Section 616.17(1)(a)-(j)

¹¹ Section 616.17 (2)(a)-(b)

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.

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 chapter 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 commits a misdemeanor of the second degree.¹² 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 amend 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 & 20

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

¹² The penalty for a second degree misdemeanor is a term of imprisonment not exceeding 60 days or a fine not to exceed \$500.

Section 19

Present Situation

Section 616.23, F.S., provides that the buildings authorized by Chapter 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.

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., providing for money and property of the fair association to be exempt from all forms of taxation as long as used for purposes of the association.

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; requiring the fair association to stimulate public interest in the benefit and development of certain resources of the state, any county, or a municipality; and, exempting certain fair associations from local land use and zoning ordinances.

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 license taxes and 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:

See Fiscal Comments section

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments section

2. Expenditures:

See Fiscal Comments section

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

It is anticipated that vendors and operators of concessions and exhibits at an annual public fair will benefit to some extent due to an exemption from certain local taxes and fees.

D. FISCAL COMMENTS:

Due to concerns raised by the Department of Revenue regarding the communications services fees, the bill appears to have a fiscal impact on state government. However, without further clarification regarding which of the communications services fees would apply, it is impossible to determine at this time what the fiscal impact might be.

Because this legislation has not yet been reviewed by the Revenue Estimating Conference, it is not yet known what the fiscal impact may be to local governments resulting from a fair association's exemption from certain local taxes and fees or from local land and zoning ordinances.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The municipality/county mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill exempts fair associations from certain local taxes and fees and from local land and zoning ordinances. However, because the Revenue Estimating Conference has not yet reviewed this legislation, it is not known if the fiscal impact reaches the threshold level of a mandate, or whether an exemption may apply and or an exception may apply.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue (DOR) has expressed concerns regarding the exemption the bill affords fair associations from the "communications services fees." There are several communication services fees that purchasers of communications services may be charged by their providers; however the bill does not clarify which of these fees would apply. The DOR indicates that it may be necessary to amend ss. 202.125 and 203.01, F.S., to achieve the intended outcome.

Additionally, the DOR has indicated that because the municipal public service tax imposed under Chapter 166, F.S., is not administered by the DOR, it may be necessary to amend s. 166.231, F.S.

Lastly, the DOR states that including the word "department" on line 500 of the bill fosters ambiguity as to whether the term refers to the DOR or a department within a local government.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None

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; amending s.

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

57 permit; replacing the term "exhibitions" with the term
 58 "annual public fair" to conform to changes made by the
 59 act; amending s. 616.14, F.S.; prohibiting a fair
 60 association from conducting more than one annual
 61 public fair each calendar year; amending ss. 616.15
 62 and 616.17, F.S., relating to procedures for obtaining
 63 a permit from the Department of Agriculture and
 64 Consumer Services to conduct a public fair; revising
 65 provisions to conform to changes made by the act;
 66 revising requirements for obtaining a departmental
 67 waiver from minimum exhibit requirements; amending s.
 68 616.185, F.S.; revising provisions prohibiting the
 69 offense of trespass upon the grounds or facilities of
 70 a public fair; amending s. 616.19, F.S.; revising
 71 provisions relating to the designation of fairs;
 72 amending s. 616.21, F.S.; revising provisions related
 73 to the expenditure of appropriated funds; amending s.
 74 616.23, F.S.; removing certain limitations on the use
 75 of buildings by counties, municipalities, or fair
 76 associations; amending s. 616.24, F.S.; revising
 77 provisions related to enforcement; amending s.
 78 288.1175, F.S.; conforming cross-references; providing
 79 an effective date.

80
 81 Be It Enacted by the Legislature of the State of Florida:

82
 83 Section 1. Section 616.001, Florida Statutes, is amended
 84 to read:

85 616.001 Definitions.—As used in this chapter, the term:

86 (1) "Annual public fair" means a community, county,
 87 district, regional, or state fair that is held and conducted by
 88 a fair association and permitted by the department pursuant to
 89 s. 616.15.

90 (2)~~(1)~~ "Authority" means the Florida State Fair Authority.

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

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

107 (5)~~(3)~~ "County fair" means an annual public a fair that
 108 ~~which~~ serves an entire county and provides exhibitors with
 109 premiums or awards for the exhibits that ~~of which~~ are in
 110 accordance with s. 616.17 and ~~in which premiums or awards are~~
 111 ~~given to exhibitors of the fair~~. Agricultural products must
 112 ~~shall~~ be typical of those produced in the county the exhibit

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113 represents ~~in meeting minimum exhibit requirements~~. The majority
 114 of the board of directors of the fair shall reside, be employed,
 115 or operate a business in the county that the fair association
 116 represents.

117 ~~(6)-(4)~~ "Department" means the Department of Agriculture
 118 and Consumer Services.

119 ~~(7)-(5)~~ "District fair" means an annual public a fair that
 120 ~~which~~ serves at least five counties and has the exhibits that
 121 meet the requirements of which are in accordance with s. 616.17.
 122 A district, which fair shall pay at least not less than a
 123 ~~minimum~~ of \$25,000 in cash premiums or awards to exhibitors ~~of~~
 124 ~~the fair~~. Agricultural products must shall be typical of those
 125 produced in the counties county the exhibit represents.

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

132 ~~(8)-(6)~~ "Entry" means one item entered for competition or
 133 show. An entry may ~~or may not~~ constitute an exhibit, depending
 134 upon the regulations ~~as~~ stated in the premium book.

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

141 contracting with a fair association, such as exhibits of
 142 animals, art, housewares, or motor vehicles.

143 (10)(8) "Exhibitor" means an individual, group of
 144 individuals, or business, including a fair association or third
 145 party contracting with a fair association, which has an exhibit
 146 having an entry or entries in a show or fair.

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

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

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

167 (14)(12) "Specialized show" means a show or exhibition
 168 exhibiting and emphasizing a livestock or poultry ~~show~~, or a

169 fruit or vegetable festival, and must ~~shall~~ meet the minimum
 170 exhibit requirements specified ~~as defined~~ in s. 616.17. A
 171 specialized show may qualify under one of the definitions in
 172 subsections ~~(2),~~ (3), (5), (7), and (15) ~~(13)~~.

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

177 Section 2. Section 616.01, Florida Statutes, is amended to
 178 read:

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

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

196 (2) The general nature of the objectives ~~its objects~~ and

197 | powers of the association, including a provision that the
 198 | association is incorporated for the sole purpose of conducting
 199 | and operating public fairs or expositions.

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

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

205 | (5) The name ~~names~~ and residence ~~residences~~ of each
 206 | subscriber ~~the subscribers~~.

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

210 | (7) The designation ~~names~~ of ~~the~~ officers who will ~~are to~~
 211 | manage the its affairs of the association until the first
 212 | election or appointment under the charter.

213 | (8) Procedures for the adoption, amendment, or rescission
 214 | of ~~By whom its~~ bylaws of the association ~~are to be made,~~
 215 | ~~altered, or rescinded.~~

216 | (9) The highest amount of indebtedness or liability that
 217 | may be accrued by the association ~~to which it may at any time~~
 218 | ~~subject itself.~~

219 | Section 3. Section 616.02, Florida Statutes, is amended to
 220 | read:

221 | 616.02 Acknowledgment of charter.—The proposed charter of
 222 | a fair association shall be acknowledged by at least three of
 223 | its subscribers, ~~each a person of good character and reputation,~~
 224 | before an officer authorized to make acknowledgment of deeds. 7

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225 ~~which~~ Subscribers shall also make and take ~~subscribe to~~ an oath,
 226 which must ~~to~~ be attached to the proposed charter, stating that
 227 the primary objective ~~object~~ of the association is public
 228 service and holding, conducting, and promoting public fairs or
 229 expositions; that money and other available assets in value
 230 exceeding \$5,000 have ~~there has~~ been provided for the purposes
 231 of the association ~~property, money, and other available assets~~
 232 ~~in value exceeding \$5,000; and that the association will operate~~
 233 ~~intends~~ in good faith to carry out the purposes and objectives
 234 ~~objects~~ set forth in its charter.

235 Section 4. Section 616.03, Florida Statutes, is amended to
 236 read:

237 616.03 Notice of application; approval and record of
 238 charter.~~A~~ notice of intention to apply to the circuit court
 239 ~~judge~~ for the charter of a fair association must specify,
 240 ~~stating~~ the date that ~~time when the~~ application will be made,
 241 shall be sent to the department for approval, and ~~then~~ shall be
 242 published in a newspaper in the county where the principal
 243 office of the association will ~~is to~~ be located once each week
 244 for 4 consecutive weeks. The notice must, ~~setting forth~~ briefly
 245 summarize the charter and objectives ~~objects~~ of the proposed
 246 association ~~to be formed~~. The proposed charter shall be
 247 submitted to and approved by the board of county commissioners
 248 of the county in which the principal office of the association
 249 will ~~is to~~ be located. After ~~Upon~~ approval by ~~of~~ the department
 250 and the board of county commissioners, the proposed charter and
 251 ~~with~~ proof of ~~both~~ approval and publication shall be submitted
 252 to the circuit judge on the date specified ~~at the time named~~ in

253 the notice. ~~and~~, If no cause is shown to the contrary and ~~if~~
 254 the judge finds that the proposed charter ~~is to be~~ in proper
 255 form and will serve ~~so sworn to and for~~ the primary objective
 256 ~~object~~ of public service, the judge shall approve the charter
 257 and issue an order ~~render a decree~~ incorporating the subscribers
 258 under the charter for the objectives ~~objects~~ and purposes
 259 specified in the charter ~~and with the powers therein specified~~.
 260 The charter and order ~~decree~~ of incorporation shall ~~then~~ be
 261 recorded in the office of the clerk of the circuit court in the
 262 county where the principal office of the association will ~~is to~~
 263 be located and provided to ~~in the office of~~ the department.
 264 After the order is recorded, ~~Thenceforth~~ the subscribers and
 265 their associates are ~~shall be~~ incorporated with the objectives
 266 and powers established in the charter and under ~~by~~ the name
 267 given in the charter ~~and with the objects and powers set forth~~
 268 ~~therein~~. During the publication period, the proposed charter,
 269 ~~during the time of publication,~~ shall be on file in the office
 270 of the clerk of the circuit court. This section does not
 271 preclude a fair association from also filing its duly approved
 272 charter with the Department of State pursuant to chapter 617 for
 273 notice purposes.

274 Section 5. Section 616.05, Florida Statutes, is amended to
 275 read:

276 616.05 Amendment of charter. ~~A~~ Any fair association may
 277 ~~desiring to~~ propose an amendment to ~~of~~ its charter ~~may do so~~ by
 278 resolution as provided in its charter or bylaws.

279 (1) The proposed amendment shall be submitted to the
 280 department for approval.

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281 (2) After the department approves the proposed amendment,
 282 it will be incorporated into the original charter ~~When approved,~~
 283 ~~the proposed amendment,~~ upon:

284 (a) Publication of notice in the same manner as provided
 285 in s. 616.03;

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

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

293

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

298 Section 6. Section 616.051, Florida Statutes, is amended
 299 to read:

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

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309 Section 7. Section 616.07, Florida Statutes, is amended to
310 read:

311 616.07 Members not personally liable; property of
312 association held in trust; exempt from taxation.-

313 (1) A ~~No~~ member, officer, director, or trustee of a fair
314 association is not ~~shall be~~ personally liable for any of the
315 debts of the association, + and ~~no~~ money or property of a fair
316 association may not ~~shall~~ be distributed as profits or dividends
317 among its members, officers, directors, or trustees. ~~7~~ but

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

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

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337 in which the property will be used. If the use to which the
 338 property shall be put; however, where property has been
 339 contributed by a municipality or county, the property shall be
 340 reconveyed to the municipality or county that gave the property
 341 to the association making the contribution of said property.

342 Section 8. Section 616.08, Florida Statutes, is amended to
 343 read:

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

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

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393 fair association organized under this chapter and in existence
 394 as of July 1, 2011, is exempt from local land use and zoning
 395 ordinances that are in conflict with public fair and exposition
 396 uses and purposes or with any development or improvement
 397 fulfilling such uses and purposes. A fair association organized
 398 under this chapter is a noncommercial activity provider.

399 Section 9. Section 616.101, Florida Statutes, is amended
 400 to read:

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

414 (1) On request by the department to certify expenditures
 415 of the premiums awarded to exhibitors of a fair ~~state premium~~ or
 416 of building funds when there is evidence of violation of state
 417 laws; or

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

419 Section 10. Section 616.11, Florida Statutes, is amended
 420 to read:

421 616.11 Association authorized to contract with
 422 municipality, county, or state for use of land; admission fees;
 423 state, counties, and municipalities authorized to make
 424 contributions.—Any fair association may enter into any contract,
 425 lease, or agreement with any municipality or county in the state
 426 or with the state or agency or subdivision of the state ~~thereof~~
 427 for the donation to or the use and occupation by the association
 428 of any land owned, leased, or held by the county or municipality
 429 or the state or agency or subdivision of the state ~~thereof~~
 430 during a ~~such~~ time and on the ~~such~~ terms approved by ~~as~~ the
 431 county or municipality or the state or agency or subdivision
 432 ~~thereof may authorize~~, with the right ~~on the part~~ of the
 433 association to use the property for public ~~charge~~ and ~~receive an~~
 434 ~~admission fee to the fair or exposition~~ purposes ~~or any part~~
 435 ~~thereof~~. The state, the Department of Transportation and ~~or~~ any
 436 other agency or subdivision of the state ~~thereof~~, the board of
 437 county commissioners of any county within which the fair or
 438 exhibition is held, and the mayor and city council of any
 439 municipality within the county may also make contributions of
 440 money, property, or services to fair associations to assist in
 441 carrying out the purposes of the associations under ~~as~~
 442 ~~authorized by~~ this chapter. The state or any agency or
 443 subdivision of the state, boards of county commissioners of the
 444 various counties of the state, and the mayor and city council of
 445 any municipality within the county may expend ~~in their~~
 446 ~~discretion~~ such sums of money as they deem necessary for the
 447 best interests of their counties and in aiding the development
 448 of the educational, agricultural, horticultural, livestock,

449 charitable, historical, civic, cultural, scientific, and any
 450 other resources of their counties at and in connection with
 451 public fairs and expositions, including the offering and paying
 452 of premiums for the exhibitions of resources of the state,
 453 county, or municipality ~~their respective counties.~~

454 Section 11. Section 616.12, Florida Statutes, is amended
 455 to read:

456 616.12 Licenses upon certain shows; distribution of fees;
 457 exemptions.-

458 (1) Each ~~Every~~ person who operates ~~may operate under any~~
 459 ~~terms whatsoever, including a lease arrangement,~~ any traveling
 460 show, exhibition, amusement enterprise, carnival, vaudeville,
 461 exhibit, minstrel, rodeo, theatrical, game or test of skill,
 462 riding device, dramatic repertoire, ~~or~~ other show or amusement,
 463 or concession, ~~(including a concession operating in a tent,~~
 464 enclosure, or other temporary structure, ~~whether covered or~~
 465 ~~uncovered)~~ within the grounds of, and in connection with, any
 466 annual public fair ~~or exposition~~ held by a fair association
 467 shall pay the license taxes ~~now or hereafter~~ provided by law.†
 468 However, ~~if in the event~~ the association satisfies the
 469 requirements ~~fully qualifies with all other provisions~~ of this
 470 chapter, including securing the required fair permit from the
 471 department, the ~~traveling show, exhibition, amusement~~
 472 ~~enterprise, carnival, vaudeville, minstrel, rodeo, theatrical,~~
 473 ~~game or test of skill, riding device, dramatic repertoire, or~~
 474 ~~other show or amusement (including a concession operating in a~~
 475 ~~tent, enclosure, or other temporary structure, whether covered~~
 476 ~~or uncovered)~~ within the grounds of, and in connection with, any

477 ~~such fair or exposition is not required to pay any such license~~
 478 ~~taxes and local business tax authorized in chapter 205 are~~
 479 ~~waived and the department shall issue tax, but shall operate~~
 480 ~~under a tax exemption certificate issued by the department.~~ The
 481 department shall adopt ~~prescribe~~ the proper forms and rules to
 482 administer ~~for carrying out the purpose and intent expressed in~~
 483 this section, including the necessary tax exemption certificate,
 484 ~~to be signed by the tax collector,~~ showing that the fair
 485 association has met all requirements and that the traveling
 486 show, exhibition, amusement enterprise, carnival, vaudeville,
 487 exhibit, minstrel, rodeo, theatrical, game or test of skill,
 488 riding device, dramatic repertoire, ~~or~~ other show or amusement,
 489 or concession ~~(including a concession operating in a tent,~~
 490 ~~enclosure, or other temporary structure, whether covered or~~
 491 ~~uncovered) has met in full all requirements of this chapter and~~
 492 accordingly is fully exempt.

493 (2) Any fair association securing the required annual fair
 494 permit from the department is exempt from local business tax as
 495 defined by chapter 205, ~~occupational license fees, occupational~~
 496 permit fees, inspection fees, franchise fees and taxes, utility
 497 service fees and taxes, communication service fees and taxes,
 498 surplus line fees and taxes, impact fees, or any occupational
 499 taxes assessed by any county, municipality, political
 500 subdivision, department, ~~or~~ agency, or instrumentality thereof.

501 Section 12. Section 616.121, Florida Statutes, is amended
 502 to read:

503 616.121 Making false application.—Any person who, with
 504 fraudulent intent, makes or causes to be made any false

505 statement in an application for a permit to hold an annual a
 506 public fair ~~or exposition~~ or in an application for distribution
 507 of the amount paid for license taxes under the provisions of
 508 this chapter, ~~with fraudulent intent of obtaining that permit or~~
 509 ~~amount,~~ and by that false statement obtains that permit or
 510 distribution, ~~any part of that amount for himself or herself or~~
 511 ~~for any firm or corporation in which that person has a financial~~
 512 ~~interest, or for whom that person is acting,~~ commits a
 513 misdemeanor of the first degree, punishable as provided in s.
 514 775.082 or s. 775.083.

515 Section 13. Section 616.14, Florida Statutes, is amended
 516 to read:

517 616.14 Number of fairs; penalty.—

518 (1) A fair association may not conduct more than one
 519 annual public fair each calendar year. Any fair association that
 520 conducts more than one public fair ~~or exposition~~ during any one
 521 calendar year is subject to revocation of its charter by the
 522 court granting the charter.

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

527 Section 14. Section 616.15, Florida Statutes, is amended
 528 to read:

529 616.15 Permit from Department of Agriculture and Consumer
 530 Services required.—

531 (1) An annual ~~No~~ public fair ~~or exposition~~ may not be
 532 conducted by a fair association without a permit issued by the

533 department. ~~The permit shall be issued in the following manner:~~
 534 The association shall present to the department an application
 535 for a ~~the~~ permit, signed by an officer of the association, at
 536 least 3 months before holding the annual public fair. ~~The ex~~
 537 ~~position;~~ this application shall be accompanied by a fee in an
 538 amount to be determined by the department ~~not to exceed \$366 or~~
 539 ~~be less than \$183~~ for processing the application and making any
 540 required investigation. The application fee must be at least
 541 \$183 and may not exceed \$366. ~~The~~ Fees collected under this
 542 subsection shall be deposited in the General Inspection Trust
 543 Fund of the State Treasury in a special account to be known as
 544 the "Agricultural and Livestock Fair Account." A copy of the
 545 application must be sent to each fair association located within
 546 50 miles of the site of the proposed annual public fair ~~or~~
 547 ~~exposition~~ at the same time the application is sent to the
 548 department. The department may issue a ~~the~~ permit if the
 549 applicant provides ~~if the application sets forth:~~
 550 (a) The opening and closing dates of the proposed annual
 551 public fair ~~or exposition~~.
 552 (b) The name and address of the owner of the central
 553 amusement attraction that will ~~to~~ operate during the annual
 554 public fair ~~or exposition~~.
 555 (c) An affidavit properly executed by the president or
 556 ~~other~~ chief executive officer of the applicant association
 557 certifying the existence of a binding contract entered into by
 558 the association ~~or exposition~~ and the owner of the central
 559 amusement attraction covering the period for which the permit
 560 from the department is applied. The contract ~~or contracts~~

561 between the parties shall be available for inspection by duly
 562 authorized agents of the department in administering this
 563 chapter.

564 (d) A written statement that the main purpose of the
 565 association is to conduct and operate a public ~~the proposed~~ fair
 566 and ~~or~~ exposition, including the annual fair, for the benefit
 567 and development of the educational, agricultural, horticultural,
 568 livestock, charitable, historical, civic, cultural, scientific,
 569 and other resources of the geographical area the fair
 570 association ~~or exposition~~ represents and serves. The statement
 571 must ~~shall be in writing,~~ shall be subscribed, and ~~shall be~~
 572 acknowledged by an officer of the association before an officer
 573 authorized to take acknowledgments.

574 (e) A premium list of the current annual public fair ~~or~~
 575 ~~exposition~~ to be conducted or a copy of the previous year's
 576 premium list showing all premiums and awards to be offered to
 577 exhibitors in various departments of the annual public fair,
 578 which may include, but are not limited to, ~~such as~~ art
 579 exhibition, beef cattle, county exhibits, dairy cattle,
 580 horticulture, swine, women's department, 4-H Club activities,
 581 Future Farmers of America activities, Future Homemakers of
 582 America activities, poultry and egg exhibits, and community
 583 exhibits, ~~the foregoing being a list of the usual exhibitors of~~
 584 ~~a fair and not to be construed as limiting the premium list to~~
 585 ~~these departments.~~ The premium list, which may be submitted
 586 separately from the application, must be submitted at least at
 587 ~~any time not later than~~ 60 days before the ~~holding of the~~ annual
 588 public fair begins operation ~~or exposition,~~ and the department

589 ~~shall issue the permit as provided in this section within 10~~
 590 ~~days thereafter if the applicant is properly qualified.~~

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

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

595 (h) A list of all current members of the board of
 596 directors of the association and their contact information,
 597 including home address addresses.

598
 599 The department shall issue the permit within 10 days after it
 600 receives all the information and the applicant qualifies
 601 pursuant to this section.

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

610 (3) Notwithstanding any fair association meeting the
 611 requirements set forth in subsection (1), the department may
 612 order a full investigation to determine if ~~whether or not~~ the
 613 fair association meets ~~in full~~ the requirements of s. 616.01,
 614 and ~~accordingly~~ may withhold a permit from, deny a permit to, or
 615 withdraw a permit once issued to the association. The department
 616 shall also consider whether any proposed annual public fair ~~or~~

617 ~~exposition~~, as set forth in an application for a permit, will
 618 compete with another annual public fair ~~or exposition~~ within 50
 619 miles of the proposed annual public fair ~~or exposition~~ with
 620 respect to name, dates of operation, or market. The department
 621 may deny, withhold, or withdraw a permit from a fair association
 622 if the department determines that such fair association will
 623 compete with another association. The department shall give
 624 preference to existing fair associations with established dates,
 625 locations, and names. The determination by the department is
 626 ~~shall be~~ final.

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

629 616.17 Minimum exhibits.—

630 (1) An annual ~~No~~ public fair ~~or exposition~~ conducted by a
 631 fair association may not be approved by the department for a tax
 632 exemption certificate unless the fair association ~~or exposition~~
 633 displays at least the following ~~minimum~~ exhibits, ~~but this~~
 634 ~~requirement may not be construed as a limitation on the number~~
 635 ~~of exhibits which the fair or exposition may have:~~

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

639 (b) Three exhibits of community, individual, or county
 640 farm displays.

641 (c) Three exhibits of field crops in at least three
 642 different crops.

643 (d) Three exhibits of horticultural products.

644 (e) Three culinary exhibits such as canned fruits, canned

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645 vegetables, canned pickles or juices, jams, jellies, cakes,
646 bread, candies, or eggs.

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

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

651 (h) Three exhibits of arts, crafts, photography, or
652 antiques or of scout handiwork.

653 (i) Three exhibits from home demonstration, home
654 economics, educational, religious, or civic groups.

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

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

663 Section 16. Section 616.185, Florida Statutes, is amended
664 to read:

665 616.185 Trespass upon grounds or facilities of public fair
666 ~~or exposition~~; penalty; arrests.—

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

670 (a) Entering and remaining upon any grounds or facilities
671 owned, operated, or controlled by the Florida State Fair
672 Authority or any other association ~~public fair or exposition~~

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673 | permitted under s. 616.15 and committing any act that ~~which~~
 674 | disrupts the orderly conduct of any authorized activity of the
 675 | fair association ~~organization~~ in charge, or its lessees,
 676 | licensees, or the general public on those grounds or facilities;
 677 | or

678 | (b) Entering and remaining on those grounds or facilities
 679 | after being directed not to enter or to leave them by the
 680 | executive director of the authority, chief administrative
 681 | officer of the fair association ~~or exposition~~, or any employee
 682 | or agent of the association ~~thereof~~ designated by the executive
 683 | director or administrator to maintain order on those grounds and
 684 | facilities, after a determination by the executive director,
 685 | administrator, employee, or agent that the entering or remaining
 686 | on those grounds or facilities is in violation of the rules and
 687 | regulations of the Florida State Fair Authority or permitted
 688 | ~~public~~ fair association ~~or exposition~~ or is disrupting the
 689 | orderly conduct of any authorized activity of the fair
 690 | association ~~organization~~ in charge, or its lessees, licensees,
 691 | or the general public on those grounds or facilities.

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

697 | (3) A law enforcement ~~peace~~ officer may arrest any person
 698 | on or off the premises, without a warrant, if the officer has
 699 | probable cause for believing such person has committed the
 700 | offense of trespass upon the grounds of the Florida State Fair

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701 Authority or any ~~public~~ fair association ~~or exposition~~ permitted
 702 under s. 616.15. Such an arrest does ~~shall~~ not render the law
 703 enforcement ~~peace~~ officer criminally or civilly liable for false
 704 arrest, false imprisonment, or unlawful detention.

705 Section 17. Section 616.19, Florida Statutes, is amended
 706 to read:

707 616.19 Designation of fairs.—Any ~~public~~ fair association
 708 ~~or exposition heretofore or hereafter~~ created pursuant to this
 709 chapter shall be designated by the name stated in the permit
 710 required or stated by its fair association and is ~~shall be~~
 711 recognized by the state as equal in dignity to the Florida State
 712 Fair and as fully recognized as the Florida State Fair.

713 Section 18. Section 616.21, Florida Statutes, is amended
 714 to read:

715 616.21 Agricultural and livestock exhibit buildings;
 716 conditions for expenditures.—~~No part of~~ Appropriated funds may
 717 not be expended except upon approval and with the recommendation
 718 of the department. Further, the ~~no part of~~ such an appropriation
 719 may not be expended for the construction of a building unless
 720 ~~and until a good~~ fee simple title to the land on which the
 721 building is to be constructed is vested in the county,
 722 municipality, or fair association for which the building is to
 723 be constructed.

724 Section 19. Section 616.23, Florida Statutes, is amended
 725 to read:

726 616.23 Use of buildings.—The buildings authorized by ss.
 727 616.21-616.23 may be used by the county, municipality, or fair
 728 association for ~~which the buildings are built as agricultural or~~

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729 ~~livestock exhibition buildings for public fair or exposition~~
 730 ~~purposes in the promotion of the agricultural and livestock~~
 731 ~~industries.~~ These buildings may be used as office space for
 732 agricultural agents; however, no more than 20 percent of the
 733 buildings may be so used.

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

736 616.24 Enforcement.—

737 (2) It is the duty of each ~~every~~ state attorney, law
 738 enforcement officer as defined by chapter 943, and other
 739 appropriate county or municipal officer to enforce this chapter
 740 and the rules adopted pursuant thereto and to assist the
 741 department and its inspectors and agents in the enforcement of
 742 this chapter and the rules adopted pursuant thereto.

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

745 288.1175 Agriculture education and promotion facility.—

746 (4) The Department of Agriculture and Consumer Services
 747 shall certify a facility as an agriculture education and
 748 promotion facility if the Department of Agriculture and Consumer
 749 Services determines that:

750 (a) The applicant is a unit of local government as defined
 751 in s. 218.369, or a fair association as defined in s.

752 616.001(11) ~~616.001(9)~~, which is responsible for the planning,
 753 design, permitting, construction, renovation, management, and
 754 operation of the agriculture education and promotion facility or
 755 holds title to the property on which such facility is to be
 756 developed and located.

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757 (6) Funds may not be expended to develop or subsidize
758 privately owned facilities, except for facilities owned by fair
759 associations as defined in s. 616.001(11) ~~616.001(9)~~.
760 Section 22. This act shall take effect July 1, 2012

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 449 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment

6 Remove lines 151-153 and insert:

7 (12)-(10) "Public fair or exposition" means a project,
8 activity, event, or program and use by a fair association,
9 including the annual public fair event, which serves the purpose
10 specified in s.
11

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Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

6 Remove lines 392-397 and insert:
 7 be expected to come into that officer's possession or custody. A
 8 fair association organized

12 -----
 13 **T I T L E A M E N D M E N T**

14 Remove lines 37-40 and insert:
 15 specified uses; providing that certain fair
 16

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 449 (2012)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

6 Remove lines 495-498 and insert:
7 defined by chapter 205, ~~occupational license fees,~~ occupational
8 permit fees, or any occupational

9
10
11
12 -----
13 **T I T L E A M E N D M E N T**

14 Remove line 53 and insert:
15 to the exemption from certain local
16

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 503 Environmental Regulation

SPONSOR(S): Economic Affairs Committee, Rulemaking & Regulation Subcommittee, Patronis

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Deslatte <i>JD</i>	Blalock <i>AFR</i>
2) Rulemaking & Regulation Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
4) State Affairs Committee			

SUMMARY ANALYSIS

The bill creates, amends, and revises numerous provisions relating to development, construction, operating, and building permits; permit application requirements and procedures; programmatic general permits and regional general permits; and permits for certain projects. Specifically the bill:

- Prohibits a county or municipality from conditioning the approval for a development permit on an applicant obtaining a permit or approval from any other state or federal agency.
- Allows an applicant for a coastal construction permit 90 days to respond to requests for additional information (RAIs).
- Prevents the Department of Environmental Protection (DEP) from requiring sediment quality specifications or turbidity standards more stringent than those provided for in ch. 161 or 373, F.S., and from issuing guidelines that are enforceable as standards without going through rulemaking.
- Establishes a limited exemption from the Strategic Intermodal System adopted level-of-service standards for certain new or redevelopment projects and establishing conditions and criteria.
- Includes entities created by special act or local ordinance or interlocal agreement by counties or municipalities for purposes of DEP and Water Management Districts (WMDs) reduced or waived permit processing fees.
- Exempts a municipality from showing extreme hardship for sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve, and allows dredging and filling for the purpose of creating a waterfront promenade.
- Expands the use of Internet-based self-certification services for certain exemptions and general permits.
- Requires action on certain permit applications within 60 days of receipt of last timely requested material; precludes state agencies from delaying action because of pending approval from other local, state, or federal agencies.
- Provides for the DEP to obtain an expanded state programmatic general permit from the federal government for certain activities in waters of the U.S. governed by the Clean Water Act and Rivers and Harbors Act.
- Excludes expenditures associated with program deductibles, copayments, and limited contamination assessment reports from state restoration funds available for low-scored site initiatives.
- Provides that the transfer of title for a petroleum contaminated site to a child of the owner or a corporate entity created by the owner to hold title for the site does not disqualify the site from financial assistance.
- Provides expedited permitting for any inland multimodal facility receiving and/or sending cargo to and/or from Florida ports.
- Exempts owners of onsite sewage treatment and disposal systems from the evaluation and assessment program unless the board of county commissioners has adopted a resolution to the contrary.
- Requires the DEP to establish reasonable zones of mixing for discharges into specified waters.
- Clarifies circumstances in which the DEP can revoke certain air and water pollution permits issued under Chapter 403, F.S., for stationary installations.
- Excludes the term sludge from a waste treatment works from the definition of solid waste under certain circumstances.
- Exempts the new solid waste disposal areas at an already permitted facility from having to be specifically authorized in a permit if monitored by an existing or modified groundwater monitoring plan; extends the duration of all permits issued to solid waste management facilities that are designed with a leachate control system.
- Provides a general permit for a surface water management system under 10 acres may be authorized without agency action.
- Adds groundwater usage and services to religious institutions to the definition of transient noncommunity water systems.
- Provides for the creation of regional action teams for expedited permitting for certain businesses.
- Specifies that the renewable fuel standard does not prohibit the sale of unblended fuels for exempted uses.
- Allows certain recently acquired filling stations to have until December 31, 2013 to install secondary containment.

The bill appears to have a negative fiscal impact on state governments, and appears to have both negative and positive fiscal impacts on local governments. See Fiscal Comments Section for details.

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

STORAGE NAME: h0503.ANRs.docx

DATE: 12/2/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 1. Amends s. 125.022, F.S. and Section 5 amends s. 166.033, F.S., prohibiting a county or municipality from requiring as a condition of approval for a development permit that an applicant obtain a permit or approval from any other state or federal agency.

Current Situation

Some in the development community say there have been instances when the approval of a local government development permit was conditioned on the applicant first acquiring permit approval from a state or federal agency, regardless of whether the development proposal required state or federal approval.

Effect of Proposed Changes

The bill prohibits a county or a municipality from conditioning the approval for a development permit on an applicant obtaining a permit or approval from any other state or federal agency, unless the agency has issued a notice of intent to deny the federal or state permit prior to the county action on the local development permit. The bill also provides that the issuance of a development permit by a county or municipality does not create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create liability on the part of the local government for the applicant's failure to obtain requisite state or federal approval. Counties may attach this disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits must be obtained prior to development. This provision does not prohibit a county from providing information to an applicant regarding what other state or federal permits may be applicable.

Section 2. Creates s. 161.032, F.S., requiring the Department of Environmental Protection (DEP) to review an application for certain permits under the Beach and Shore Preservation Act and request additional information; requiring that the DEP proceed to process the application if an applicant believes that a request for additional information (RAI) is not authorized; allowing applicants 90 days to respond to a RAI; authorizing the DEP to issue permits in advance of the issuance of certain authorizations provided for in the Endangered Species Act.

Current Situation

Under current law, a coastal construction permit must be obtained from the DEP to make any coastal construction or reconstruction or change of existing structures, or any construction or physical activity undertaken specifically for shore protection purposes, or other structures and physical activity including groins, jetties, moles, breakwaters, seawalls, revetments, artificial nourishment, inlet sediment bypassing, excavation or maintenance dredging of inlet channels, or other deposition or removal of beach material, or construction of other structures if of a solid or highly impermeable design, upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the state¹. The permit application is not considered "complete" until the agency determines that it has all of the information it needs to approve or deny the application. To obtain additional information that the DEP needs (and is not contained in the original permit application) to make a decision on whether to issue a permit, the DEP will submit an RAI to the applicant for this information. The DEP is required to approve or deny every application within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law. However, there is no time limit in current law on when the applicant must respond to the RAI, nor is there a limit to the number of times the agency may request additional information before deeming an application complete.

¹ Section 161.041, F.S.

In 2011, the Secretary of the DEP established an RAI policy for the permitting process with the following guidelines:

- 1st RAI-will require a mandatory review by the permitting supervisor. The RAI can be signed by the permit processor or the permitting supervisor.
- 2nd RAI-must be signed by the program administrator.
- 3rd RAI-must be signed by the district director or bureau chief. In addition, each district and division must submit a monthly report through the Deputy Secretary for Regulatory Programs of the 3rd RAIs issued and an explanation of why the RAI was issued.
- 4th RAI or more-will require the Secretary's approval prior to issuing the 4th or more RAIs.

Effect of Proposed Changes

The bill creates a coastal construction permit application review process that provides that within 30 days after receipt of a permit application, the DEP must review the application and must request submission of any additional information the DEP is permitted by law to require. If the applicant believes a request for such additional information is not authorized by law or rule, the applicant can request a hearing pursuant to s. 120.57, F.S. Within 30 days after the receipt of the additional information, the DEP must review the additional information and can request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information. If the applicant believes that the additional request for additional information by the DEP is not authorized by law or rule, the DEP, at the applicant's request, must proceed to process the permit application.

The bill also provides that a permit applicant has 90 days after the date of a timely request for additional information to submit the information. If the applicant needs more than 90 days to respond to a request for additional information, the applicant is required to notify the agency processing the permit application in writing of the circumstances, at which time the applicant is to be held in active status for no more than one additional period of up to 90 days. Additional extensions can be granted with a showing of good cause. A showing that the applicant is making a diligent effort to obtain the requested additional information constitutes good cause. Failure of an applicant to provide the timely information by the applicable deadline must result in denial of the application without prejudice.

Lastly, the bill provides that the DEP can issue a coastal construction permit in advance of the issuance of any incidental take authorization as provided for in the Endangered Species Act and its implementing regulations if the permit and authorization include a condition that authorized activities cannot begin until the incidental take authorization is issued.

Section 3. Amends s. 161.041(5) and (6), F.S., prohibiting the Department of Environmental Protection (DEP) from requiring certain sediment quality specifications or turbidity standards as a permit condition; providing legislative intent with respect to permitting for beach renourishment projects; directing the DEP to amend specified rules relating to permitting for such projects.

Current Situation

Section 161.014, F.S., requires that a coastal construction permit be obtained from the DEP to make any coastal construction or reconstruction or change of existing structures, or any construction or physical activity undertaken specifically for shore protection purposes, or other structures and physical activity including groins, jetties, moles, breakwaters, seawalls, revetments, artificial nourishment, inlet sediment bypassing, excavation or maintenance dredging of inlet channels, or other deposition or removal of beach material, or construction of other structures if of a solid or highly impermeable design, upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the state.

The DEP can authorize an excavation or erection of a structure at any coastal location upon receipt of an application from a property or riparian owner and upon consideration of facts and circumstances, including:

- Adequate engineering data concerning inlet and shoreline stability and storm tides related to shoreline topography;
- Design features of the proposed structures or activities; and
- Potential impacts of the location of such structures or activities, including potential cumulative effects of any proposed structures or activities upon such beach-dune system or coastal inlet, which, in the opinion of the department, clearly justify such a permit.

The DEP can also require engineer certifications as necessary to assure the adequacy of the design and construction of permitted projects. In addition, the DEP is authorized, as a condition to the granting of a coastal construction permit, to require mitigation, financial or other assurances acceptable to the DEP to assure performance of conditions of a permit, or to enter into contractual agreements to best assure compliance with any permit conditions. Biological and environmental monitoring conditions included in the permit must be based upon clearly defined scientific principles.

Effect of Proposed Changes

The bill amends s. 161.041, F.S., to provide that the DEP cannot require, as a permit condition, sediment quality specifications or turbidity standards more stringent than those provided for in current law. The DEP also is prohibited from issuing guidelines that are enforceable as standards without going through the rulemaking process. The bill also provides that it is the Legislature's intent to simplify the permitting for periodic maintenance of beach renourishment projects previously permitted and restored under the joint coastal permit process. Lastly, the bill requires the DEP to streamline the permitting process, as necessary, for periodic maintenance projects.

Section 4. Amends s. 163.3180, F.S., providing an exemption from level-of-service standards adopted under the Strategic Intermodal System for certain inland multimodal facilities.

Current Situation

Section 163.3180, F.S., provides that sanitary sewer, solid waste, drainage, and potable water are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction. If concurrency is applied to other public facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application. In order for a local government to rescind any optional concurrency provisions, a comprehensive plan amendment is required. An amendment rescinding optional concurrency issues is not subject to state review. The local government comprehensive plan must demonstrate, for required or optional concurrency requirements, that the levels of service adopted can be reasonably met. Infrastructure needed to ensure that adopted level-of-service standards are achieved and maintained for the 5-year period of the capital improvement schedule must be identified. The comprehensive plan must include principles, guidelines, standards, and strategies for the establishment of a concurrency management system

If concurrency is applied to transportation facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service to guide its application. Local governments must use professionally accepted studies to evaluate the appropriate levels of service. Local governments should consider the number of facilities that will be necessary to meet level-of-service demands when determining the appropriate levels of service. The schedule of facilities that are necessary to meet the adopted level of service must be reflected in the capital improvement element. A comprehensive plan that imposes transportation concurrency must contain appropriate amendments to the capital improvements element of the comprehensive plan.

Local governments that implement transportation concurrency must:

- Consult with the Department of Transportation when proposed plan amendments affect facilities on the strategic intermodal system².
- Exempt public transit facilities from concurrency.
- Allow an applicant for a development-of-regional-impact development order, a rezoning, or other land use development permit to satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06, F.S., when applicable, if certain conditions are met.

Section 339.61, F.S., establishes the Florida Strategic Intermodal System (SIS), which was created in 2003 to enhance Florida's economic competitiveness by focusing state resources on the transportation facilities most critical for statewide and interregional travel.

Section 339.62, F.S., provides that the SIS must consist of appropriate components of:

- The Florida Intrastate Highway System;
- The National Highway System;
- Airport, seaport, and spaceport facilities;
- Rail lines and rail facilities;
- Selected intermodal facilities; passenger and freight terminals; and appropriate components of the State Highway System, county road system, city street system, inland waterways, and local public transit systems that serve as existing or planned connectors between the components listed above; and
- Existing or planned corridors that serve a statewide or interregional purpose.

Section 339.64, F.S., requires the Department of Transportation to develop the SIS Plan to be updated at least once every 5 years. The SIS Plan must include the following:

- A needs assessment.
- A project prioritization process.
- A map of facilities designated as Strategic Intermodal System facilities; facilities that are emerging in importance that are likely to become part of the system in the future; and planned facilities that will meet the established criteria.
- A finance plan based on reasonable projections of anticipated revenues, including both 10-year and 20-year cost-feasible components.
- An assessment of the impacts of proposed improvements to Strategic Intermodal System corridors on military installations that are either located directly on the Strategic Intermodal System or located on the Strategic Highway Network or Strategic Rail Corridor Network.

Effect of Proposed Changes

The bill amends s. 163.318, F.S., to provide for a limited exemption from the Strategic Intermodal System adopted level-of-service standards for new or redevelopment projects consistent with local comprehensive plans as inland multimodal facilities receiving or sending cargo for distribution and providing cargo storage, consolidation, repackaging, and transfer of goods, and which can include other intermodal terminals, related transportation facilities, warehousing and distribution facilities, and

² A strategic intermodal systems is a transportation systems that: is made up of facilities and services of statewide and interregional significance; contains all forms of transportation for moving both people and goods, including linkages that provide for smooth and efficient transfers between modes and major facilities; and integrates individual facilities, services, forms of transportation (modes) and linkages into a single, integrated transportation network. Florida Department of Transportation website, <http://www.dot.state.fl.us/planning/sis/>

associated office space, light industrial, manufacturing, and assembly uses. The exemption applies only if the project meets all of the following criteria:

- The project will not cause the adopted level-of-service standards for the Strategic Intermodal System facilities to be exceeded by more than 150 percent within the first five years of the project's development.
- The project, upon completion, would result in the creation of at least 50 full-time jobs.
- The project is compatible with existing and planned adjacent land uses.
- The project is consistent with local and regional economic development goals or plans.
- The project is proximate to regionally significant road and rail transportation facilities.
- The project is proximate to a community having an unemployment rate, as of the date of the development order application, which is 10 percent or more above the statewide reported average.
- The local government has a plan, developed in consultation with the Department of Transportation, for mitigating any impacts to the strategic intermodal system.

Section 6. Amends s. 218.075, F.S., authorizing the Department of Environmental Protection (DEP) and Water Management Districts (WMDs) to reduce or waive permit processing fees for certain entities.

Current Situation

Section 218.075, F.S., provides that the DEP or a WMD can reduce or waive permit processing fees for counties with a population of 50,000 or less until that county exceeds a population of 75,000, and for municipalities with a population of 25,000 or less. 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 certain factors³.

Effect of Proposed Change

The bill amends s. 218.075, F.S., to include entities created by a special act or local ordinance or interlocal agreement by counties or municipalities for purposes of the DEP and WMD reduced or waived permit processing fees.

Section 7. Amends s. 258.397, F.S., exempting a municipality from the requirement to showing extreme hardship for sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve if the project is proposed under this section.

Current Situation

In 1975, the Florida Legislature enacted the Aquatic Preserve Act with the intent that the state-owned submerged lands in areas which have exceptional biological, aesthetic, and scientific value, be set aside forever as aquatic preserves or sanctuaries for the benefit of future generations⁴. Florida statutes define an aquatic preserve as an exceptional area of submerged lands and its associated waters set aside for being maintained essentially in its natural or existing condition.

The state restricts certain activities in aquatic preserves in order to conserve their unique biological, aesthetic and scientific value. Section 258.42, F.S., prohibits the Board of Trustees of the Internal Improvement Trust Fund (BOT) from approving the sale, lease, or transfer of sovereignty submerged lands except when the transaction is in the public interest.

Only minimal or maintenance dredging may be permitted in a preserve, and any alteration of the preserves' physical conditions is restricted unless the alteration enhances the quality or utility of the preserve or the public health generally. Minerals may not be mined (with the exception of oyster shells),

³ Section 218.075, F.S.

⁴ Section 258.36, F.S.

and oil and gas well drilling is prohibited. This prohibition does not prohibit the state from leasing the oil and gas rights and permitting drilling from outside the preserve to explore for oil and gas if approved by the BOT. Docking facilities and even structures for shore protection are restricted as to size and location⁵.

Section 258.397, F.S., provides that in the Biscayne Bay Aquatic Preserve, no further sale, transfer, or lease of sovereignty submerged lands in the preserve will be approved or consummated by the BOT, except upon a showing of extreme hardship on the part of the applicant and a determination by the BOT that such sale, transfer, or lease is in the public interest. Furthermore, no further dredging or filling of submerged lands of the preserve will be approved or tolerated by the BOT except under certain conditions.

The Department of Environmental Protection's (DEP's) Office of Coastal and Aquatic Managed Areas oversees the management of Florida's 41 aquatic preserves, three National Estuarine Research Reserves (NERR), one National Marine Sanctuary and the Coral Reef Conservation Program. These protected areas comprise more than 4 million acres of the most valuable submerged lands and select coastal uplands in Florida⁶.

Effect of Proposed Change

The bill exempts a municipality from showing extreme hardship for sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve (Preserve) if the project is for purposes authorized under s.258.397 F.S., and adds, as a permissible dredging and filling activity in the Preserve, such dredging and filling as is necessary for the creation of public waterfront promenades.

Section 8. Amends s. 373.026, F.S., expanding the use of Internet-based self-certifications.

Current Situation

The Florida Legislative Committee on Intergovernmental Relations (LCIR) in March, 2007, issued an interim project report titled "Improving Consistency and Predictability in Dock and Marina Permitting"⁷. This report concluded a 2-year project to review current permitting practices and identify opportunities to improve the consistency and predictability in the permitting of water related facilities in Florida. Recommendation 3, 4, and 5, of the LCIR report suggested that the Department of Environmental Protection (DEP) expand the use of the Internet for permitting and certification purposes.

The DEP currently accepts certain types of permit applications on-line and provides an online self-certification process for private docks associated with detached individual single-family homes on the adjacent uplands, provided the dock being constructed is the sole dock on the parcel. Through this electronic process, one may immediately determine whether a private single family dock can be constructed without further notice or review by the DEP. This includes notification of qualification for the Army Core of Engineers (COE) State Programmatic General Permit (SPGP IV). In addition, Florida's five water management districts (WMDs) have designed and support a shared permitting portal. This portal is designed to direct the user to the appropriate WMD's Web site for obtaining information regarding the WMD's permitting programs, applying for permits, and submitting permit compliance information. The WMDs issue several types of permits. The three most common deal with how much water is used (consumptive use permits), the construction of wells (well construction permits), and how new development affects water resources (environmental resource permits)⁸.

According to the LCIR report, interviews with stakeholder groups indicated some local governments often do not accept self-certification for permit-exempt projects identified in statute, rule, or listed in the

⁵ Administrative rules applicable to aquatic preserves generally may be found in Chapter 18-20.004, F.A.C., Management Policies, Standards and Criteria. However, every aquatic preserve in the state has specific restrictions and policies that are set out in the Florida Administrative Code.

⁶ Department of Environmental Protection website, <http://www.dep.state.fl.us/coastal/>

⁷ <http://www.floridalcir.gov/UserContent/docs/File/reports/marina07.pdf>

⁸ See <http://www.flwaterpermits.com/>

DEP's Self-Certification Process for Single-Family Docks. Some local governments require a "signature" from the DEP permit review staff to verify the exempt status of the projects submitted under Self-Certification, notwithstanding the fact that current law neither requires nor provides for a "signature" from the DEP as an alternative or as supplemental to Self-Certification.

Effect of Proposed Change

The bill authorizes the DEP and WMDs to expand the use of internet based self certification services for appropriate exemptions and general permits issued by the DEP and the WMDs, providing such expansion is economically feasible. In addition to expanding the use of internet based self certification services for appropriate exemptions and general permits, the DEP and WMDs are directed to identify and develop general permits for activities currently requiring individual review that could be expedited through the use of professional certifications.

Section 9. Amends s. 373.4141, F.S., reducing the amount of time the Department of Environmental Protection (DEP) or a water management district (WMD) has to approve a permit from 90 to 60 days after receipt of original application or last item of timely requested additional material; providing that a state agency cannot require, as a condition of approval for a environmental resource permit, that an applicant obtain permit approval from local, state or federal agencies without statutory authority.

Current Situation

Under Part IV of chapter 373, F.S., the DEP and the WMDs issue Environmental Resource Permits (ERPs) to any person seeking to construct or alter any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works. Section 373.4141, F.S., provides that upon receipt of an application for an ERP, the DEP is required within 30 days to examine the application and request submittal of all additional information the DEP or WMD is permitted by law to require. If the applicant believes any request for additional information (RAI) is not authorized by law or rule, the applicant may request a hearing pursuant to s. 120.57, F.S. Within 30 days after receipt of such additional information, the DEP or WMD must review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the DEP or WMD for such additional information is not authorized by law or rule, the DEP or WMD, at the applicant's request, shall proceed to process the permit application. A permit must be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

In 2011, the Secretary of the DEP established an RAI policy for the permitting process with the following guidelines:

- 1st RAI-will require a mandatory review by the permitting supervisor. The RAI can be signed by the permit processor or the permitting supervisor.
- 2nd RAI-must be signed by the program administrator.
- 3rd RAI-must be signed by the district director or bureau chief. In addition, each district and division must submit a monthly report through the Deputy Secretary for Regulatory Programs of the 3rd RAIs issued and an explanation of why the RAI was issued.
- 4th RAI or more-will require the DEP Secretary's approval prior to issuing the 4th or more RAIs.

Effect of Proposed Changes

The bill amends s. 373.4141, F.S., by providing that a permit shall be approved, denied, or subject to a notice of proposed agency action within 60 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application. The bill also provides that a state agency or an agency of the state cannot require, as a condition of approval for an ERP or as an item to complete a pending ERP application, that an applicant

obtain a permit or approval from other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 10. Amends s. 373.4144, F.S., providing for the expansion of the use of State Programmatic General Permits (SPGP).

Current Situation

Regulation of Florida's wetlands includes permitting by both the state and federal government. The federal wetland regulatory program is administered under two federal laws. The first is Section 10 of the Rivers and Harbors Act of 1899 (Act). This Act prohibits the construction of any bridge, dam, dike, or causeway over or in navigable waterways of the U.S. without Congressional approval. The second law is the Clean Water Act (CWA). In 1972, Congress substantially amended the federal Water Pollution Control Act and initiated the CWA. Section 404 of the CWA is the foundation for federal regulation of some activities that occur in or near the nation's wetlands. The regulatory plan is intended to control discharge from dredge or fill materials into wetlands and other water bodies throughout the United States.

Under section 404 of the CWA and section 10 of the Rivers and Harbors Act, the U.S. Army Corps of Engineers (COE) and the U.S. Environmental Protection Agency (EPA) share responsibility for implementing a permitting program for dredging and filling wetland areas. The COE administers the permitting provisions of both federal laws, with EPA oversight, in effect combining Clean Water Act and Rivers and Harbor Act permits into a single action. The COE issues two types of permits: general and individual. An individual permit is required for potentially significant impacts. It is reviewed by the COE, which evaluates applications under a public interest review, as well as the environmental criteria set forth in the CWA Section 404(b)(1) Guidelines. Under the general permit, there are three types of classification: nationwide, regional, and state. The use of a nationwide permit is limited and generally addresses storm drain lines, utility lines, bank stabilization, and maintenance activities. A regional permit will state what fill actions are allowed, what mitigation is necessary, how to get an individual project authorized, and how long it will take. National and regional permits are issued by the COE in Florida, although the COE could authorize Florida to issue regional permits on its behalf.

The third permit is a SPGP. This permit is limited to similar classes of projects that have minimal individual and cumulative impacts. Due to the class limitations, the complexity and physical size of projects are limited as well. Wetland impacts allowed in general permits usually range from 5,000 square feet to one acre. Activities covered by the current SPGP include: construction of shoreline stabilization activities; boat ramps and boat launch areas and structures associated with such ramps or launch areas; docks, piers, marinas, and associated facilities; maintenance dredging of canals and channels; selected regulatory exemptions; and selected ERP noticed general permits. Monroe County and those counties within the jurisdiction of the Northwest Florida WMD are excluded from the SPGP permit.

Under current law, the Department of Environmental Protection (DEP) works with the COE to streamline the issuance of both the state and federal permits for work in wetlands and other surface waters in Florida. The SPGP process allows the DEP or WMD to grant both the ERP and the federal permit, instead of requiring both agencies to process the application.

The general permit process is supposed to eliminate individual review by the COE and allow certain activities to proceed with little or no delay. In most instances, anyone complying with the conditions of the general permit can receive project specific authorization; however, this is not always the case. Since the general permit authorizes the issuance of federal permits, federal resource agency coordination requirements remain. If a permit impacts a listed species, the permit must be forwarded to the COE for coordination with federal resource agencies.

Effect of Proposed Changes

The bill authorizes the DEP to obtain issuance of an expanded SPGP or a series of regional general permits from the COE for categories of activities in waters of the U.S. governed by the Clean Water Act and Rivers and Harbors Act of 1899, which are similar in nature, which will only cause minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. In appropriate cases, the need for a separate individual approval from the COE would be eliminated.

The bill directs the DEP to not seek issuance of or take any action pursuant to such permits unless the conditions are at least as protective of the environment and natural resources as existing state law under Part IV of ch. 373, F.S., and federal law under the Clean Water and the Rivers and Harbors Act of 1899.

The bill authorizes the DEP and WMDs to implement a voluntary SPGP for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the COE if the general permit is at least as protective of the environment and natural resources as existing state law under Part IV of ch. 373, F.S., and federal law under the Clean Water Act and Rivers and Harbors Act of 1899. The bill would not preclude the DEP from pursuing a series of regional general permits for construction activities in wetlands or surface waters.

Section 11. Amends s. 373.441, F.S., requiring that certain counties or municipalities apply by a specified date to the Department of Environmental Protection (DEP) or water management districts (WMDs) for authority to issue certain state permits; providing that following such delegation, the DEP or WMD can not regulate activities that are subject to the delegation; clarifying the authority of local governments to adopt pollution control programs under certain conditions; providing applicability with respect to solid mineral mining.

Current Situation

Florida Statutes and Florida Administrative Code (F.A.C.) sections authorize and provide procedures and considerations for the DEP to delegate the Environmental Resource Permit (ERP) program to local governments.⁹ Delegation allows the local government to review and approve or deny the state permits at the same time the local authorizations are granted or denied. Current law directs that the rules must “seek to increase governmental efficiency” and “maintain environmental standards.” Delegations can be granted only where:

- The local government can demonstrate that delegation would further the goal of providing an efficient, effective, and streamlined permitting program; and
- The local government can demonstrate that it has the financial, technical, and administrative capabilities and desire to effectively and efficiently implement and enforce the program, and protection of environmental resources will be maintained¹⁰.

Any denial by the DEP of a local government’s request for a delegation of authority must provide specific detail of those statutory or rule provisions that were not satisfied. Such detail must also include specific actions that can be taken in order to allow for the delegation of authority. A local government, upon being denied a request for a delegation of authority, can petition the Governor and Cabinet for a review of the request. The Governor and Cabinet can reverse the decision of the department and may provide any necessary conditions to allow the delegation of authority to occur¹¹.

⁹ In an effort to place the planning and regulatory program into the hands of the local governments, s. 373.441, F.S., and its implementing rule, chapter 62-344, F.A.C., provide delegation authority.

¹⁰ Chapter 62-344 of the Florida Administrative Code, provides a guide to local governments in the application process, as well as the criteria that will be used to approve or deny a delegation request.

¹¹ Section 373.441, F.S.

Effect of Proposed Changes

The bill provides that any county or municipality having a population of 400,000 or more that implements a local pollution control program regulating all or a portion of the wetlands or surface waters throughout its geographic boundary must apply for delegation of state environmental resource permitting authority on or before January 1, 2014. If a county or municipality fails to receive delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for delegation or by January 1, 2016, at the latest, it may not require permits that in part or in full are substantially similar to the requirements needed to obtain an environmental resource permit. A county or municipality that has received delegation before January 1, 2014, does not have to reapply. The DEP must grant or deny an application for delegation within 2 years after receipt of the application. If an application for delegation is denied, any available legal challenge to such denial will toll the preemption deadline until resolution of the legal challenge. Upon delegation to a qualified local government, the DEP and WMD cannot regulate the activities subject to the delegation within that jurisdiction unless regulation is required pursuant to the terms of the delegation agreement.

In addition, the bill provides that this provision does not apply to ERP or reclamation applications for solid mineral mining, and does not prohibit the application of local government regulations to any new solid mineral mine or any proposed addition to, change to, or expansion of an existing solid mineral mine.

Section 12. Amends s. 376.3071, F.S., providing that program deductibles, copayments, and contamination assessment report requirements do not apply to expenditures under the low-scored initiative within the Inland Protection Trust Fund.

Current Situation

The Legislature created the Inland Protection Trust Fund (fund) with the intent that it serve as a repository for funds which will enable the department to respond without delay to incidents of inland contamination related to the storage of petroleum and petroleum products in order to protect the public health, safety, and welfare and to minimize environmental damage.¹² Section 376.3071(4), F.S., directs the Department of Environmental Protection (DEP) obligate moneys available in the fund whenever incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare to provide for:

- Prompt investigation and assessment of contamination sites.
- Expeditious restoration or replacement of potable water supplies.
- Rehabilitation of contamination sites.
- Maintenance and monitoring of contamination sites.
- Payment of expenses incurred by the department in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from the activities described in this subsection.
- Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints and costs associated with public information and education activities.
- Establishment and implementation of the compliance verification program.
- Activities related to removal and replacement of petroleum storage systems.
- Reasonable costs of restoring property as nearly as practicable to the conditions which existed prior to activities associated with contamination assessment or remedial action.
- Repayment of loans to the fund.
- Expenditure of sums from the fund to cover ineligible sites or costs if the department deems it necessary to do so.

¹² Section 376.3071, F.S.

Section 376.3071(5), F.S., provides for the site selection and cleanup criteria that the department uses in determining the priority ranking for sites seeking state funded rehabilitation. The priority ranking is based upon a scoring system for state-conducted cleanup at petroleum contamination sites based upon factors that include, but need not be limited to:

- The degree to which human health, safety, or welfare may be affected by exposure to the contamination;
- The size of the population or area affected by the contamination;
- The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water; and
- The effect of the contamination on the environment.

Section 376.3071(11), F.S., provides for a low-scored site initiative for sites with a priority ranking score of 10 points or less and provides conditions for voluntary participation, including:

- Upon reassessment pursuant to DEP rule, the site retains a priority ranking score of 10 points or less;
- No excessively contaminated soil, as defined by DEP rule, exists onsite as a result of a release of petroleum products;
- A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable;
- The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment;
- The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated;
- Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by DEP rule, or human exposure is limited by appropriate institutional or engineering controls.

If these conditions are met, the DEP must issue a No Further Action determination, which means minimal contamination exists onsite and that contamination is not a threat to human health or the environment. If no contamination is detected, the DEP may issue a site rehabilitation completion order (SRCO). Sites that are eligible must be voluntarily initiated by the source property owner or responsible party for the contamination. For sites eligible for state restoration funding, the DEP may pre-approve the costs of the site assessment, including 6 months of groundwater monitoring, not to exceed \$30,000 for each site. The DEP may not pay the costs associated with the establishment of institutional or engineering controls. Assessment work must be completed no later than 6 months after the DEP issues its approval.

Effect of Proposed Change

The bill clarifies that program deductibles, copayments, and contamination assessment report requirements do not apply to expenditures under the low-scored site initiative within the Inland Protection Trust Fund.

Section 13. Amends s. 376.30715, F.S., providing that the transaction of title for a petroleum contaminated site to a child or a corporate entity created by the owner to hold title for the site does not disqualify the site from financial assistance.

Current Situation

In 2005, the Legislature created the Innocent Victim Petroleum Storage System Restoration Program to provide state clean-up assistance to property owners of petroleum-contaminated sites that were acquired prior to July 1, 1990. To be eligible for clean up, the site must have ceased operating as a petroleum storage or retail business prior to January 1, 1985. A conveyance of property to a spouse, a

surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor, does not disqualify the site from participating in the Innocent Victim Petroleum Storage System Restoration Program. The current property owner of the contaminated site must have acquired the property prior to July 1, 1990.

Effect of Proposed Changes

The bill amends s. 376.30715, F.S., to provide that the transfer of title for a petroleum contaminated site to a child or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance. The bill also provides that applicants previously denied coverage may reapply.

Section 14. Amends s. 380.0657, F.S., authorizing certain inland multimodal facilities for expedited permitting.

Current Situation

Section 380.0657, F.S., provides that the Department of Environmental Protection (DEP) and the water management districts (WMDs) are required to adopt programs to expedite the processing of wetland resource and environmental resource permits when such permits are for the purpose of economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, F.S.

Pursuant to s. 288.106(1)(q), F.S., a “target industry business” means a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by Division of Strategic Business Development in consultation with Enterprise Florida, Inc.:

- Future growth—Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services.
- Stability—The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not typically subject to decline during an economic downturn.
- High wage—The industry should pay relatively high wages compared to statewide or area averages.
- Market and resource independent—The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis, except for businesses in the renewable energy industry.
- Industrial base diversification and strengthening—The industry should contribute toward expanding or diversifying the state’s or area’s economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis. Special consideration should also be given to the development of strong industrial clusters that include defense and homeland security businesses.
- Positive economic impact—The industry is expected to have strong positive economic impacts on or benefits to the state or regional economies. Special consideration should be given to industries that facilitate the development of the state as a hub for domestic and global trade and logistics.

Effect of Proposed Changes

The bill amends s. 380.0657, F.S., to include any inland multimodal facility receiving or sending cargo to or from Florida ports as a type of economic development project that should receive expedited processing of water resource and environmental resource permits.

Section 15. Amends s. 381.0065, F.S., limiting applicability of the onsite sewage treatment and disposal system evaluation and assessment program.

Current Situation

During the 2010 legislative session, the Legislature passed HB 550, which, in part, created an onsite sewage treatment and disposal system evaluation program (program) to be administered by the Department of Health (DOH) beginning January 1, 2011. The purpose of the program is to assess the fundamental operational condition of septic systems and identify failures within the systems. Section 381.0065(5), F.S., directs the DOH to adopt rules implementing the program standards, procedures, and requirements, including a schedule for a 5-year evaluation cycle, requirements for the pump-out of a system or repair of a failing system, enforcement procedures for failure of a system owner to obtain an evaluation of the system, and failure of a contractor to timely submit evaluation results to the DOH and the system owner. The DOH must ensure statewide implementation of the program by January 1, 2016.

The program requires the owner of a septic system, excluding a system that is required to obtain an operating permit,¹³ to have the system evaluated at least once every 5 years to assess the fundamental operational condition of the system, and identify any system failures. The evaluation must include a tank and drain field evaluation, a written assessment of the condition of the system, and, if necessary, a disclosure statement. A septic system owner must pay the cost of the evaluation as well as a 5-year evaluation report fee of not less than \$15, or more than \$30, which is collected by the person conducting the septic system evaluation and remitted to the DOH. The actual cost of an evaluation, as well as the cost of any necessary remedial actions, is one of the issues currently under review by the DOH.

Owners of septic systems are responsible for paying the cost of any required pump-out, repair, or replacement, and cannot request partial evaluation or the omission of portions of the evaluation. Each evaluation or pump-out must be performed by a registered septic tank contractor or master septic tank contractor, a licensed professional engineer with wastewater treatment system experience, or an environmental health professional certified in the area of onsite sewage treatment and disposal system evaluation. Prior to any evaluation deadline, the DOH must provide a minimum 60 days notice to owners that their systems must be evaluated by that deadline.

Systems being evaluated that were installed prior to January 1, 1983, must meet a minimum 6-inch separation from the bottom of the drain field to the wettest season water table elevation. All drain field repairs, replacements, or modifications to systems installed prior to January 1, 1983, must meet a minimum 12-inch separation from the bottom of the drain field to the wettest season water table elevation. Systems being evaluated that were installed after January 1, 1983, must meet a minimum 12-inch separation from bottom of drain field to the wettest season water table elevation, and all drain field repairs, replacements, or modifications to these systems must meet a minimum 24-inch separation from bottom of drain field to the wettest season water table elevation.

A pump-out of a septic system is not required if documentation of a pump-out or a permitted new installation, repair, or modification of the system within the previous 5 years is provided, and the documentation states the capacity of the tank and indicates that the condition of the tank is not a sanitary or public health nuisance as defined by DOH rule.

Beginning on January 1, 2012, the DOH is directed to administer a grant program to assist low-income owners of septic systems to defray some of the cost of complying with the requirements of the

¹³ Systems that require an operating permit are typically large scale complex commercial systems and anaerobic systems. Typical residential septic systems require a permit for installation, but not an annual operating permit.

evaluation program. A grant can be awarded to an owner for the purpose of inspecting, pumping, repairing, or replacing a system serving a single-family residence occupied by an owner with a family income of less than or equal to 133% of the federal poverty level.¹⁴ At least \$1, but no more than \$5, of the evaluation report fee described above must be used to fund the grant program.

During the 2010 November special session, SB 2A was passed to change the initial implementation date of the statewide septic tank evaluation program from January 1, 2011 to July 1, 2011. However, the DOH has not adopted a rule to implement the program. During the 2011 legislative session, Senate Bill 2002 (implementing bill to the general appropriations act) provided that before the implementation of the onsite sewage treatment and disposal system evaluation program, described in s. 381.0065(5)(a), F.S., the DOH must submit a plan for approval by the Legislative Budget Commission, which includes an estimate of agency workload and funding needs. The DOH may not expend funds in the evaluation program until the 2012 legislative session.

Effect of Proposed Changes

The bill amends s. 381.0065, F.S., exempting owners of onsite sewage treatment and disposal systems from the evaluation and assessment program unless the board of county commissioners has adopted a resolution subjecting owners to the requirements of the evaluation program and submitted a copy of the resolution to the DEP.

Section 16. Amends s. 403.061, F.S., requiring the Department of Environmental Protection (DEP) to establish reasonable zones of mixing for discharges into specified waters and providing certain discharges do not create liability for site cleanup.

Current Situation

Section 403.061, F.S., authorizes the DEP with the power and the duty to control and prohibit pollution of air and water. The DEP is required to adopt rules to establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and standards for the abatement of excessive and unnecessary noise. The DEP is also authorized to establish reasonable zones of mixing for discharges into waters.

Effect of Proposed Changes

The bill amends s. 403.061, F.S., to provide that for existing installations as defined by rule 62-520.200(10), F.A.C.¹⁵, zones of discharge to groundwater are authorized to a facility or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to chapter 403 or 376, F.S., for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup.

¹⁴ Depending on the size of a family, 133% of the federal poverty level equals a yearly income of between \$14,404 and \$49,223. https://www.cms.gov/MedicaidEligibility/07_IncomeandResourceGuidelines.asp.

¹⁵ The term "existing installations" is defined in Rule 62-520.200(10), F.A.C., to mean any installation which had filed a complete application for a water discharge permit on or before January 1, 1983, or which submitted a groundwater monitoring plan no later than six months after the date required for that type of installation as listed in Rule 17-4.245, F.A.C. (1983), and a plan was subsequently approved by the department; or which was in fact an installation reasonably expected to release contaminants into the groundwater on or before July 1, 1982, and operated consistently with statutes and rules relating to groundwater discharge in effect at the time of operation.

Section 17. Amends s. 403.087, F.S., revising conditions under which the Department of Environmental Protection (DEP) is authorized to revoke permits.

Current Situation

Section 403.087(1), F.S., provides that a stationary installation that is reasonably expected to be a source of air or water pollution must not be operated, maintained, constructed, expanded, or modified without an appropriate and valid permit issued by the DEP, unless exempted by DEP rule.

Section 403.087(7), F.S., provides that the DEP may revoke permits issued pursuant to this section for the following reasons:

- The permit holder has submitted false or inaccurate information on the application;
- The permit holder has violated law, the DEP's orders, rules, or regulations, or permit conditions;
- The permit holder has failed to submit operational reports or other information required by the DEP's rule or regulation;
- The permit holder has refused lawful inspection under s. 403.091, F.S.¹⁶

Effect of Proposed Changes

The bill amends s. 403.087(7), F.S., by limiting, in the follow manner, the reasons described above for which the DEP can revoke a permit:

- Specifies that inaccurate or false information must relate directly to the application for the permit;
- Specifies that the failure to submit operational reports and other information required by the DEP only applies to those reports or information which directly relate to the permit and where the applicant has refused to correct or cure such violations when requested to do so; and
- Specifies that the refusal of a lawful inspection only pertains to the facility authorized by the permit.

Section 18. Amends s. 403.1838, F.S., relating to the Small Community Sewer Construction Assistance Act

Current Situation

Section 403.1838, F.S., establishes the Small Community Sewer Construction Assistance Act (Act), and directs the Department of Environmental Protection (DEP) to use funds specifically appropriated to assist financially disadvantaged small communities with their needs for adequate sewer facilities. For the purposes of the Act, the term "financially disadvantaged small community" means a municipality with a population of 7,500 or less, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce. The DEP is authorized to provide grants, from funds specifically appropriated for this purpose, to financially disadvantaged small communities for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses. The Act also provides that the rules implementing the grant program must:

- Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permissible, and implementable.

¹⁶ Section 403.091(c), F.S., states that no person shall refuse reasonable entry or access to any authorized representative of the DEP who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

- Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.
- Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.
- Establish a system to determine eligibility of grant applications.
- Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution abatement.
- Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.
- Provide for termination of grants when program requirements are not met.

Effect of Proposed Changes

The bill amends s. 403.1838, F.S., by expanding the population ceiling from 7,500 to 10,000 for communities eligible to apply for grants under the Small Community Sewer Construction Assistance Act.

Section 19. Amends s. 403.7045, F.S., providing that sludge from an industrial waste treatment works meets certain exemption requirements.

Current Situation

Section 403.708(1)(a), F.S., states that no person can place or deposit any solid waste in or on the land or waters located within the state except in a manner approved by the DEP. Section 403.703, F.S., defines 'solid waste' as sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. "Sludge" includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

While virtually all discarded materials are considered solid waste, the following wastes or activities are not regulated under the Act if they are otherwise regulated by the DEP or the federal government pursuant to s. 403.7045, F.S.:

- Nuclear material, except for certain mixtures of hazardous waste and radioactive waste.
- Suspended solids or dissolved materials in domestic sewage effluent or irrigation return flows or other point source discharges.
- Air emissions.
- Drilling fluids and wastes associated with oil and natural gas exploration.
- Recovered materials (defined to include only metal, paper, glass, plastic, textiles, or rubber materials), if a majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within one year, if the recovered materials or byproducts are managed so that they do not pose a pollution threat and are not considered hazardous waste, and if the facility managing the materials is registered as required by s. 403.7046, F.S.
- Industrial byproducts, if a majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within one year, and if the recovered materials or byproducts are managed so that they do not pose a pollution threat, do not cause a significant threat to public health, and are not considered hazardous waste.

Effect of Proposed Change

The bill provides that sludge from an industrial waste treatment works that meets the exemption requirements for industrial byproducts is not to be considered a solid waste as defined under s. 403.703, F.S.

Section 20. Amends s. 403.707, F.S., deletes the public nuisance condition for issuing permits for a solid waste management facility; exempts new solid waste disposal areas at an already permitted facility from having to be specifically authorized in a permit if monitored by an existing or modified monitoring plan; extends the duration of all permits issued to solid waste management facilities that meet specified criteria.

Current Situation

Currently, a solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without valid permits issued by the Department of Environmental Protection (DEP). Permits under s. 403.707, F.S., are not required for the following, if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations or orders:

- Disposal by persons of solid waste resulting from their own activities on their property, if such waste is ordinary household waste or rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations.
- Storage in containers by persons of solid waste resulting from their own activities on their property, if the solid waste is collected at least once a week.
- Disposal by persons of solid waste resulting from their own activities on their property if the environmental effects of such disposal on groundwater and surface waters are addressed or authorized by a site certification order issued under part II or a permit issued by the DEP under chapter 403, F.S., or rules adopted pursuant to this chapter; or addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the DEP.

Effect of Proposed Changes

The bill deletes the public nuisance requirements in s. 403.707(2), F.S., which provides that a permit is not required if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations, or orders.

The bill provides that if a facility has a permit authorizing disposal activity, new areas where solid waste is being disposed of which are monitored by an existing or modified groundwater monitoring plan are not required to be specifically authorized in a permit or other certification.

The bill also provides that any permit issued to a solid waste management facility that is designed with a leachate control system that meets the DEP's requirements must be issued for a term of 20 years unless the applicant requests a lesser permit term. Existing permit fees for qualifying solid waste management facilities must be prorated to the permit term authorized under current law. This provision applies to all qualifying solid waste management facilities that apply for an operating or construction permit or renew an existing operating or construction permit on or after July 1, 2012.

Section 21. Amends s. 403.814, F.S., providing for the issuance of general permits for certain surface water management systems without agency action of the Department of Environmental Protection (DEP) or a water management district (WMD).

Current Situation

Currently, the DEP is authorized to adopt rules establishing and providing for a program of general permits for projects, which have, either singly or cumulatively, a minimal adverse environmental effect.

Such rules must specify design or performance criteria which, if applied, would result in compliance with appropriate standards. Any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the DEP without any agency action by the DEP¹⁷. Projects include, but are not limited to:

- Construction and modification of boat ramps of certain sizes.
- Installation and repair of riprap at the base of existing seawalls.
- Installation of culverts associated with stormwater discharge facilities.
- Construction and modification of certain utility and public roadway construction activities.

Effect of Proposed Changes

The bill amends current law to require the DEP to grant a general permit for the construction, alteration, and maintenance of surface water management systems serving a total project area of up to 10 acres. The construction of such a system can proceed without an agency action by the DEP or WMD if:

- The total project area is less than 10 acres;
- The total project area involves less than two acres of impervious surface;
- No activities will impact wetlands or other surface waters;
- No activities are conducted in, on, or over wetlands or other surface waters;
- Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner; and
- The project is not part of a larger common plan of development or sale.
- The project does not:
 - Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;
 - Cause adverse impacts to existing surface water storage and conveyance capabilities;
 - Cause a violation of state water quality standards; or
 - Cause an adverse impact to the maintenance of surface or groundwater levels or surface water flows established pursuant to s. 373.042, F.S., or a work of the district established pursuant to s. 373.086, F.S.; and
- The surface water management system design plans are signed and sealed by a Florida registered professional who attests that the system will perform and function as proposed and has been designed in accordance with appropriate, generally accepted performance standards and scientific principles.

Section 22. Amends s. 403.853, F.S., adding groundwater usage and services to religious institutions to the definition of transient noncommunity water systems for the purpose of obtaining a sanitary survey related to drinking water standards and possible reduction in monitoring requirements.

Current Situation

Under the Federal Safe Drinking Water Act, the Environmental Protection Agency (EPA) has promulgated national primary drinking water regulation for contaminants that may adversely affect human health, if it is likely to occur in public water systems often and at levels of public health concern, and if EPA's Administrator decides that regulating the contaminant will meaningfully reduce health risks for those served by public water systems. The federal act also authorizes states to assume the implementation and enforcement of the federal act. In 1977, Florida adopted the Florida Safe Drinking Water Act (FSDWA), which is jointly administered by the Florida Department of Environmental Protection (DEP), in a lead-agency role, and the Florida Department of Health (DOH), in a supportive role with specific duties and responsibilities of its own. The DOH and its agents have general supervision and control over all private water systems and public water systems not covered or included in the FSDWA. Every county health department in Florida has a minimum degree of mandatory participation in the FSDWA. This minimal level of participation is supportive in nature because most of

¹⁷ Section 403.814(1), F.S.

the county health departments do not have sufficient staff or capability to be fully responsible for the program. In those counties where the county health department is without adequate capability, the appropriate DEP office is heavily involved in administering all aspects of the program.

Under the FSDWA, a regulated "public water system" is a system that provides water for human consumption through pipes or other constructed conveyances, and such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.¹⁸ The only exception is for those systems which, in addition to meeting the criteria for being a public water system, also meet all four additional criteria which form the basis for exemption.¹⁹

Public water systems are either community or noncommunity. A community water system serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.²⁰ A noncommunity water system is either a nontransient noncommunity system or a transient noncommunity water system.²¹ A nontransient noncommunity water system serves at least 25 of the same persons over six months per year.²² A transient noncommunity water system has at least 15 service connections or regularly serves at least 25 persons daily at least 60 days out of the year but does not regularly serve 25 or more of the same persons for more than six months per year.²³

Under the FSDWA, the DEP is required to adopt and enforce state primary drinking water regulations that shall be no less stringent at any given time than the complete interim or revised national primary drinking water regulations in effect at such time²⁴ and state secondary drinking water regulations patterned after the national drinking water regulations.²⁵ The DEP is to also adopt and enforce primary and secondary drinking water regulations for nontransient noncommunity water systems and transient noncommunity water systems, which shall be no more stringent than the corresponding national primary or secondary drinking water regulations in effect at such time, except that nontransient, noncommunity systems shall monitor and comply with additional primary drinking water regulations as determined by the DEP.²⁶ A "primary drinking water regulation" is a rule that applies to public water systems; specifies contaminants that may have an adverse effect on the health of the public; specifies a maximum contaminant level for each contaminant or a treatment technique to reduce the level of the contaminant; and contains criteria and procedures to assure a supply of drinking water that dependably complies with maximum contaminant levels, including monitoring and inspection procedures.²⁷ A "secondary drinking water regulation" is a rule that applies to public water systems and specifies maximum contaminant levels, and such regulations may vary according to geographic and other circumstances.²⁸ Upon the request of the owner or operator of a transient noncommunity water system serving businesses, other than restaurants or other public food service establishments, and using groundwater as a source of supply, the DEP, or a local county health department designated by the DEP, shall perform a sanitary survey of the facility. Upon receipt of satisfactory survey results according to DEP criteria, the DEP shall reduce the requirements of such owner or operator from monitoring and reporting on a quarterly basis to performing these functions on an annual basis.

Effect of Proposed Change

The bill provides that the DEP, or a local county health department designated by the DEP, is authorized at the request of the owner or operator of a transient noncommunity water systems using groundwater as a source of supply and serving religious institutions (except those with school or day care services) to

¹⁸ Section 403.852(2), F.S.

¹⁹ Section 403.853(2), F.S.

²⁰ Section 403.852(3), F.S.

²¹ Section 403.852(4), F.S.

²² Section 403.852(17), F.S.

²³ Section 403.852(18), F.S.

²⁴ Section 403.853(1)(a) 1, F.S.

²⁵ Section 403.853(1)(a) 2, F.S.

²⁶ Section 403.853(1)(b), F.S.

²⁷ Section 403.852(12), F.S.

²⁸ Section 403.852(13), F.S.

perform a sanitary survey, and upon receipt of satisfactory results, the DEP must reduce the monitoring and reporting requirements.

Section 23. Amends s. 403.973, F.S., providing for the creation of regional action teams for expedited permitting for businesses that will house one or more other businesses or operations that would collectively create at least 50 jobs and clarifying the process and use of Memorandum of Agreement (MOA).

Current Situation

Section 403.973, F.S., provides for expedited permitting and a process for amendments to comprehensive plans for certain projects that are identified to encourage and facilitate the location and expansion of those types of economic development projects which offer job creation and high wages, strengthen and diversify the state's economy, and have been thoughtfully planned to take into consideration the protection of the state's environment.

Under s. 403.973, F.S., the secretary of the Department of Environmental Protection (DEP) must direct the creation of regional permit action teams for the purpose of expediting the review of permit applications and local comprehensive plan amendments submitted by:

- Businesses creating at least 50 jobs; or
- Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county have a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

Regional Permit Action Teams are established by a Memoranda of Agreement (MOA) with the Secretary of DEP directing the creation of these teams. The MOA is between the secretary and the applicant with input solicited from the Department of Transportation, Agriculture & Consumer Services; the Florida Fish & Wildlife Conservation Commission; the Regional Planning Councils; and the WMDs. The MOA accommodates participation by federal agencies, as necessary. At a local government's option, a special MOA may be developed on a case-by-case basis to allow some or all local development permits or orders to be covered under the expedited review. Implementation of the local government MOA requires a noticed public workshop and hearing.

The MOA may provide for the waiver or modification of procedural rules prescribing forms, fees, procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are party to the MOA. A MOA must, to the extent feasible, provide for proceedings and hearings otherwise held separately by the parties of the MOA to be combined into one proceeding or held jointly and at one location. Such waivers or modifications are not available for permit applications governed by federally delegated or approved permitting programs, the requirements of which would prohibit, or be inconsistent with, such a waiver or modification.

The MOA guidelines may include, but are not limited to, the following:

- A central contact point for filing permit applications and local comprehensive plan amendments and for obtaining information on permit and local comprehensive plan amendment requirements.
- Identification of the individual or individuals within each respective agency who will be responsible for processing the expedited permit application or local comprehensive plan amendment for that agency.
- A mandatory pre-application review process to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment review. As a part of this process, the first interagency meeting to discuss a project shall be held within 14 days after the secretary's determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating

local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the secretary's determination that the project is eligible for expedited review.

- The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies.
- Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184, F.S., from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph.
- Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

Appeals of expedited permitting projects are subject to the summary hearing provisions of s. 120.574, F.S. The administrative law judge's recommended order is not the final state agency action unless the participating agencies of the state opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action. Where one state agency action is challenged, the agency of the state shall issue the final order within 45 working days of receipt of the administrative law judge's recommended order. In those proceedings where the more than one state agency action is challenged, the Governor shall issue the final order within 45 working days of receipt of the administrative law judge's recommended order.

Expedited permitting provides a special assistance process for Rural Economic Development Initiative (REDI) counties. The Department of Economic Opportunity, working with REDI and the regional permitting teams, is to provide technical assistance in preparing permit applications for rural counties. This additional assistance may include providing guidance in land development regulations and permitting processes, and working cooperatively with state, regional and local entities to identify areas within these counties that may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

Effect of Proposed Changes

The bill revises the structure and process for expedited permitting of targeted industries. The bill adds commercial or industrial development projects that will be occupied by businesses that would individually or collectively create at least 50 jobs to activities qualifying for expedited review; requires regional teams to be established through the execution of a project-specific MOA; provides that the standard form of the MOA will be used only if the local government participates in the expedited review process.

Section 24. Amends s. 526.203, F.S., specifying that the renewable fuel standard does not prohibit the sale of unblended fuels for exempted uses.

Current Situation

The Federal Energy Independence and Security Act of 2007, signed into law on December 19, 2007, set the renewable fuels standard (RFS) minimum annual goal for renewable fuel use at 9.0 billion gallons in 2008 and 36 billion gallons by 2022. Beginning in 2016, all of the fuel increase in the RFS target must be met by advanced biofuels, defined as fuels derived from other than corn starch²⁹.

Motor gasoline and diesel fuel, both fossil fuels, make up more than 87 percent of Florida's transportation energy costs, with aviation fuel accounting for less than ten percent. There are approximately 50 ethanol fueling stations open to the public selling E10 (90 percent gasoline and 10 percent ethanol) in Florida.

²⁹ U.S. Department of Energy's website: http://www.eere.energy.gov/afdc/incentives_laws_security.html.

The Legislature passed a comprehensive energy bill in 2008 that, in part, established the Florida Renewable Fuel Standard Act (Act). The bill provided the following definitions:

- "Fuel ethanol" means an anhydrous denatured alcohol produced by the conversion of carbohydrates meeting the specifications as adopted by the Department of Agriculture and Consumer Services.
- "Blended gasoline" means a mixture of ninety percent gasoline and ten percent fuel ethanol meeting the specifications as adopted by the Department of Agriculture and Consumer Services. The ten percent fuel ethanol portion may be derived from any agricultural source.
- "Unblended gasoline" means gasoline that has not been blended with fuel ethanol meeting the specifications as adopted by the Department of Agriculture and Consumer Services.
- "10 percent" means 9-10 percent ethanol by volume.

The bill provided that on and after December 31, 2010, all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler is to contain, at a minimum, 10 percent of agriculturally derived, denatured ethanol fuel by volume.

The following are exempted from the act:

- Fuel used in aircraft;
- Fuel sold at marinas and mooring docks for use in boats and similar watercraft;
- Fuel sold to a blender;
- Fuel sold for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, or small engines;
- Fuel unable to comply due to requirements of the United States Environmental Protection Agency;
- Fuel bulk transferred between terminals;
- Fuel exported from the state in accordance with s. 206.052, F.S.;
- Fuel qualifying for any exemption in accordance with chapter 206, F.S.;
- Fuel at an electric power plant that is regulated by the United States Nuclear Regulatory Commission unless such commission has approved the use of fuel meeting the requirements of the act;
- Fuel for a railroad locomotive; or
- Fuel for equipment, including vehicle or vessel, covered by a warranty that would be voided, if explicitly stated in writing by the vehicle or vessel manufacturer, if it were to be operated using fuel meeting the requirements of the act.

Effect of Proposed Changes

The bill specifies that s. 526.203, F.S., does not prohibit the sale of unblended fuels for the uses exempted above.

Section 25. Installation of fuel tank upgrades to secondary containment systems.

Current Situation

Florida law requires that all gas station owners with single-wall underground fuel tanks and pipes to upgrade to double-wall tanks or stop selling gas by December 31, 2009. During a 2010 special session, the legislature overrode the veto by then-Governor Crist of HB 1385, which provided in part that "any entity that has entered into a consent order with the Department of Environmental Protection (DEP) by June 30, 2010 will now be required to complete all of the upgrades by September 30, 2011." Most gas station owners that decided to remain in operation met the deadline for upgrading their underground tanks. However, there were also a number of gas station owners that decided to sell their businesses instead of paying the \$100,000-300,000 cost of performing the upgrades. Other business persons in Florida saw this as an investment opportunity and bought up these out of compliance gas stations as the

deadline loomed, but have not been able to perform the necessary tank upgrades in time to meet the deadline.

Effect of Proposed Changes

The bill provides that any fuel service station that changed ownership interest through a bona fide sale of the property between January 1, 2009, and December 31, 2009, is not required to complete the fuel tank upgrades required under current law until December 31, 2013.

Section 26. Provides an effective date.

This act shall take effect on July 1, 2012.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.022, F.S., prohibiting a county from requiring as a condition of approval for a development permit that an applicant obtain a permit or approval from any other state or federal agency; authorizing a county to attach certain disclaimers to the issuance of a development permit.

Section 2. Creates s. 161.032, F.S., providing for applicants to timely respond to RAIs for beach applications.

Section 3. Amends s. 161.041, F.S., specifying that authorized expedited permitting applies to provisions governing beaches and shores and surface water management and storage.

Section 4. Amends s. 163.3180, F.S., providing an exemption to the level-of-service standards adopted under the Strategic Intermodal System for certain inland multimodal facilities.

Section 5. Amends s. 166.033, F.S., prohibiting a municipality from requiring as a condition of approval for a development permit that an applicant obtain a permit or approval from any other state or federal agency; authorizing a county to attach certain disclaimers to the issuance of a development permit.

Section 6. Amends s. 218.075, F.S., to include entities created by special act or local ordinance or interlocal agreement by counties or municipalities for purposes of the DEP and WMD reduced or waived permit processing fees

Section 7. Amends s. 258.397, F.S., to exempt a municipality from showing extreme hardship for sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve and adds as permissible activity dredging and filling for creation of public waterfront promenades in the Aquatic Preserve.

Section 8. Amends s. 373.026, F.S., expanding the use of internet-based self-certification services.

Section 9. Amends s. 373.4141, F.S., providing for applicants to timely respond to RAIs for ERP applications.

Section 10. Amends s. 373.4144, F.S., providing legislative intent in the coordination of regulatory duties among state and federal agencies; requiring that the DEP report annually to the Legislature on efforts to expand the state programmatic general permit or regional general permits; providing for a voluntary state programmatic general permit for certain dredge and fill activities.

Section 11. Amends s. 373.441, F.S., directing the DEP and water management districts to regulate activities pursuant to delegation agreements.

Section 12. Amends s. 376.3071, F.S., clarifying that that program deductibles, copayments, and contamination assessment report requirements do not applies as expenditures under the low-scored site initiative within the Inland Protection Trust Fund.

Section 13. Amends s. 376.30715, F.S., providing that the transfer of title for a petroleum contaminated site to a child or a corporate entity created by the owner to hold title for the site does not disqualify the site from financial assistance.

Section 14. Amends s. 380.0657, F.S., authorizing expedited permitting for certain inland multimodal facilities.

Section 15. Amends s. 381.0065, F.S.; limiting applicability of the onsite sewage treatment and disposal system evaluation and assessment program

Section 16. Amends s. 403.061, F.S., requiring the DEP to establish reasonable zones of mixing for discharges into specified waters and providing certain discharges do not create liability for site cleanup.

Section 17. Amends s. 403.087, F.S., revising conditions under which the DEP is authorized to revoke a permit.

Section 18. Amends s. 403.1838, F.S., expanding the population ceiling from 7,500 to 10,000 for communities eligible to apply for grants under the Small Community Sewer Construction Assistance Act

Section 19. Amends s. 403.7045, F.S., providing that sludge form an industrial waste treatment works that meets certain exemption requirements will not be considered to be a solid waste as defined under s. 403.703(32), F.S.

Section 20. Amends s. 403.707, F.S., providing that a permit for a solid waste management facility shall be for 20 years as established by the applicant or a lesser period if requested by the applicant.

Section 21. Amends s. 403.814, F.S., providing for issuance of general permits for certain surface water management systems without action by the DEP or water management districts; specifies conditions for those permits.

Section 22. Amends s. 403.853(6), F.S., Adding groundwater usage and services to religious institutions to the definition of transient noncommunity water systems.

Section 23. Amends s. 403.973, F.S., authorizing expedited permitting for certain commercial or industrial development projects; providing for a project-specific memorandum of agreement to apply to a project subject to expedited permitting; providing for review of the expedited permitting by the Secretary of the DEP instead of OTTED.

Section 24. Amends s. 526.203, F.S., specifying that the renewable fuel standard does not prohibit the sale of unblended fuels for exempted uses.

Section 25. Allows certain recently acquired filling stations to have until December 31, 2012 to install secondary containment.

Section 26. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

Recurring Effects: The Department of Environmental Protection provided the following:

- There will be an unknown impact to the permit fee trust fund associated with reducing or waiving permit processing fees for entities created by special acts, local ordinances, and interlocal agreements by low-population counties.
- Expanding the eligibility criteria for the Innocent Victim Petroleum Storage System Restoration will likely result in more sites being eligible to participate in the state-funded cleanup program. The number of additional sites that may be eligible is unknown. The cost of each such cleanup averages \$380,000.
- Extending the length of solid waste permits to 20 years may result in reductions in the amount of time dedicated to permit review.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: The Department of Environmental Protection provided the following:

- Local governments that have their environmental regulatory programs preempted will notice a cost savings from program elimination.
- When a local government is a permit applicant, increased availability of Internet based self certifications and general permits should reduce permitting costs.
- When a local government is an ERP permit applicant, shortened permitting time clocks might reduce costs to obtain a permit if overall permit times are actually reduced, and the provisions do not result in additional permit denials or the need for timeclock waivers.
- Local governments that operate solid waste management facilities would have permit fees reduced to one-quarter of current costs. Local governments that operate landfills that have caused environmental impacts would be relieved of the costs of addressing these impacts.
- 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.

The bill expands the population ceiling from 7,000 to 10,000 for communities that are eligible to apply for grants under the Small Community Sewer Construction Assistance Act, which will allow for more municipalities to receive grants for sewage facilities.

2. Expenditures:

According to the DEP analysis, additional costs will be required to apply for delegation of the ERP permitting program if a county wishes to maintain an existing environmental regulatory program.

Local governments providing drinking water to their citizens will likely incur additional costs to remove contaminants from drinking water sources if those responsible for discharging the contaminants are not liable for those costs.

Any county or municipality having a population of 400,000 or more that implements a local pollution control program regulating all or a portion of the wetlands or surface waters must apply for delegation of a state ERP authority. Those counties or municipalities could incur additional costs for having to apply for delegation.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: The Department of Environmental Protection provided the following:

Direct Private Sector Benefits:

- Increased availability of Internet based self certifications and general permits should reduce permitting costs.

- Shortened ERP permitting time clocks might reduce costs to obtain a permit if overall permit times are actually reduced, and the provisions do not result in additional permit denials or the need for timeclock waivers.
- Owners or operators of transient non-community water systems using groundwater as a source of supply and serving religious institutions may see reduced costs from reduced monitoring and reporting requirements.

D. FISCAL COMMENTS:

Under the bill, owners of onsite sewage treatment and disposal systems would be exempt from the evaluation and assessment program pursuant to s. 381.0065, F.S., unless the board of county commissioners has adopted a resolution subjecting owners to the requirements of the evaluation program. Therefore, owners of septic systems in counties where the board of county commissioners has not adopted such a resolution would not be subject to any costs resulting from the evaluation and assessment program.

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 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:

Section 16, which grants zones of discharge for most discharges and exempt the discharger from liability for any subsequent clean-up, either on or off-site, may conflict with Article 2, Section 7 of the Florida Constitution, which states that "adequate protection shall be made by law for the abatement of air and water pollution...and for the conservation and protection of natural resources."

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None

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A bill to be entitled
 An act relating to environmental regulation; amending
 s. 125.022, F.S.; prohibiting a county from requiring
 an applicant to obtain a permit or approval from any
 state or federal agency as a condition of processing a
 development permit under certain conditions;
 authorizing a county to attach certain disclaimers to
 the issuance of a development permit; creating s.
 161.032, F.S.; requiring that the Department of
 Environmental Protection review an application for
 certain permits under the Beach and Shore Preservation
 Act and request additional information within a
 specified time; requiring that the department proceed
 to process the application if the applicant believes
 that a request for additional information is not
 authorized by law or rule; extending the period for an
 applicant to timely submit additional information,
 notwithstanding certain provisions of the
 Administrative Procedure Act; authorizing the
 department to issue such permits in advance of the
 issuance of certain authorizations as provided for in
 the Endangered Species Act under certain conditions;
 amending s. 161.041, F.S.; prohibiting the department
 from requiring certain sediment quality specifications
 or turbidity standards as a permit condition;
 providing legislative intent with respect to
 permitting for beach renourishment projects; directing
 the department to amend specified rules relating to

29 | permitting for such projects; amending s. 163.3180,
 30 | F.S.; providing an exemption to the level-of-service
 31 | standards adopted under the Strategic Intermodal
 32 | System for certain inland multimodal facilities;
 33 | specifying project criteria; amending s. 166.033,
 34 | F.S.; prohibiting a municipality from requiring an
 35 | applicant to obtain a permit or approval from any
 36 | state or federal agency as a condition of processing a
 37 | development permit under certain conditions;
 38 | authorizing a municipality to attach certain
 39 | disclaimers to the issuance of a development permit;
 40 | amending s. 218.075, F.S.; providing for the reduction
 41 | or waiver of permit processing fees relating to
 42 | projects that serve a public purpose for certain
 43 | entities created by special act, local ordinance, or
 44 | interlocal agreement; amending s. 258.397, F.S.;
 45 | providing an exemption from a showing of extreme
 46 | hardship relating to the sale, transfer, or lease of
 47 | sovereignty submerged lands in the Biscayne Bay
 48 | Aquatic Preserve for certain municipal applicants;
 49 | providing for additional dredging and filling
 50 | activities in the preserve; amending s. 373.026, F.S.;
 51 | requiring the department to expand its use of
 52 | Internet-based self-certification services for
 53 | exemptions and permits issued by the department and
 54 | water management districts; amending s. 373.4141,
 55 | F.S.; reducing the time within which a permit must be
 56 | approved, denied, or subject to notice of proposed

57 agency action; prohibiting a state agency or an agency
 58 of the state from requiring additional permits or
 59 approval from a local, state, or federal agency
 60 without explicit authority; amending s. 373.4144,
 61 F.S.; providing legislative intent with respect to the
 62 coordination of regulatory duties among specified
 63 state and federal agencies; encouraging expanded use
 64 of the state programmatic general permit or regional
 65 general permits; providing for a voluntary state
 66 programmatic general permit for certain dredge and
 67 fill activities; amending s. 373.441, F.S.; requiring
 68 that certain counties or municipalities apply by a
 69 specified date to the department or water management
 70 district for authority to require certain permits;
 71 providing that following such delegation, the
 72 department or district may not regulate activities
 73 that are subject to the delegation; clarifying the
 74 authority of local governments to adopt pollution
 75 control programs under certain conditions; providing
 76 applicability with respect to solid mineral mining;
 77 amending s. 376.3071, F.S.; exempting program
 78 deductibles, copayments, and certain assessment report
 79 requirements from expenditures under the low-scored
 80 site initiative; amending s. 376.30715, F.S.;

81 providing that the transfer of a contaminated site
 82 from an owner to a child of the owner or corporate
 83 entity does not disqualify the site from the innocent
 84 victim petroleum storage system restoration financial

85 assistance program; authorizing certain applicants to
 86 reapply for financial assistance; amending s.
 87 380.0657, F.S.; authorizing expedited permitting for
 88 certain inland multimodal facilities that individually
 89 or collectively will create a minimum number of jobs;
 90 amending s. 381.0065, F.S.; limiting applicability of
 91 the onsite sewage treatment and disposal system
 92 evaluation and assessment program; amending s.
 93 403.061, F.S.; requiring the department to establish
 94 reasonable zones of mixing for discharges into
 95 specified waters; providing that exceedance of certain
 96 groundwater standards does not create liability for
 97 site cleanup; providing that exceedance of soil
 98 cleanup target levels is not a basis for enforcement
 99 or cleanup; amending s. 403.087, F.S.; revising
 100 conditions under which the department is authorized to
 101 revoke permits for sources of air and water pollution;
 102 amending s. 403.1838, F.S.; revising the definition of
 103 the term "financially disadvantaged small community"
 104 for the purposes of the Small Community Sewer
 105 Construction Assistance Act; amending s. 403.7045,
 106 F.S.; providing conditions under which sludge from an
 107 industrial waste treatment works is not solid waste;
 108 amending s. 403.707, F.S.; exempting the disposal of
 109 solid waste monitored by certain groundwater
 110 monitoring plans from specific authorization;
 111 extending the duration of all permits issued to solid
 112 waste management facilities that meet specified

113 criteria; providing an exception; providing for
 114 prorated permit fees; providing applicability;
 115 amending s. 403.814, F.S.; providing for issuance of
 116 general permits for the construction, alteration, and
 117 maintenance of certain surface water management
 118 systems without the action of the department or a
 119 water management district; specifying conditions for
 120 the general permits; amending s. 403.853, F.S.;
 121 providing for the department, or a local county health
 122 department designated by the department, to perform
 123 sanitary surveys for certain transient noncommunity
 124 water systems; amending s. 403.973, F.S.; authorizing
 125 expedited permitting for certain commercial or
 126 industrial development projects that individually or
 127 collectively will create a minimum number of jobs;
 128 providing for a project-specific memorandum of
 129 agreement to apply to a project subject to expedited
 130 permitting; clarifying the authority of the department
 131 to enter final orders for the issuance of certain
 132 licenses; revising criteria for the review of certain
 133 sites; amending s. 526.203, F.S.; authorizing the sale
 134 of unblended fuels for certain uses; revising the
 135 deadline for completion of the installation of fuel
 136 tank upgrades to secondary containment systems for
 137 specified properties; providing an effective date.

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

141 Section 1. Section 125.022, Florida Statutes, is amended
 142 to read:

143 125.022 Development permits.—When a county denies an
 144 application for a development permit, the county shall give
 145 written notice to the applicant. The notice must include a
 146 citation to the applicable portions of an ordinance, rule,
 147 statute, or other legal authority for the denial of the permit.
 148 As used in this section, the term "development permit" has the
 149 same meaning as in s. 163.3164. A county may not require as a
 150 condition of processing a development permit that an applicant
 151 obtain a permit or approval from any state or federal agency
 152 unless the agency has issued a notice of intent to deny the
 153 federal or state permit before the county action on the local
 154 development permit. Issuance of a development permit by a county
 155 does not in any way create any rights on the part of the
 156 applicant to obtain a permit from a state or federal agency and
 157 does not create any liability on the part of the county for
 158 issuance of the permit if the applicant fails to fulfill its
 159 legal obligations to obtain requisite approvals or fulfill the
 160 obligations imposed by a state or federal agency. A county may
 161 attach such a disclaimer to the issuance of a development
 162 permit, and may include a permit condition that all other
 163 applicable state or federal permits be obtained before
 164 commencement of the development. This section does not prohibit
 165 a county from providing information to an applicant regarding
 166 what other state or federal permits may apply.

167 Section 2. Section 161.032, Florida Statutes, is created
 168 to read:

169 161.032 Application review; request for additional
 170 information.-

171 (1) Within 30 days after receipt of an application for a
 172 permit under this part, the department shall review the
 173 application and shall request submission of any additional
 174 information the department is permitted by law to require. If
 175 the applicant believes that a request for additional information
 176 is not authorized by law or rule, the applicant may request a
 177 hearing pursuant to s. 120.57. Within 30 days after receipt of
 178 such additional information, the department shall review the
 179 additional information and may request only that information
 180 needed to clarify the additional information or to answer new
 181 questions raised by or directly related to the additional
 182 information. If the applicant believes that the request for
 183 additional information by the department is not authorized by
 184 law or rule, the department, at the applicant's request, shall
 185 proceed to process the permit application.

186 (2) Notwithstanding s. 120.60, an applicant for a permit
 187 under this part has 90 days after the date of a timely request
 188 for additional information to submit the information. If an
 189 applicant requires more than 90 days in order to respond to a
 190 request for additional information, the applicant must notify
 191 the agency processing the permit application in writing of the
 192 circumstances, at which time the application shall be held in
 193 active status for no more than one additional period of up to 90
 194 days. Additional extensions may be granted for good cause shown
 195 by the applicant. A showing that the applicant is making a
 196 diligent effort to obtain the requested additional information

197 constitutes good cause. Failure of an applicant to provide the
 198 timely requested information by the applicable deadline shall
 199 result in denial of the application without prejudice.

200 (3) Notwithstanding any other provision of law, the
 201 department may issue a permit pursuant to this part in advance
 202 of the issuance of any incidental take authorization as provided
 203 for in the Endangered Species Act and its implementing
 204 regulations if the permit and authorization include a condition
 205 that authorized activities may not begin until the incidental
 206 take authorization is issued.

207 Section 3. Subsections (5) and (6) are added to section
 208 161.041, Florida Statutes, to read:

209 161.041 Permits required.—

210 (5) The department may not require as a permit condition
 211 sediment quality specifications or turbidity standards more
 212 stringent than those provided for in this chapter, chapter 373,
 213 or the Florida Administrative Code. The department may not issue
 214 guidelines that are enforceable as standards without going
 215 through the rulemaking process pursuant to chapter 120.

216 (6) As an incentive for permit applicants, it is the
 217 Legislature's intent to simplify the permitting for periodic
 218 maintenance of beach renourishment projects previously permitted
 219 and restored under the joint coastal permit process pursuant to
 220 this section or part IV of chapter 373. The department shall
 221 amend chapters 62B-41 and 62B-49 of the Florida Administrative
 222 Code to streamline the permitting process, as necessary, for
 223 periodic maintenance projects.

224 Section 4. Subsection (7) is added to section 163.3180,

225 Florida Statutes, to read:

226 163.3180 Concurrency.—

227 (7) There shall be a limited exemption from the Strategic
 228 Intermodal System adopted level-of-service standards for new or
 229 redevelopment projects consistent with the local comprehensive
 230 plan as inland multimodal facilities receiving or sending cargo
 231 for distribution and providing cargo storage, consolidation,
 232 repackaging, and transfer of goods, and which may, if developed
 233 as proposed, include other intermodal terminals, related
 234 transportation facilities, warehousing and distribution
 235 facilities, and associated office space, light industrial,
 236 manufacturing, and assembly uses. The limited exemption applies
 237 if the project meets all of the following criteria:

238 (a) The project will not cause the adopted level-of-
 239 service standards for the Strategic Intermodal System facilities
 240 to be exceeded by more than 150 percent within the first 5 years
 241 of the project's development.

242 (b) The project, upon completion, would result in the
 243 creation of at least 50 full-time jobs.

244 (c) The project is compatible with existing and planned
 245 adjacent land uses.

246 (d) The project is consistent with local and regional
 247 economic development goals or plans.

248 (e) The project is proximate to regionally significant
 249 road and rail transportation facilities.

250 (f) The project is proximate to a community having an
 251 unemployment rate, as of the date of the development order
 252 application, which is 10 percent or more above the statewide

253 reported average.

254 (g) The local government has a plan, developed in
 255 consultation with the Department of Transportation, for
 256 mitigating any impacts to the strategic intermodal system.

257 Section 5. Section 166.033, Florida Statutes, is amended
 258 to read:

259 166.033 Development permits.—When a municipality denies an
 260 application for a development permit, the municipality shall
 261 give written notice to the applicant. The notice must include a
 262 citation to the applicable portions of an ordinance, rule,
 263 statute, or other legal authority for the denial of the permit.
 264 As used in this section, the term "development permit" has the
 265 same meaning as in s. 163.3164. A municipality may not require
 266 as a condition of processing a development permit that an
 267 applicant obtain a permit or approval from any state or federal
 268 agency unless the agency has issued a notice of intent to deny
 269 the federal or state permit before the municipal action on the
 270 local development permit. Issuance of a development permit by a
 271 municipality does not in any way create any right on the part of
 272 an applicant to obtain a permit from a state or federal agency
 273 and does not create any liability on the part of the
 274 municipality for issuance of the permit if the applicant fails
 275 to fulfill its legal obligations to obtain requisite approvals
 276 or fulfill the obligations imposed by a state or federal agency.
 277 A municipality may attach such a disclaimer to the issuance of
 278 development permits and may include a permit condition that all
 279 other applicable state or federal permits be obtained before
 280 commencement of the development. This section does not prohibit

281 a municipality from providing information to an applicant
 282 regarding what other state or federal permits may apply.

283 Section 6. Section 218.075, Florida Statutes, is amended
 284 to read:

285 218.075 Reduction or waiver of permit processing fees.—
 286 Notwithstanding any other provision of law, the Department of
 287 Environmental Protection and the water management districts
 288 shall reduce or waive permit processing fees for counties with a
 289 population of 50,000 or less on April 1, 1994, until such
 290 counties exceed a population of 75,000 and municipalities with a
 291 population of 25,000 or less, or for an entity created by
 292 special act, local ordinance, or interlocal agreement of such
 293 counties or municipalities, or for any county or municipality
 294 not included within a metropolitan statistical area. Fee
 295 reductions or waivers shall be approved on the basis of fiscal
 296 hardship or environmental need for a particular project or
 297 activity. The governing body must certify that the cost of the
 298 permit processing fee is a fiscal hardship due to one of the
 299 following factors:

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

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

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

308 (4) Ad valorem operating millage rate for the current

309 fiscal year is greater than 8 mills; or

310 (5) A financial condition that is documented in annual
 311 financial statements at the end of the current fiscal year and
 312 indicates an inability to pay the permit processing fee during
 313 that fiscal year.

314
 315 The permit applicant must be the governing body of a county or
 316 municipality or a third party under contract with a county or
 317 municipality or an entity created by special act, local
 318 ordinance, or interlocal agreement and the project for which the
 319 fee reduction or waiver is sought must serve a public purpose.
 320 If a permit processing fee is reduced, the total fee shall not
 321 exceed \$100.

322 Section 7. Paragraphs (a) and (b) of subsection (3) of
 323 section 258.397, Florida Statutes, are amended to read:

324 258.397 Biscayne Bay Aquatic Preserve.—

325 (3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the
 326 Internal Improvement Trust Fund is authorized and directed to
 327 maintain the aquatic preserve hereby created pursuant and
 328 subject to the following provisions:

329 (a) ~~No further~~ Sale, transfer, or lease of sovereignty
 330 submerged lands in the preserve may not ~~shall~~ be approved or
 331 consummated by the board of trustees, except upon a showing of
 332 extreme hardship on the part of the applicant and a
 333 determination by the board of trustees that such sale, transfer,
 334 or lease is in the public interest. A municipal applicant
 335 proposing a project under paragraph (b) is exempt from showing
 336 extreme hardship.

337 (b) ~~No further~~ Dredging or filling of submerged lands of
 338 the preserve may not ~~shall~~ be approved or tolerated by the board
 339 of trustees except:

340 1. Such minimum dredging and spoiling as may be authorized
 341 for public navigation projects or for such minimum dredging and
 342 spoiling as may be constituted as a public necessity or for
 343 preservation of the bay according to the expressed intent of
 344 this section.

345 2. Such other alteration of physical conditions, including
 346 the placement of riprap, as may be necessary to enhance the
 347 quality and utility of the preserve.

348 3. Such minimum dredging and filling as may be authorized
 349 for the creation and maintenance of marinas, piers, and docks
 350 and their attendant navigation channels and access roads. Such
 351 projects may ~~only~~ be authorized only upon a specific finding by
 352 the board of trustees that there is assurance that the project
 353 will be constructed and operated in a manner that will not
 354 adversely affect the water quality and utility of the preserve.
 355 This subparagraph does ~~shall~~ not authorize the connection of
 356 upland canals to the waters of the preserve.

357 4. Such dredging as is necessary for the purpose of
 358 eliminating conditions hazardous to the public health or for the
 359 purpose of eliminating stagnant waters, islands, and spoil
 360 banks, the dredging of which would enhance the aesthetic and
 361 environmental quality and utility of the preserve and be clearly
 362 in the public interest as determined by the board of trustees.

363 5. Such dredging and filling as is necessary for the
 364 creation of public waterfront promenades.

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Any dredging or filling under this subsection or improvements under subsection (5) may ~~shall~~ be approved only after public notice as provided by s. 253.115.

Section 8. Subsection (10) is added to section 373.026, Florida Statutes, to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if such expansion is economically feasible. In addition to expanding the use of Internet-based self-certification services for appropriate exemptions and general permits, the department and water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 9. Subsection (2) of section 373.4141, Florida

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393 Statutes, is amended, and subsection (4) is added to that
 394 section, to read:

395 373.4141 Permits; processing.-

396 (2) A permit shall be approved, ~~or~~ denied, or subject to a
 397 notice of proposed agency action within 60 90 days after receipt
 398 of the original application, the last item of timely requested
 399 additional material, or the applicant's written request to begin
 400 processing the permit application.

401 (4) A state agency or an agency of the state may not
 402 require as a condition of approval for a permit or as an item to
 403 complete a pending permit application that an applicant obtain a
 404 permit or approval from any other local, state, or federal
 405 agency without explicit statutory authority to require such
 406 permit or approval.

407 Section 10. Section 373.4144, Florida Statutes, is amended
 408 to read:

409 373.4144 Federal environmental permitting.-

410 (1) It is the intent of the Legislature to:

411 (a) Facilitate coordination and a more efficient process
 412 of implementing regulatory duties and functions between the
 413 Department of Environmental Protection, the water management
 414 districts, the United States Army Corps of Engineers, the United
 415 States Fish and Wildlife Service, the National Marine Fisheries
 416 Service, the United States Environmental Protection Agency, the
 417 Fish and Wildlife Conservation Commission, and other relevant
 418 federal and state agencies.

419 (b) Authorize the Department of Environmental Protection
 420 to obtain issuance by the United States Army Corps of Engineers,

421 pursuant to state and federal law and as set forth in this
 422 section, of an expanded state programmatic general permit, or a
 423 series of regional general permits, for categories of activities
 424 in waters of the United States governed by the Clean Water Act
 425 and in navigable waters under the Rivers and Harbors Act of 1899
 426 which are similar in nature, which will cause only minimal
 427 adverse environmental effects when performed separately, and
 428 which will have only minimal cumulative adverse effects on the
 429 environment.

430 (c) Use the mechanism of such a state general permit or
 431 such regional general permits to eliminate overlapping federal
 432 regulations and state rules that seek to protect the same
 433 resource and to avoid duplication of permitting between the
 434 United States Army Corps of Engineers and the department for
 435 minor work located in waters of the United States, including
 436 navigable waters, thus eliminating, in appropriate cases, the
 437 need for a separate individual approval from the United States
 438 Army Corps of Engineers while ensuring the most stringent
 439 protection of wetland resources.

440 (d) Direct the department not to seek issuance of or take
 441 any action pursuant to any such permit or permits unless such
 442 conditions are at least as protective of the environment and
 443 natural resources as existing state law under this part and
 444 federal law under the Clean Water Act and the Rivers and Harbors
 445 Act of 1899. ~~The department is directed to develop, on or before~~
 446 ~~October 1, 2005, a mechanism or plan to consolidate, to the~~
 447 ~~maximum extent practicable, the federal and state wetland~~
 448 ~~permitting programs. It is the intent of the Legislature that~~

449 ~~all dredge and fill activities impacting 10 acres or less of~~
 450 ~~wetlands or waters, including navigable waters, be processed by~~
 451 ~~the state as part of the environmental resource permitting~~
 452 ~~program implemented by the department and the water management~~
 453 ~~districts. The resulting mechanism or plan shall analyze and~~
 454 ~~propose the development of an expanded state programmatic~~
 455 ~~general permit program in conjunction with the United States~~
 456 ~~Army Corps of Engineers pursuant to s. 404 of the Clean Water~~
 457 ~~Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.,~~
 458 ~~and s. 10 of the Rivers and Harbors Act of 1899. Alternatively,~~
 459 ~~or in combination with an expanded state programmatic general~~
 460 ~~permit, the mechanism or plan may propose the creation of a~~
 461 ~~series of regional general permits issued by the United States~~
 462 ~~Army Corps of Engineers pursuant to the referenced statutes. All~~
 463 ~~of the regional general permits must be administered by the~~
 464 ~~department or the water management districts or their designees.~~

465 (2) In order to effectuate efficient wetland permitting
 466 and avoid duplication, the department and water management
 467 districts are authorized to implement a voluntary state
 468 programmatic general permit for all dredge and fill activities
 469 impacting 3 acres or less of wetlands or other surface waters,
 470 including navigable waters, subject to agreement with the United
 471 States Army Corps of Engineers, if the general permit is at
 472 least as protective of the environment and natural resources as
 473 existing state law under this part and federal law under the
 474 Clean Water Act and the Rivers and Harbors Act of 1899. The
 475 ~~department is directed to file with the Speaker of the House of~~
 476 ~~Representatives and the President of the Senate a report~~

477 ~~proposing any required federal and state statutory changes that~~
 478 ~~would be necessary to accomplish the directives listed in this~~
 479 ~~section and to coordinate with the Florida Congressional~~
 480 ~~Delegation on any necessary changes to federal law to implement~~
 481 ~~the directives.~~

482 (3) ~~Nothing in~~ This section may not ~~shall~~ be construed to
 483 preclude the department from pursuing a series of regional
 484 general permits for construction activities in wetlands or
 485 surface waters or complete assumption of federal permitting
 486 programs regulating the discharge of dredged or fill material
 487 pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500,
 488 as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers
 489 and Harbors Act of 1899, so long as the assumption encompasses
 490 all dredge and fill activities in, on, or over jurisdictional
 491 wetlands or waters, including navigable waters, within the
 492 state.

493 Section 11. Present subsections (3), (4), and (5) of
 494 section 373.441, Florida Statutes, are renumbered as subsections
 495 (7), (8), and (9), respectively, and new subsections (3), (4),
 496 (5), and (6) are added to that section to read:

497 373.441 Role of counties, municipalities, and local
 498 pollution control programs in permit processing; delegation.-

499 (3) A county or municipality having a population of
 500 400,000 or more that implements a local pollution control
 501 program regulating all or a portion of the wetlands or surface
 502 waters throughout its geographic boundary must apply for
 503 delegation of state environmental resource permitting authority
 504 on or before January 1, 2014. If such a county or municipality

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505 fails to receive delegation of all or a portion of state
 506 environmental resource permitting authority within 2 years after
 507 submitting its application for delegation or by January 1, 2016,
 508 at the latest, it may not require permits that in part or in
 509 full are substantially similar to the requirements needed to
 510 obtain an environmental resource permit. A county or
 511 municipality that has received delegation before January 1,
 512 2014, does not need to reapply.

513 (4) The department is responsible for all delegations of
 514 state environmental resource permitting authority to local
 515 governments. The department must grant or deny an application
 516 for delegation submitted by a county or municipality that meets
 517 the criteria in subsection (3) within 2 years after the receipt
 518 of the application. If an application for delegation is denied,
 519 any available legal challenge to such denial shall toll the
 520 preemption deadline until resolution of the legal challenge.
 521 Upon delegation to a qualified local government, the department
 522 and water management district may not regulate the activities
 523 subject to the delegation within that jurisdiction.

524 (5) This section does not prohibit or limit a local
 525 government that meets the criteria in subsection (3) from
 526 regulating wetlands or surface waters after January 1, 2014, if
 527 the local government receives delegation of all or a portion of
 528 state environmental resource permitting authority within 2 years
 529 after submitting its application for delegation.

530 (6) Notwithstanding subsections (3), (4), and (5), this
 531 section does not apply to environmental resource permitting or
 532 reclamation applications for solid mineral mining and does not

533 prohibit the application of local government regulations to any
 534 new solid mineral mine or any proposed addition to, change to,
 535 or expansion of an existing solid mineral mine.

536 Section 12. Paragraph (b) of subsection (11) of section
 537 376.3071, Florida Statutes, is amended to read:

538 376.3071 Inland Protection Trust Fund; creation; purposes;
 539 funding.—

540 (11)

541 (b) Low-scored site initiative.—Notwithstanding s.
 542 376.30711, any site with a priority ranking score of 10 points
 543 or less may voluntarily participate in the low-scored site
 544 initiative, whether or not the site is eligible for state
 545 restoration funding.

546 1. To participate in the low-scored site initiative, the
 547 responsible party or property owner must affirmatively
 548 demonstrate that the following conditions are met:

549 a. Upon reassessment pursuant to department rule, the site
 550 retains a priority ranking score of 10 points or less.

551 b. No excessively contaminated soil, as defined by
 552 department rule, exists onsite as a result of a release of
 553 petroleum products.

554 c. A minimum of 6 months of groundwater monitoring
 555 indicates that the plume is shrinking or stable.

556 d. The release of petroleum products at the site does not
 557 adversely affect adjacent surface waters, including their
 558 effects on human health and the environment.

559 e. The area of groundwater containing the petroleum
 560 products' chemicals of concern is less than one-quarter acre and

561 is confined to the source property boundaries of the real
 562 property on which the discharge originated.

563 f. Soils onsite that are subject to human exposure found
 564 between land surface and 2 feet below land surface meet the soil
 565 cleanup target levels established by department rule or human
 566 exposure is limited by appropriate institutional or engineering
 567 controls.

568 2. Upon affirmative demonstration of the conditions under
 569 subparagraph 1., the department shall issue a determination of
 570 "No Further Action." Such determination acknowledges that
 571 minimal contamination exists onsite and that such contamination
 572 is not a threat to human health or the environment. If no
 573 contamination is detected, the department may issue a site
 574 rehabilitation completion order.

575 3. Sites that are eligible for state restoration funding
 576 may receive payment of preapproved costs for the low-scored site
 577 initiative as follows:

578 a. A responsible party or property owner may submit an
 579 assessment plan designed to affirmatively demonstrate that the
 580 site meets the conditions under subparagraph 1. Notwithstanding
 581 the priority ranking score of the site, the department may
 582 preapprove the cost of the assessment pursuant to s. 376.30711,
 583 including 6 months of groundwater monitoring, not to exceed
 584 \$30,000 for each site. The department may not pay the costs
 585 associated with the establishment of institutional or
 586 engineering controls.

587 b. The assessment work shall be completed no later than 6
 588 months after the department issues its approval.

589 c. No more than \$10 million for the low-scored site
 590 initiative may ~~shall~~ be encumbered from the Inland Protection
 591 Trust Fund in any fiscal year. Funds shall be made available on
 592 a first-come, first-served basis and shall be limited to 10
 593 sites in each fiscal year for each responsible party or property
 594 owner.

595 d. Program deductibles, copayments, and the limited
 596 contamination assessment report requirements under paragraph
 597 (13)(c) do not apply to expenditures under this paragraph.

598 Section 13. Section 376.30715, Florida Statutes, is
 599 amended to read:

600 376.30715 Innocent victim petroleum storage system
 601 restoration.—A contaminated site acquired by the current owner
 602 prior to July 1, 1990, which has ceased operating as a petroleum
 603 storage or retail business prior to January 1, 1985, is eligible
 604 for financial assistance pursuant to s. 376.305(6),
 605 notwithstanding s. 376.305(6)(a). For purposes of this section,
 606 the term "acquired" means the acquisition of title to the
 607 property; however, a subsequent transfer of the property to a
 608 spouse or child of the owner, a surviving spouse or child of the
 609 owner in trust or free of trust, ~~or~~ a revocable trust created
 610 for the benefit of the settlor, or a corporate entity created by
 611 the owner to hold title to the site does not disqualify the site
 612 from financial assistance pursuant to s. 376.305(6) and
 613 applicants previously denied coverage may reapply. Eligible
 614 sites shall be ranked in accordance with s. 376.3071(5).

615 Section 14. Subsection (1) of section 380.0657, Florida
 616 Statutes, is amended to read:

617 380.0657 Expedited permitting process for economic
 618 development projects.-

619 (1) The Department of Environmental Protection and, as
 620 appropriate, the water management districts created under
 621 chapter 373 shall adopt programs to expedite the processing of
 622 wetland resource and environmental resource permits for economic
 623 development projects that have been identified by a municipality
 624 or county as meeting the definition of target industry
 625 businesses under s. 288.106, or any inland multimodal facility
 626 receiving or sending cargo to or from Florida ports, with the
 627 exception of those projects requiring approval by the Board of
 628 Trustees of the Internal Improvement Trust Fund.

629 Section 15. Paragraph (j) is added to subsection (5) of
 630 section 381.0065, Florida Statutes, to read:

631 381.0065 Onsite sewage treatment and disposal systems;
 632 regulation.-

633 (5) EVALUATION AND ASSESSMENT.-

634 (j) This subsection only applies to owners of onsite
 635 sewage treatment and disposal systems in a county in which the
 636 board of county commissioners has adopted a resolution
 637 subjecting owners to the requirements of the program and
 638 submitted a copy of the resolution to the department.

639 Section 16. Subsection (11) of section 403.061, Florida
 640 Statutes, is amended to read:

641 403.061 Department; powers and duties.-The department
 642 shall have the power and the duty to control and prohibit
 643 pollution of air and water in accordance with the law and rules
 644 adopted and promulgated by it and, for this purpose, to:

645 (11) Establish ambient air quality and water quality
 646 standards for the state as a whole or for any part thereof, and
 647 also standards for the abatement of excessive and unnecessary
 648 noise. The department is authorized to establish reasonable
 649 zones of mixing for discharges into waters. For existing
 650 installations as defined by rule 62-520.200(10), Florida
 651 Administrative Code, effective July 12, 2009, zones of discharge
 652 to groundwater are authorized to a facility's or owner's
 653 property boundary and extending to the base of a specifically
 654 designated aquifer or aquifers. Exceedance of primary and
 655 secondary groundwater standards that occur within a zone of
 656 discharge does not create liability pursuant to this chapter or
 657 chapter 376 for site cleanup, and the exceedance of soil cleanup
 658 target levels is not a basis for enforcement or site cleanup.

659 (a) When a receiving body of water fails to meet a water
 660 quality standard for pollutants set forth in department rules, a
 661 steam electric generating plant discharge of pollutants that is
 662 existing or licensed under this chapter on July 1, 1984, may
 663 nevertheless be granted a mixing zone, provided that:

664 1. The standard would not be met in the water body in the
 665 absence of the discharge;

666 2. The discharge is in compliance with all applicable
 667 technology-based effluent limitations;

668 3. The discharge does not cause a measurable increase in
 669 the degree of noncompliance with the standard at the boundary of
 670 the mixing zone; and

671 4. The discharge otherwise complies with the mixing zone
 672 provisions specified in department rules.

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673 (b) ~~No~~ Mixing zones ~~zone~~ for point source discharges are
 674 not ~~shall be~~ permitted in Outstanding Florida Waters except for:

675 1. Sources that have received permits from the department
 676 prior to April 1, 1982, or the date of designation, whichever is
 677 later;

678 2. Blowdown from new power plants certified pursuant to
 679 the Florida Electrical Power Plant Siting Act;

680 3. Discharges of water necessary for water management
 681 purposes which have been approved by the governing board of a
 682 water management district and, if required by law, by the
 683 secretary; and

684 4. The discharge of demineralization concentrate which has
 685 been determined permittable under s. 403.0882 and which meets
 686 the specific provisions of s. 403.0882(4)(a) and (b), if the
 687 proposed discharge is clearly in the public interest.

688 (c) The department, by rule, shall establish water quality
 689 criteria for wetlands which criteria give appropriate
 690 recognition to the water quality of such wetlands in their
 691 natural state.

692

693 ~~Nothing in~~ This act may not be ~~shall~~ be construed to invalidate
 694 any existing department rule relating to mixing zones. The
 695 department shall cooperate with the Department of Highway Safety
 696 and Motor Vehicles in the development of regulations required by
 697 s. 316.272(1).

698

699 The department shall implement such programs in conjunction with
 700 its other powers and duties and shall place special emphasis on

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701 reducing and eliminating contamination that presents a threat to
 702 humans, animals or plants, or to the environment.

703 Section 17. Subsection (7) of section 403.087, Florida
 704 Statutes, is amended to read:

705 403.087 Permits; general issuance; denial; revocation;
 706 prohibition; penalty.—

707 (7) A permit issued pursuant to this section does ~~shall~~
 708 not become a vested right in the permittee. The department may
 709 revoke any permit issued by it if it finds that the permitholder
 710 has:

711 (a) ~~Has~~ Submitted false or inaccurate information in the
 712 ~~his or her~~ application for the permit;

713 (b) ~~Has~~ Violated law, department orders, rules, ~~or~~
 714 ~~regulations~~, or ~~permit~~ conditions;

715 (c) ~~Has~~ Failed to submit operational reports or other
 716 information required by department rule which directly relate to
 717 the permit and has refused to correct or cure such violations
 718 when requested to do so ~~or regulation~~; or

719 (d) ~~Has~~ Refused lawful inspection under s. 403.091 at the
 720 facility authorized by the permit.

721 Section 18. Subsection (2) of section 403.1838, Florida
 722 Statutes, is amended to read:

723 403.1838 Small Community Sewer Construction Assistance
 724 Act.—

725 (2) The department shall use funds specifically
 726 appropriated to award grants under this section to assist
 727 financially disadvantaged small communities with their needs for
 728 adequate sewer facilities. For purposes of this section, the

729 term "financially disadvantaged small community" means a
 730 municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer
 731 ~~less~~, according to the latest decennial census and a per capita
 732 annual income less than the state per capita annual income as
 733 determined by the United States Department of Commerce.

734 Section 19. Paragraph (f) of subsection (1) of section
 735 403.7045, Florida Statutes, is amended to read:

736 403.7045 Application of act and integration with other
 737 acts.—

738 (1) The following wastes or activities shall not be
 739 regulated pursuant to this act:

740 (f) Industrial byproducts, if:

741 1. A majority of the industrial byproducts are
 742 demonstrated to be sold, used, or reused within 1 year.

743 2. The industrial byproducts are not discharged,
 744 deposited, injected, dumped, spilled, leaked, or placed upon any
 745 land or water so that such industrial byproducts, or any
 746 constituent thereof, may enter other lands or be emitted into
 747 the air or discharged into any waters, including groundwaters,
 748 or otherwise enter the environment such that a threat of
 749 contamination in excess of applicable department standards and
 750 criteria or a significant threat to public health is caused.

751 3. The industrial byproducts are not hazardous wastes as
 752 defined under s. 403.703 and rules adopted under this section.

753

754 Sludge from an industrial waste treatment works that meets the
 755 exemption requirements of this paragraph is not solid waste as
 756 defined in s. 403.703(32).

757 Section 20. Subsections (2) and (3) of section 403.707,
 758 Florida Statutes, are amended to read:

759 403.707 Permits.—

760 (2) Except as provided in s. 403.722(6), a permit under
 761 this section is not required for the following, ~~if the activity~~
 762 ~~does not create a public nuisance or any condition adversely~~
 763 ~~affecting the environment or public health and does not violate~~
 764 ~~other state or local laws, ordinances, rules, regulations, or~~
 765 ~~orders:~~

766 (a) Disposal by persons of solid waste resulting from
 767 their own activities on their own property, if such waste is
 768 ordinary household waste from their residential property or is
 769 rocks, soils, trees, tree remains, and other vegetative matter
 770 that normally result from land development operations. Disposal
 771 of materials that could create a public nuisance or adversely
 772 affect the environment or public health, such as white goods;
 773 automotive materials, such as batteries and tires; petroleum
 774 products; pesticides; solvents; or hazardous substances, is not
 775 covered under this exemption.

776 (b) Storage in containers by persons of solid waste
 777 resulting from their own activities on their property, leased or
 778 rented property, or property subject to a homeowners' ~~homeowners~~
 779 or maintenance association for which the person contributes
 780 association assessments, if the solid waste in such containers
 781 is collected at least once a week.

782 (c) Disposal by persons of solid waste resulting from
 783 their own activities on their property, if the environmental
 784 effects of such disposal on groundwater and surface waters are:

785 1. Addressed or authorized by a site certification order
 786 issued under part II or a permit issued by the department under
 787 this chapter or rules adopted pursuant to this chapter; or

788 2. Addressed or authorized by, or exempted from the
 789 requirement to obtain, a groundwater monitoring plan approved by
 790 the department. If a facility has a permit authorizing disposal
 791 activity, new areas where solid waste is being disposed of which
 792 are monitored by an existing or modified groundwater monitoring
 793 plan are not required to be specifically authorized in a permit
 794 or other certification.

795 (d) Disposal by persons of solid waste resulting from
 796 their own activities on their own property, if such disposal
 797 occurred prior to October 1, 1988.

798 (e) Disposal of solid waste resulting from normal farming
 799 operations as defined by department rule. Polyethylene
 800 agricultural plastic, damaged, nonsalvageable, untreated wood
 801 pallets, and packing material that cannot be feasibly recycled,
 802 which are used in connection with agricultural operations
 803 related to the growing, harvesting, or maintenance of crops, may
 804 be disposed of by open burning if a public nuisance or any
 805 condition adversely affecting the environment or the public
 806 health is not created by the open burning and state or federal
 807 ambient air quality standards are not violated.

808 (f) The use of clean debris as fill material in any area.
 809 However, this paragraph does not exempt any person from
 810 obtaining any other required permits, and does not affect a
 811 person's responsibility to dispose of clean debris appropriately
 812 if it is not to be used as fill material.

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813 (g) Compost operations that produce less than 50 cubic
 814 yards of compost per year when the compost produced is used on
 815 the property where the compost operation is located.

816 (3)(a) All applicable provisions of ss. 403.087 and
 817 403.088, relating to permits, apply to the control of solid
 818 waste management facilities.

819 (b) Any permit issued to a solid waste management facility
 820 that is designed with a leachate control system that meets
 821 department requirements shall be issued for a term of 20 years
 822 unless the applicant requests a lesser permit term. Existing
 823 permit fees for qualifying solid waste management facilities
 824 shall be prorated to the permit term authorized by this section.
 825 This paragraph applies to all qualifying solid waste management
 826 facilities that apply for an operating or construction permit or
 827 renew an existing operating or construction permit on or after
 828 July 1, 2012.

829 Section 21. Subsection (12) is added to section 403.814,
 830 Florida Statutes, to read:

831 403.814 General permits; delegation.—

832 (12) A general permit shall be granted for the
 833 construction, alteration, and maintenance of a surface water
 834 management system serving a total project area of up to 10
 835 acres. The construction of such a system may proceed without any
 836 agency action by the department or water management district if:

837 (a) The total project area is less than 10 acres;

838 (b) The total project area involves less than 2 acres of
 839 impervious surface;

840 (c) No activities will impact wetlands or other surface

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841 waters;

842 (d) No activities are conducted in, on, or over wetlands
 843 or other surface waters;

844 (e) Drainage facilities will not include pipes having
 845 diameters greater than 24 inches, or the hydraulic equivalent,
 846 and will not use pumps in any manner;

847 (f) The project is not part of a larger common plan,
 848 development, or sale;

849 (g) The project does not:

850 1. Cause adverse water quantity or flooding impacts to
 851 receiving water and adjacent lands;

852 2. Cause adverse impacts to existing surface water storage
 853 and conveyance capabilities;

854 3. Cause a violation of state water quality standards; or

855 4. Cause an adverse impact to the maintenance of surface
 856 or ground water levels or surface water flows established
 857 pursuant to s. 373.042 or a work of the district established
 858 pursuant to s. 373.086; and

859 (h) The surface water management system design plans are
 860 signed and sealed by a Florida registered professional who
 861 attests that the system will perform and function as proposed
 862 and has been designed in accordance with appropriate, generally
 863 accepted performance standards and scientific principles.

864 Section 22. Subsection (6) of section 403.853, Florida
 865 Statutes, is amended to read:

866 403.853 Drinking water standards.—

867 (6) Upon the request of the owner or operator of a
 868 transient noncommunity water system using groundwater as a

869 source of supply and serving religious institutions or
 870 businesses, other than restaurants or other public food service
 871 establishments or religious institutions with school or day care
 872 services, ~~and using groundwater as a source of supply,~~ the
 873 department, or a local county health department designated by
 874 the department, shall perform a sanitary survey of the facility.
 875 Upon receipt of satisfactory survey results according to
 876 department criteria, the department shall reduce the
 877 requirements of such owner or operator from monitoring and
 878 reporting on a quarterly basis to performing these functions on
 879 an annual basis. Any revised monitoring and reporting schedule
 880 approved by the department under this subsection shall apply
 881 until such time as a violation of applicable state or federal
 882 primary drinking water standards is determined by the system
 883 owner or operator, by the department, or by an agency designated
 884 by the department, after a random or routine sanitary survey.
 885 Certified operators are not required for transient noncommunity
 886 water systems of the type and size covered by this subsection.
 887 Any reports required of such system shall be limited to the
 888 minimum as required by federal law. When not contrary to the
 889 provisions of federal law, the department may, upon request and
 890 by rule, waive additional provisions of state drinking water
 891 regulations for such systems.

892 Section 23. Paragraph (a) of subsection (3) and
 893 subsections (4), (5), (10), (11), (14), (15), and (18) of
 894 section 403.973, Florida Statutes, are amended to read:

895 403.973 Expedited permitting; amendments to comprehensive
 896 plans.—

897 (3)(a) The secretary shall direct the creation of regional
 898 permit action teams for the purpose of expediting review of
 899 permit applications and local comprehensive plan amendments
 900 submitted by:

901 1. Businesses creating at least 50 jobs or a commercial or
 902 industrial development project that will be occupied by
 903 businesses that would individually or collectively create at
 904 least 50 jobs; or

905 2. Businesses creating at least 25 jobs if the project is
 906 located in an enterprise zone, or in a county having a
 907 population of fewer than 75,000 or in a county having a
 908 population of fewer than 125,000 which is contiguous to a county
 909 having a population of fewer than 75,000, as determined by the
 910 most recent decennial census, residing in incorporated and
 911 unincorporated areas of the county.

912 (4) The regional teams shall be established through the
 913 execution of a project-specific memoranda of agreement developed
 914 and executed by the applicant and the secretary, with input
 915 solicited from ~~the Department of Economic Opportunity~~ and the
 916 respective heads of the Department of Transportation and its
 917 district offices, the Department of Agriculture and Consumer
 918 Services, the Fish and Wildlife Conservation Commission,
 919 appropriate regional planning councils, appropriate water
 920 management districts, and voluntarily participating
 921 municipalities and counties. The memoranda of agreement should
 922 also accommodate participation in this expedited process by
 923 other local governments and federal agencies as circumstances
 924 warrant.

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925 (5) In order to facilitate local government's option to
 926 participate in this expedited review process, the secretary
 927 shall, in cooperation with local governments and participating
 928 state agencies, create a standard form memorandum of agreement.
 929 The standard form of the memorandum of agreement shall be used
 930 only if the local government participates in the expedited
 931 review process. In the absence of local government
 932 participation, only the project-specific memorandum of agreement
 933 executed pursuant to subsection (4) applies. A local government
 934 shall hold a duly noticed public workshop to review and explain
 935 to the public the expedited permitting process and the terms and
 936 conditions of the standard form memorandum of agreement.

937 (10) The memoranda of agreement may provide for the waiver
 938 or modification of procedural rules prescribing forms, fees,
 939 procedures, or time limits for the review or processing of
 940 permit applications under the jurisdiction of those agencies
 941 that are members of the regional permit action team ~~party to the~~
 942 ~~memoranda of agreement.~~ Notwithstanding any other provision of
 943 law to the contrary, a memorandum of agreement must to the
 944 extent feasible provide for proceedings and hearings otherwise
 945 held separately ~~by the parties to the memorandum of agreement~~ to
 946 be combined into one proceeding or held jointly and at one
 947 location. Such waivers or modifications are not authorized ~~shall~~
 948 ~~not be available~~ for permit applications governed by federally
 949 delegated or approved permitting programs, the requirements of
 950 which would prohibit, or be inconsistent with, such a waiver or
 951 modification.

952 (11) The ~~standard form for~~ memoranda of agreement shall

953 include guidelines to be used in working with state, regional,
 954 and local permitting authorities. Guidelines may include, but
 955 are not limited to, the following:

956 (a) A central contact point for filing permit applications
 957 and local comprehensive plan amendments and for obtaining
 958 information on permit and local comprehensive plan amendment
 959 requirements.†

960 (b) Identification of the individual or individuals within
 961 each respective agency who will be responsible for processing
 962 the expedited permit application or local comprehensive plan
 963 amendment for that agency.†

964 (c) A mandatory preapplication review process to reduce
 965 permitting conflicts by providing guidance to applicants
 966 regarding the permits needed from each agency and governmental
 967 entity, site planning and development, site suitability and
 968 limitations, facility design, and steps the applicant can take
 969 to ensure expeditious permit application and local comprehensive
 970 plan amendment review. As a part of this process, the first
 971 interagency meeting to discuss a project shall be held within 14
 972 days after the secretary's determination that the project is
 973 eligible for expedited review. Subsequent interagency meetings
 974 may be scheduled to accommodate the needs of participating local
 975 governments that are unable to meet public notice requirements
 976 for executing a memorandum of agreement within this timeframe.
 977 This accommodation may not exceed 45 days from the secretary's
 978 determination that the project is eligible for expedited
 979 review.†

980 (d) The preparation of a single coordinated project

981 description form and checklist and an agreement by state and
 982 regional agencies to reduce the burden on an applicant to
 983 provide duplicate information to multiple agencies.†

984 (e) Establishment of a process for the adoption and review
 985 of any comprehensive plan amendment needed by any certified
 986 project within 90 days after the submission of an application
 987 for a comprehensive plan amendment. However, the memorandum of
 988 agreement may not prevent affected persons as defined in s.
 989 163.3184 from appealing or participating in this expedited plan
 990 amendment process and any review or appeals of decisions made
 991 under this paragraph.~~†~~ and

992 (f) Additional incentives for an applicant who proposes a
 993 project that provides a net ecosystem benefit.

994 (14)(a) Challenges to state agency action in the expedited
 995 permitting process for projects processed under this section are
 996 subject to the summary hearing provisions of s. 120.574, except
 997 that the administrative law judge's decision, as provided in s.
 998 120.574(2)(f), shall be in the form of a recommended order and
 999 do not constitute the final action of the state agency. In those
 1000 proceedings where the action of only one agency of the state
 1001 other than the Department of Environmental Protection is
 1002 challenged, the agency of the state shall issue the final order
 1003 within 45 working days after receipt of the administrative law
 1004 judge's recommended order, and the recommended order shall
 1005 inform the parties of their right to file exceptions or
 1006 responses to the recommended order in accordance with the
 1007 uniform rules of procedure pursuant to s. 120.54. In those
 1008 proceedings where the actions of more than one agency of the

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1009 state are challenged, the Governor shall issue the final order
 1010 within 45 working days after receipt of the administrative law
 1011 judge's recommended order, and the recommended order shall
 1012 inform the parties of their right to file exceptions or
 1013 responses to the recommended order in accordance with the
 1014 uniform rules of procedure pursuant to s. 120.54. For This
 1015 ~~paragraph does not apply to~~ the issuance of department licenses
 1016 required under any federally delegated or approved permit
 1017 program. In such instances, the department, and not the
 1018 Governor, shall enter the final order. The participating
 1019 agencies of the state may opt at the preliminary hearing
 1020 conference to allow the administrative law judge's decision to
 1021 constitute the final agency action.

1022 (b) Projects identified in paragraph (3)(f) or challenges
 1023 to state agency action in the expedited permitting process for
 1024 establishment of a state-of-the-art biomedical research
 1025 institution and campus in this state by the grantee under s.
 1026 288.955 are subject to the same requirements as challenges
 1027 brought under paragraph (a), except that, notwithstanding s.
 1028 120.574, summary proceedings must be conducted within 30 days
 1029 after a party files the motion for summary hearing, regardless
 1030 of whether the parties agree to the summary proceeding.

1031 (15) The Department of Economic Opportunity, working with
 1032 the agencies providing cooperative assistance and input
 1033 regarding the memoranda of agreement, shall review sites
 1034 proposed for the location of facilities that the Department of
 1035 Economic Opportunity has certified to be eligible for the
 1036 Innovation Incentive Program under s. 288.1089. Within 20 days

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1037 after the request for the review by the Department of Economic
 1038 Opportunity, the agencies shall provide to the Department of
 1039 Economic Opportunity a statement as to each site's necessary
 1040 permits under local, state, and federal law and an
 1041 identification of significant permitting issues, which if
 1042 unresolved, may result in the denial of an agency permit or
 1043 approval or any significant delay caused by the permitting
 1044 process.

1045 (18) The Department of Economic Opportunity, working with
 1046 the Rural Economic Development Initiative ~~and the agencies~~
 1047 ~~participating in the memoranda of agreement~~, shall provide
 1048 technical assistance in preparing permit applications and local
 1049 comprehensive plan amendments for counties having a population
 1050 of fewer than 75,000 residents, or counties having fewer than
 1051 125,000 residents which are contiguous to counties having fewer
 1052 than 75,000 residents. Additional assistance may include, but
 1053 not be limited to, guidance in land development regulations and
 1054 permitting processes, working cooperatively with state,
 1055 regional, and local entities to identify areas within these
 1056 counties which may be suitable or adaptable for preclearance
 1057 review of specified types of land uses and other activities
 1058 requiring permits.

1059 Section 24. Subsection (5) is added to section 526.203,
 1060 Florida Statutes, to read:

1061 526.203 Renewable fuel standard.—

1062 (5) SALE OF UNBLENDED FUELS.—This section does not
 1063 prohibit the sale of unblended fuels for the uses exempted under
 1064 subsection (3).

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1065 Section 25. The installation of fuel tank upgrades to
1066 secondary containment systems shall be completed by the
1067 deadlines specified in rule 62-761.510, Florida Administrative
1068 Code, Table UST. However, notwithstanding any agreements to the
1069 contrary, any fuel service station that changed ownership
1070 interest through a bona fide sale of the property between
1071 January 1, 2009, and December 31, 2009, is not required to
1072 complete the upgrades described in rule 62-761.510, Florida
1073 Administrative Code, Table UST, until December 31, 2013.

1074 Section 26. This act shall take effect July 1, 2012.

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with directory and title amendments)

6 Remove lines 169-223 and insert:

7 (5) Application for permits shall be made to the
8 department upon such terms and conditions as set forth by rule.

9 (a) If, as part of the permit process, the department
10 requests additional information, it must cite applicable
11 statutory and rule provisions that justify any item listed in a
12 request for additional information.

13 (b) The department may not issue guidelines that are
14 enforceable as standards for beach management, inlet management,
15 and other erosion control projects without adopting such
16 guidelines by rule.

17 (6) The Legislature intends to simplify the permitting
18 process for the periodic maintenance of previously permitted and
19 constructed beach nourishment and inlet management projects

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20 under the joint coastal process. A detailed review of a
21 previously permitted project is not required if there have been
22 no substantial changes in project scope and past performance of
23 the project indicates that it has performed according to design
24 expectations. The department shall amend chapters 62B-41 and
25 160 62B-49 of the Florida Administrative Code to streamline the
26 permitting process for periodic beach maintenance projects and
27 inlet sand bypassing activities.

28 (7) Notwithstanding any other provision of law, the
29 department may issue permits pursuant to this part in advance of
30 the issuance of an incidental take authorization provided under
31 the Endangered Species Act and its implementing regulations if
32 the permits and authorizations include a condition that requires
33 that such authorized activities not begin until the incidental
34 take authorization is issued.

35
36
37
38 -----
39 **D I R E C T O R Y A M E N D M E N T**

40 Remove lines 167-168 and insert:

41 Section 2. Subsections (5), (6), and (7) are added to
42 section 161.041, Florida Statutes, to read:

43
44 -----
45 **T I T L E A M E N D M E N T**

46 Remove lines 8-29 and insert:

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 503 (2012)

Amendment No. 4

47 | the issuance of a development permit; amending s. 161.041, F.S.;

48 | requiring the department to adopt guidelines by rule; requiring

49 | the department to justify items listed in a request for

50 | additional information; providing legislative intent with regard

51 | to permitting for periodic maintenance of certain beach

52 | nourishment and inlet management projects; requiring the

53 | department to amend specified rules to streamline such

54 | permitting; authorizing the department to issue permits for an

55 | incidental take authorization under certain circumstances;

56 | amending s. 163.3180,

57

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 503 (2012)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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

5 **Amendment (with title amendment)**

6 Remove lines 224-256
7
8
9

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

12 Remove lines 29-33 and insert:
13 permitting for such projects; amending s. 166.033,
14

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 503 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with directory and title amendments)

5 Between lines 1061 and 1062, insert:

6 (1) DEFINITIONS.—As used in this act:

7 (a) "Blender," "importer," "terminal supplier," and
8 "wholesaler" are defined as provided in s. 206.01.

9 (b) "Blended gasoline" means a mixture of 90 to 91 percent
10 gasoline and 9 to 10 percent fuel ethanol or other renewable
11 fuel, by volume, that meets the specifications as adopted by the
12 department. The fuel ethanol portion may be derived from any
13 agricultural source.

14 (c) "Fuel ethanol" means an anhydrous denatured alcohol
15 produced by the conversion of carbohydrates that meets the
16 specifications as adopted by the department.
17

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Amendment No. 1

18 (d) "Renewable fuel" means a fuel produced from renewable
19 biomass that is used to replace or reduce the quantity of fossil
20 fuel present in a transportation fuel.

21 (e)~~(d)~~ "Unblended gasoline" means gasoline that has not
22 been blended ~~with fuel ethanol~~ and that meets the specifications
23 as adopted by the department.
24
25
26
27

28 -----
29 **D I R E C T O R Y A M E N D M E N T**

30 Remove lines 1059-1060 and insert:

31 Section 24. Subsection (1) of section 526.203, Florida
32 Statutes, is amended, and subsection (5) is added to that
33 section, to read:
34
35
36

37 -----
38 **T I T L E A M E N D M E N T**

39 Remove line 133 and insert:

40 sites; amending s. 526.203, F.S.; revising the
41 definitions of the terms "blended gasoline" and
42 "unblended gasoline"; defining the term "renewable
43 fuel"; authorizing the sale
44

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 503 (2012)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

6 Remove lines 1065-1073
7
8
9

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

12 Remove lines 134-137 and insert:
13 of unblended fuels for certain uses; providing an effective
14 date.
15

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

SPONSOR(S): Agriculture & Natural Resources Subcommittee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee		Kaiser <i>JK</i>	Blalock <i>AFB</i>

SUMMARY ANALYSIS

PCB ANRS 12-01 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.
- Provides a provision 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 compensation or honoraria, per diem, or travel expenses unless specifically authorized by the Commissioner of Agriculture.
- 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 Food Code, Recommendations of the United States Public Health Service/Food and Drug Administration 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.
- 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 and provides penalties for failure to comply.
- Provides 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 or areas contiguous to the 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.
- Provides that the proceeds of the sale of soil and water conservation district property be credited to the district rather than the department.
- Removes the requirement for the department to assume responsibility for any contracts and/or liabilities of a soil and water conservation district that has been dissolved.
- 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.
- Repeals provisions establishing the Aquaculture Interagency Coordinating Council.
- Grants the department authority to accept grants or other funds to distribute to individuals when such funds are provided in accordance with an agreement.
- Repeals provisions establishing the Florida Agricultural Exposition.
- 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 department is expected to be insignificant, with the increase in fees from feed distributors that are being required to report the tons of feed distributed in the state offsetting the waiver of fees for aquaculture certification in schools. There is no fiscal impact to local governments.

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

STORAGE NAME: pcb01.ANRS.DOCX

DATE: 11/30/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Division of Food, Nutrition and Wellness

Present Situation

During the 2011 legislation session, administration of the school food and nutrition programs were transferred 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),¹ 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., provides for the department, acting on behalf of the BOT, to allocate moneys to acquire perpetual, less-than-fee interest in land, to enter into agricultural protection agreements, and to

¹ Chapter 2001-279, L.O.F.

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

CS/HB 663, which passed during the 2011 legislative session, 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.

CS/HB 735, which passed during the 2011 legislative session, 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., provides 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 passage of CS/HB 663, 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

During the 2011 legislation session, CS/CS/HB 7215 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 CS/CS/HB 7215, some committees and councils were overlooked.

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, the Florida Forestry Council and the Private Investigation, Recovery and Security Advisory Council to receive travel expenses and per diem.

The bill also provides a provision in s. 570.0705, F.S., stating 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 compensation or honoraria, per diem, or travel reimbursements unless specifically authorized by the Commissioner of Agriculture.

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.

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., provides 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., provides 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 can be offered to other governmental units or private

nonprofit agencies.² 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 (council). 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 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

² 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.

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 provide that the board is specifically 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.³, and provides 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. However, due to the difficulty of compliance, 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.

To obtain a permit, an applicant must pay a fee of \$125⁴ and demonstrate sufficient knowledge, ability, and equipment to perform milkfat testing satisfactorily. Each permitholder must maintain records of all tests conducted for a period of one 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.

³ Chapter 500, F.S., deals with food products.

⁴ This amount covers a two year period.

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. 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., provides 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 fifty 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 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 of this program are set to expire on December 31, 2012 and December 31, 2017, respectively. 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., provides that, despite any other provision of state or federal law, the department can 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 due to 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.⁵

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.

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.

The department states that because the reporting of the tonnage of feed distributed in the state is provided on a voluntary basis, many registrants defer or refuse to provide the information, while other

⁵ Section 580.041(1)(b), F.S., provides a chart listing the fee per ton of feed distributed.

registrants incur the costs of providing this 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.⁶ 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 requirements.

Commercial Feed Penalties Payable to Consumers

Section 580.131, F.S., provides for 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 law⁷ provides specific 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 Commissioner of Agriculture for actions to be taken with respect to the regulation of feed, seed, and fertilizer.

⁶ Rule 5E-3.003, F.A.C.

⁷ Section 580.131, F.S.

Commercial Feed Master Registration

The bill amends s. 580.041, F.S., to change the tonnage reporting from a voluntary basis to a requirement. Additionally, 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 provides 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 (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., provides 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 by working in cooperation with the state or its agencies of 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., provides for 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 must 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., provides 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 two 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., provides for 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.

Section 582.32, F.S., provides that once a certificate of dissolution has been issued, all land use regulations adopted and in force within the district are no longer valid. Contracts entered into by the district or supervisors of the district remain in effect for the period provided for in the contract, with the department being substituted for the district or supervisors of the district as party to the contract. The department shall be entitled to all benefits and subject to all liabilities under such contracts and have the same right and liability to perform, to require performance, and to modify or terminate such contracts by mutual consent as the district or supervisors of the district would have had. The dissolution of the district does not affect the lien of any judgment entered under the provisions of chapter 582, F.S., nor the pendency of any action instituted under the provisions of chapter 582, F.S. The department can succeed to all the rights and obligations of the district or the supervisors of the district as to such liens and actions. The department is not required to entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions in accordance with the provisions of chapter 582, F.S., more often than once in 5 years.

Soil and Water Conservation Council

Section 582.06, F.S., creates the Soil and Water Conservation Council (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 or in territory contiguous to the 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.

The bill amends s. 582.32, F.S., to remove the provision that the department is entitled to all benefits and subject to all liabilities under contracts that have been entered into by district that has been dissolved. The bill further removes the department's right and liability to perform, to require performance, and to modify and terminates such contracts by mutual consent or otherwise, as the supervisors of the district would have had. The bill also removes the responsibility of the department to succeed to all rights and obligations of the district or supervisors relating to any liens and actions incurred by the district prior to 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., provides 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., provides 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
- 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 (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 provide that the annual registration fee is waived for any elementary, middle, high school or vocational schools that participate in the aquaculture certification program. Currently, there are approximately 15 certified aquaculture programs in schools around the state. These programs help to educate students on potential career paths, proper handling of non-native species, as well as demonstrating hands-on practical educational opportunities. The department hopes that by waiving the certification fee, more schools will become involved in the aquaculture certification program.

Aquaculture Interagency Coordinating Council

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

Miscellaneous

Present Situation

Distribution of Grants

Currently the department uses its general authority as provided in s. 570.07, F.S., to distribute funds it receives through block grants and other agreements to reimburse farmers for costs incurred. Many times, the funds provided to the department are in response to a natural disaster and are meant to mitigate the effects of the disaster. In recent years, legislative budget staff has questioned the ability of the department to distribute these funds without specific authority.

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 (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.
- 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. Due to a lack of interest, as well as funding, it is 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. Section 573.118, F.S., provides for marketing orders to become effective when consented to by a majority of producers or handlers of such commodities in the state. 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. 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.⁸ 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. On an annual basis, the department must arrange 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

Distribution of Grants

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

Florida Agricultural Exposition

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

Marketing Orders

The bill amends s. 573.118, F.S., to require the department to maintain records of collections and expenditures for each marketing order separately within the state's accounting system. Rather than an annual audit, the bill provides for a review to 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.

⁸ Section 573.108, F.S.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sections 37 and 38: Amends ss. 582.20 and 582.29, F.S., revising the jurisdiction of soil and water conservation districts to include territory contiguous to the district's boundaries.

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

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

Section 41: Amends s. 582.32, F.S., deleting requirements that the department succeed a dissolved soil and water conservation district as a party to contracts with the dissolved district and assume the rights and obligations of the dissolved district for liens and actions.

Section 42: Repeals s. 585.155, F.S., relating to the inspection and vaccination of cattle for brucellosis.

Section 43: Amends s. 589.03, F.S., deleting requirements that members of the Florida Forestry Council be reimbursed for per diem and travel expenses.

Section 44: Amends s. 589.19, F.S., renaming the "Wounded Warrior Special Hunt Areas" of the state forests.

Section 45: Amends s. 589.277, F.S., revising requirements for the deposit of contributions for tree planting programs.

Section 46: 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 47, 48 and 50: Amends ss. 597.0021, 597.003, and 597.005, F.S., removing references to the Aquaculture Interagency Coordinating Council.

Section 49: Amends s. 597.004, F.S., authorizing the waiver of aquaculture registration fees for certain schools.

Section 51: Repeals s. 597.006, F.S., relating to the Aquaculture Interagency Coordinating Council.

Section 52: Amends s. 616.252, F.S., providing for the reimbursement of members of the Florida State Fair Authority for per diem and travel expenses.

Section 53: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

- The Department of Agriculture and Consumer Services (department) estimates that there will be a reduction of approximately \$1,500-2,000 annually in non-recurring revenues from the waiver of the aquaculture certification fee for schools.
- The department estimates that there will be an increase of approximately \$3,600 annually in recurring revenues as a result of feed distributors being required to report the tons of feed distributed in the state.
- The department estimates that there will be a reduction of approximately \$4,700 annually in recurring revenues as a result of the elimination of the milkfat tester permits.

2. Expenditures:

The department estimates that there will be a reduction of approximately \$11,300 annually in recurring expenditures as a result of the elimination of the payment of per diem and travel expenses for the Private Investigation, Recovery and Security Advisory Council.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments Section

2. Expenditures:

See Fiscal Comments Section

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the department, by amending s. 253.002, F.S., authorizing the department to perform all staff duties and functions in regards to the Rural and Family Lands Protection Program, landowners will see a decrease in the time it takes to enter into an easement agreement with the state.

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:

By amending s. 388.201, F.S., local governments will have additional time to prepare budget information regarding arthropod control before it must be submitted to the department for review.

By amending s. 388.323, F.S., local governments will no longer be required to offer mosquito control equipment to governmental units or private non-profit agencies that most likely would have no use for it.

By amending s. 573.118, F.S., audits of marketing order accounts by a certified public accountant will no longer be required, reducing the administrative burden and saving the cost of an expensive audit.

By amending s. 576.045, F.S., extending the expiration dates for the fertilizer tonnage fee, the department will continue to collect approximately \$1 million annually that is used towards the development of best management practices and nutrient pollution abatement efforts.

By amending s. 582.31, F.S., the department will no longer be responsible for any outstanding contracts upon dissolution of a soil and water conservation district

By amending s. 590.02, F.S., the department may receive private funds to administer tree-planting programs.

By amending s. 597.004, F.S., the department may lose approximately \$2,000 annually in aquaculture registration fees.

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

None

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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

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29 | duties of the council's Subcommittee on Managed
 30 | Marshes; amending s. 493.6104, F.S.; deleting
 31 | provisions that prohibit compensation and authorize
 32 | per diem and travel expenses for members of the
 33 | Private Investigation, Recovery, and Security Advisory
 34 | Council; amending s. 500.09, F.S.; authorizing the
 35 | department to adopt rules incorporating by reference
 36 | the federal model Food Code; amending ss. 500.147 and
 37 | 502.014, F.S.; deleting provisions for a food safety
 38 | pilot program and a permitting program for persons who
 39 | test milk or milk products; amending s. 502.053, F.S.;
 40 | deleting requirements for milkfat tester licenses;
 41 | amending s. 570.07, F.S.; authorizing the department
 42 | to accept and distribute funds to individuals under
 43 | certain circumstances; amending s. 570.0705, F.S.;
 44 | prohibiting members of certain advisory bodies from
 45 | receiving compensation, honoraria, per diem, or travel
 46 | expenses except under certain circumstances; repealing
 47 | s. 570.071, F.S., relating to the Florida Agricultural
 48 | Exposition and the receipt and expenditure of funds
 49 | for the exposition; amending s. 570.074, F.S.;
 50 | renaming and revising the policy jurisdiction of the
 51 | department's Office of Energy and Water; amending s.
 52 | 570.18, F.S.; conforming cross-references; repealing
 53 | s. 570.29, F.S., relating to divisions of the
 54 | Department of Agriculture and Consumer Services;
 55 | repealing s. 570.34, F.S., relating to the Plant
 56 | Industry Technical Council; creating s. 570.451, F.S.;

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

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85 commercial feed to pay such penalties to consumers
 86 within a specified period; imposing additional
 87 penalties for nonpayment; providing for the deposit
 88 and use of certain funds paid to the department;
 89 repealing s. 580.151, F.S., relating to the Commercial
 90 Feed Technical Council; amending s. 581.011, F.S.;
 91 conforming provisions; amending s. 581.145, F.S.;
 92 revising requirements for the issuance of permits to
 93 aquaculture producers for the transport and sale of
 94 water hyacinths to other states and countries;
 95 amending s. 582.06, F.S.; revising requirements for
 96 the composition and appointment of members of the Soil
 97 and Water Conservation Council and the reimbursement
 98 of members for per diem and travel expenses; amending
 99 ss. 582.20 and 582.29, F.S.; revising the geographic
 100 jurisdiction of soil and water conservation districts
 101 to include territory contiguous to the districts'
 102 boundaries; amending s. 582.30, F.S.; revising
 103 requirements and procedures for the dissolution or
 104 discontinuance of soil and water conservation
 105 districts; revising notice requirements for such
 106 proposed dissolution or discontinuance; amending s.
 107 582.31, F.S.; revising requirements for payment of the
 108 proceeds from the sale of property of a dissolving
 109 soil and water conservation district to the State
 110 Treasury; amending s. 582.32, F.S.; deleting
 111 requirements that the department assume the rights and
 112 obligations of a dissolved soil and water conservation

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113 district for liens and actions; conforming provisions;
 114 repealing s. 585.155, F.S., relating to the inspection
 115 and vaccination of cattle for brucellosis; amending s.
 116 589.03, F.S.; deleting requirement that members of the
 117 Florida Forestry Council be reimbursed for per diem
 118 and travel expenses; amending s. 589.19, F.S.;

119 renaming the "Wounded Warrior Special Hunt Areas" of
 120 the state forests; conforming obsolete references to
 121 the former Division of Forestry; amending s. 589.277,
 122 F.S.; revising requirements for the deposit of
 123 contributions for tree planting programs; conforming
 124 obsolete references to the former Division of
 125 Forestry; amending s. 590.02, F.S.; specifying that
 126 state and local government agencies other than the
 127 Florida Forest Service may not enforce regulations of
 128 broadcast burning or agricultural and silvicultural
 129 pile burning except under certain circumstances;

130 conforming obsolete references to the former Division
 131 of Forestry; amending ss. 597.0021 and 597.003, F.S.;

132 deleting references to the Aquaculture Interagency
 133 Coordinating Council to conform to the repeal by the
 134 act of provisions creating the council; amending s.
 135 597.004, F.S.; authorizing the waiver of aquaculture
 136 registration fees for certain schools; amending s.
 137 597.005, F.S.; revising the composition of the
 138 Aquaculture Review Council to conform to the repeal by
 139 the act of provisions creating the Aquaculture
 140 Interagency Coordinating Council; revising the

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141 legislative committees to whom the Aquaculture Review
 142 Council must provide analyses of unresolved industry
 143 issues; repealing s. 597.006, F.S., relating to the
 144 Aquaculture Interagency Coordinating Council; amending
 145 s. 616.252, F.S.; providing for the reimbursement of
 146 members of the Florida State Fair Authority for per
 147 diem and travel expenses; providing an effective date.
 148

149 Be It Enacted by the Legislature of the State of Florida:
 150

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

153 20.14 Department of Agriculture and Consumer Services.—
 154 There is created a Department of Agriculture and Consumer
 155 Services.

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

158 (m) Food, Nutrition, and Wellness.

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

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

165 (1) The Department of Environmental Protection shall
 166 perform all staff duties and functions related to the
 167 acquisition, administration, and disposition of state lands,
 168 title to which is or will be vested in the Board of Trustees of

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169 the Internal Improvement Trust Fund. However, upon the effective
 170 date of rules adopted pursuant to s. 373.427, a water management
 171 district created under s. 373.069 shall perform the staff duties
 172 and functions related to the review of any application for
 173 authorization to use board of trustees-owned submerged lands
 174 necessary for an activity regulated under part IV of chapter 373
 175 for which the water management district has permitting
 176 responsibility as set forth in an operating agreement adopted
 177 pursuant to s. 373.046(4). ~~and~~ The Department of Agriculture
 178 and Consumer Services shall perform the staff duties and
 179 functions related to the review of applications and compliance
 180 with conditions for use of board of trustees-owned submerged
 181 lands under authorizations or leases issued pursuant to ss.
 182 253.67-253.75 and 597.010 and the acquisition, administration,
 183 and disposition of conservation easements pursuant to s. 570.71.
 184 Unless expressly prohibited by law, the board of trustees may
 185 delegate to the department any statutory duty or obligation
 186 relating to the acquisition, administration, or disposition of
 187 lands, title to which is or will be vested in the board of
 188 trustees. The board of trustees may also delegate to any water
 189 management district created under s. 373.069 the authority to
 190 take final agency action, without any action on behalf of the
 191 board, on applications for authorization to use board of
 192 trustees-owned submerged lands for any activity regulated under
 193 part IV of chapter 373 for which the water management district
 194 has permitting responsibility as set forth in an operating
 195 agreement adopted pursuant to s. 373.046(4). This water
 196 management district responsibility under this subsection shall

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197 be subject to the department's general supervisory authority
 198 pursuant to s. 373.026(7). The board of trustees may also
 199 delegate to the Department of Agriculture and Consumer Services
 200 the authority to take final agency action on behalf of the board
 201 on applications to use board of trustees-owned submerged lands
 202 for any activity for which that department has responsibility
 203 pursuant to ss. 253.67-253.75, 369.25, 369.251, and 597.010.
 204 However, the board of trustees shall retain the authority to
 205 take final agency action on establishing any areas for leasing,
 206 new leases, expanding existing lease areas, or changing the type
 207 of lease activity in existing leases. Upon issuance of an
 208 aquaculture lease or other real property transaction relating to
 209 aquaculture, the Department of Agriculture and Consumer Services
 210 must send a copy of the document and the accompanying survey to
 211 the Department of Environmental Protection. The board of
 212 trustees may also delegate to the Fish and Wildlife Conservation
 213 Commission the authority to take final agency action, without
 214 any action on behalf of the board, on applications for
 215 authorization to use board of trustees-owned submerged lands for
 216 any activity regulated under ss. 369.20 and 369.22.

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

220 379.2523 Aquaculture definitions; marine aquaculture
 221 products, producers, and facilities.—

222 (5) The department shall:

223 (a) Coordinate with the Aquaculture Review Council, ~~the~~
 224 ~~Aquaculture Interagency Coordinating Council,~~ and the Department

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225 of Agriculture and Consumer Services when developing criteria
 226 for aquaculture general permits.

227 (6) The Fish and Wildlife Conservation Commission shall
 228 encourage the development of aquaculture in the state through
 229 the following:

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

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

243 2. Conducting research programs to evaluate candidate
 244 species when funding and staff are available.

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

251 4. Developing a working group, in cooperation with the
 252 Department of Agriculture and Consumer Services and the

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253 Aquaculture Review Council, ~~and the Aquaculture Interagency~~
 254 ~~Coordinating Council~~, to plan and facilitate the development of
 255 private marine fish and nonfish hatcheries and to encourage
 256 private/public partnerships to promote the production of marine
 257 aquaculture products.

258 Section 4. Paragraph (c) of subsection (3) of section
 259 379.2524, Florida Statutes, is amended to read:

260 379.2524 Commercial production of sturgeon.—

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

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

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

271 388.161 District boards of commissioners; powers and
 272 duties.—

273 (1) The board of commissioners may do any and all things
 274 necessary for the control and elimination of all species of
 275 mosquitoes and other arthropods of public health importance and
 276 the board of commissioners is specifically authorized to provide
 277 for the construction and maintenance of canals, ditches, drains,
 278 dikes, fills, and other necessary works and to install and
 279 maintain pumps, excavators, and other machinery and equipment,
 280 to use pesticides registered ~~oil, larvicide paris green, or any~~

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281 ~~other chemicals approved~~ by the department but only in such
 282 quantities as may be necessary to control mosquito breeding and
 283 not be detrimental to fish life.

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

286 388.201 District budgets; hearing.—

287 (4) The governing board:

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

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

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

298 388.323 Disposal of surplus property.—Surplus property
 299 shall be disposed of according to the provisions set forth in s.
 300 274.05 with the following exceptions:

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

308 (2) The alternative procedure for disposal of surplus

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309 | property, as prescribed in s. 274.06, shall be followed if it is
 310 | ~~has been~~ determined that no other county ~~or~~ district engaged in
 311 | arthropod control, ~~governmental unit, or private nonprofit~~
 312 | ~~agency~~ has need for the equipment.

313 | Section 8. Section 388.42, Florida Statutes, is repealed.

314 | Section 9. Subsection (2) of section 388.46, Florida
 315 | Statutes, is amended to read:

316 | 388.46 Florida Coordinating Council on Mosquito Control;
 317 | establishment; membership; organization; responsibilities.—

318 | (2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.—

319 | (a) Membership.—The Florida Coordinating Council on
 320 | Mosquito Control shall be comprised of the following
 321 | representatives or their authorized designees:

322 | 1. The Secretary of Environmental Protection and the State
 323 | Surgeon General;

324 | 2. The executive director of the Fish and Wildlife
 325 | Conservation Commission;

326 | 3. The state epidemiologist;

327 | 4. The Commissioner of Agriculture; and

328 | 5. Representatives from:

329 | a. The University of Florida, Institute of Food and
 330 | Agricultural Sciences, Florida Medical Entomological Research
 331 | Laboratory;

332 | ~~b. Florida Agricultural and Mechanical University;~~

333 | b. e- The United States Environmental Protection Agency;

334 | c. d- The United States Department of Agriculture, Insects
 335 | Affecting Man Laboratory;

336 | d. e- The United States Fish and Wildlife Service;

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

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

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

361 (c) Responsibilities.—The council shall:

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

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365 ~~2. Identify and recommend to Florida Agricultural and~~
 366 ~~Mechanical University research priorities for arthropod control~~
 367 ~~practices and technologies.~~

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

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

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

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

380 493.6104 Advisory council.—

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

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

387 500.09 Rulemaking; analytical work.—

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

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393 States Food and Drug Administration, when applicable and
 394 practicable.

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

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

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

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

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

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

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

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

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

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

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

430 502.014 Powers and duties.-

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

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

439 502.053 Permits and licenses; fees; requirements;
 440 exemptions; temporary permits.-

441 (1) PERMITS AND LICENSES.-

442 ~~(c) Any person who tests milk or milk products for milkfat~~
 443 ~~content by weight, volume, chemical, electronic, or other method~~
 444 ~~when the result of such test is used as a basis for payment for~~
 445 ~~the milk or milk products must apply to the department for a~~
 446 ~~license. To qualify for a license, the applicant must~~
 447 ~~demonstrate a sufficiency of knowledge, ability, and equipment~~
 448 ~~to adequately perform milkfat tests. The license shall be issued~~

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449 ~~for a period of 2 years after the date of first issuance upon~~
 450 ~~application to the department on forms prescribed by the~~
 451 ~~department.~~

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

455 (2) FEES.—

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

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

461 (3) REQUIREMENTS.—

462 (a) To obtain a ~~frozen dessert plant permit or milkfat~~
 463 ~~tester's license~~, an applicant must satisfy all requirements
 464 that are defined by the department in rule and must agree to
 465 comply with the applicable provisions of this chapter and rules
 466 adopted under this chapter. The department shall mail a copy of
 467 the permit ~~or license~~ to the applicant to signify that
 468 administrative requirements have been met.

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

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

476 570.07 Department of Agriculture and Consumer Services;

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477 functions, powers, and duties.—The department shall have and
 478 exercise the following functions, powers, and duties:

479 (42) To accept grants or other funds to distribute to
 480 individuals when such funds are provided pursuant to an
 481 agreement.

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

484 570.0705 Advisory committees.—From time to time the
 485 commissioner may appoint any advisory committee to assist the
 486 department with its duties and responsibilities.

487 (9) Notwithstanding s. 20.052(4)(d), members of each
 488 advisory committee, council, board, working group, task force,
 489 or other advisory body created by law within the department or
 490 created by the department under this section, may not shall
 491 receive ~~ne~~ compensation or honoraria, or per diem and
 492 reimbursement for travel expenses as provided in s. 112.061,
 493 unless specifically authorized by the commissioner for their
 494 services.

495 Section 17. Section 570.071, Florida Statutes, is
 496 repealed.

497 Section 18. Section 570.074, Florida Statutes, is amended
 498 to read:

499 570.074 Department of Agriculture and Consumer Services;
 500 ~~energy and water policy.~~—The commissioner may create an Office
 501 of Agricultural Energy and Water Policy under the supervision of
 502 a senior manager exempt under s. 110.205 in the Senior
 503 Management Service. The commissioner may designate the bureaus
 504 and positions in the various organizational divisions of the

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505 department that report to this office relating to any matter
 506 over which the department has jurisdiction in matters relating
 507 to ~~energy and~~ water policy affecting agriculture, application of
 508 such policies, and coordination of such matters with state and
 509 federal agencies.

510 Section 19. Section 570.18, Florida Statutes, is amended
 511 to read:

512 570.18 Organization of departmental work.—In the
 513 assignment of functions to the divisions of the department
 514 created in s. 20.14 ~~570.29~~, the department shall retain within
 515 the Division of Administration, in addition to executive
 516 functions, those powers and duties enumerated in s. 570.30. The
 517 department shall organize the work of the other divisions in
 518 such a way as to secure maximum efficiency in the conduct of the
 519 department. The divisions created in s. 20.14 ~~570.29~~ are solely
 520 to make possible the definite placing of responsibility. The
 521 department shall be conducted as a unit in which every employee,
 522 including each division director, is assigned a definite
 523 workload, and there shall exist between division directors a
 524 spirit of cooperative effort to accomplish the work of the
 525 department.

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

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

528 Section 22. Section 570.451, Florida Statutes, is created
 529 to read:

530 570.451 Agricultural Feed, Seed, and Fertilizer Advisory
 531 Council.—

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532 | (1) The Agricultural Feed, Seed, and Fertilizer Advisory
 533 | Council is created within the department.

534 | (2) The council is composed of the following 15 members
 535 | appointed by the commissioner:

536 | (a) One representative of the department.

537 | (b) One representative of the dean for extension of the
 538 | Institute of Food and Agricultural Sciences at the University of
 539 | Florida.

540 | (c) One representative each from the state's beef cattle,
 541 | poultry, aquaculture, field crops, citrus, vegetable, and dairy
 542 | production industries.

543 | (d) Two representatives each from the state's fertilizer,
 544 | seed, and commercial feed industries.

545 |
 546 | Each member shall be appointed for a term of up to 4 years and
 547 | shall serve until his or her successor is appointed.

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

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

558 | (c) The council shall meet at the call of its chair, at
 559 | the request of a majority of its members, at the request of the

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560 department, or at such time as an agricultural or environmental
 561 emergency arises, but not less than twice per year.

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

566 (4) The council shall:

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

572 (b) Provide advice to the department on the conduct of
 573 relevant enforcement activities.

574 (c) Receive reports on disciplinary actions.

575 (d) Make recommendations to the commissioner for actions
 576 to be taken with respect to the regulation of agricultural feed,
 577 seed, and fertilizer.

578 Section 23. Paragraph (e) of subsection (6) of section
 579 570.53, Florida Statutes, is amended to read:

580 570.53 Division of Marketing and Development; powers and
 581 duties.—The powers and duties of the Division of Marketing and
 582 Development include, but are not limited to:

583 (6)

584 (e) Extending in every practicable way the distribution
 585 and sale of Florida agricultural products throughout the markets
 586 of the world as required of the department by s. ~~ss.~~ 570.07(7),
 587 (8), (10), and (11) and ~~570.071~~ and chapters 571, 573, and 574.

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

590 570.54 Director; duties.—

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

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

599 573.112 Advisory council.—

600 (7) Notwithstanding any provision of this section, the
 601 Citrus Research and Development Foundation, Inc., a direct-
 602 support organization of the University of Florida established
 603 pursuant to s. 1004.28, shall serve as the advisory council for
 604 a citrus research marketing order, provide the department with
 605 advice on administering the order, and, in accordance with the
 606 order, conduct citrus research and perform other duties assigned
 607 by the department. Notwithstanding s. 1004.28(3) or any
 608 provision of this section, the foundation's board of directors
 609 shall be composed of 13 members, including 10 citrus growers, 2
 610 representatives of the university's Institute of Food and
 611 Agricultural Sciences, and 1 member appointed by the
 612 Commissioner of Agriculture, who are each entitled to receive
 613 reimbursement for per diem and travel expenses as provided in s.
 614 112.061.

615 Section 26. Subsection (4) of section 573.118, Florida

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616 Statutes, is amended to read:

617 573.118 Assessment; funds; review of accounts ~~audit~~;
618 loans.—

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

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

635 576.045 Nitrogen and phosphorus; findings and intent;
636 fees; purpose; best management practices; waiver of liability;
637 compliance; rules; exclusions; expiration.—

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

641 Section 28. Section 576.071, Florida Statutes, is amended
642 to read:

643 576.071 Commercial value.—The commercial value used in

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644 assessing penalties for any deficiency shall be determined by
 645 using annualized plant nutrient values contained in one or more
 646 generally recognized journals ~~recommended by the Fertilizer~~
 647 ~~Technical Council.~~

648 Section 29. Section 576.091, Florida Statutes, is
 649 repealed.

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

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

653 580.041 Master registration; fee; refusal or cancellation
 654 of registration; reporting.—

655 (1)

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

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

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

667 3. Reporting within 30 days after the end of each quarter,
 668 in the format prescribed by the department, the number of tons
 669 of feed distributed in the state during each of the following
 670 reporting periods: July through September, October through
 671 December, January through March, and April through June.

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672 ~~4.3.~~ Allowing the department to verify the accuracy of
 673 reported type and tonnage and to otherwise examine pertinent
 674 records at reasonable times.

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

680 Section 32. Section 580.131, Florida Statutes, is amended
 681 to read:

682 580.131 Penalty payable to consumer.—

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

688 (a) ~~(1)~~ If a certified laboratory analysis shows that any
 689 feed bearing a guarantee of 20 percent protein, or less, falls
 690 more than 1 percent protein below the guarantee, or if the
 691 analysis shows that any feed bearing a guarantee of more than 20
 692 percent protein falls more than 2 percent protein below the
 693 guarantee, \$4 per ton for each percent protein deficiency shall
 694 be assessed against the manufacturer or distributor.

695 (b) ~~(2)~~ If a certified laboratory analysis shows that any
 696 feed is deficient in fat by more than five-tenths percent fat,
 697 \$4 per ton for each percent fat deficiency shall be assessed
 698 against the manufacturer or distributor.

699 (c) ~~(3)~~ If a certified laboratory analysis shows that any

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700 feed bearing a maximum guarantee of not more than 20 percent
 701 fiber exceeds this guarantee by more than 1 percent fiber, or if
 702 the analysis shows that any feed bearing a maximum guarantee of
 703 more than 20 percent fiber exceeds this guarantee by more than 2
 704 percent fiber, \$4 per ton for each percent fiber excess shall be
 705 assessed against the manufacturer or distributor.

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

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

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

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

725 (2) (a) Within 60 days after the department notifies a
 726 registrant in writing of any penalty assessed under this
 727 section, the registrant shall pay the penalty to the consumer.

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728 If the consumer's identity cannot be determined, the registrant
 729 shall, within the 60-day period, pay the assessed penalty to the
 730 department.

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

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

740 Section 33. Section 580.151, Florida Statutes, is
 741 repealed.

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

744 581.011 Definitions.—As used in this chapter:

745 ~~(30) "Technical council" means the Plant Industry~~
 746 ~~Technical Council.~~

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

749 581.145 Aquatic plant nursery registration; special permit
 750 requirements.—

751 (3) Notwithstanding any other provision of state or
 752 federal law, the Department of Agriculture and Consumer Services
 753 shall issue, by request, a permit to the aquaculture producer to
 754 engage in the business of transporting and selling ~~exporting~~
 755 water hyacinths (*Eichhornia* spp.) only to other states or

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

777 | Section 36. Section 582.06, Florida Statutes, is amended
 778 | to read:

779 | 582.06 Soil and Water Conservation Council; powers and
 780 | duties.—

781 | (1) COMPOSITION.—The Soil and Water Conservation Council
 782 | is created in the Department of Agriculture and Consumer
 783 | Services and shall be composed of 7 ~~23~~ members ~~as follows:~~

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

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

798 (b) ~~(e)~~ All members shall be appointed by the commissioner.
 799 Members appointed pursuant to paragraph (b) shall be appointed
 800 by the commissioner from recommendations provided by the
 801 organization or interest represented.

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

806 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;
 807 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 808 recordkeeping of the Soil and Water Conservation Council, ~~and~~
 809 ~~per diem and reimbursement of expenses of council members,~~ shall
 810 be governed by the provisions of s. 570.0705 relating to
 811 advisory committees established within the department.

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

814 582.20 Powers of districts and supervisors.—A soil and
 815 water conservation district organized under the provisions of
 816 this chapter shall constitute a governmental subdivision of this
 817 state, and a public body corporate and politic, exercising
 818 public powers, and such district and the supervisors thereof,
 819 shall have the following powers, in addition to others granted
 820 in other sections of this chapter:

821 (2) To conduct demonstrational projects within the
 822 district's boundaries or territory contiguous to the district's
 823 boundaries ~~district~~ on lands owned or controlled by this state
 824 or any of its agencies, with the cooperation of the agency
 825 administering and having jurisdiction thereof, and on any other
 826 lands within the district's boundaries or territory contiguous
 827 to the district's boundaries ~~district~~ upon obtaining the consent
 828 of the owner and occupiers of such lands or the necessary rights
 829 or interests in such lands, in order to demonstrate by example
 830 the means, methods, and measures by which soil and soil
 831 resources may be conserved, and soil erosion in the form of soil
 832 blowing and soil washing may be prevented and controlled, and
 833 works of improvement for flood prevention or the conservation,
 834 development and utilization of soil and water resources, and the
 835 disposal of water may be carried out;

836 (3) To carry out preventive and control measures and works
 837 of improvement for flood prevention or the conservation,
 838 development and utilization of soil and water resources, and the
 839 disposal of water within the district's boundaries or territory

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840 contiguous to the district's boundaries ~~district~~, including, but
 841 not limited to, engineering operations, methods of cultivation,
 842 the growing of vegetation, changes in use of land, and the
 843 measures listed in s. 582.04 on lands owned or controlled by
 844 this state or any of its agencies, with the cooperation of the
 845 agency administering and having jurisdiction thereof, and on any
 846 other lands within the district's boundaries or territory
 847 contiguous to the district's boundaries ~~district~~ upon obtaining
 848 the consent of the owner and the occupiers of such lands or the
 849 necessary rights or interests in such lands;

850 (4) To cooperate, or enter into agreements with, and
 851 within the limits of appropriations duly made available to it by
 852 law, to furnish financial or other aid to, any agency,
 853 governmental or otherwise, or any owner or occupier of lands
 854 within the district's boundaries or territory contiguous to the
 855 district's boundaries ~~district~~, in the carrying on of erosion
 856 control or prevention operations and works of improvement for
 857 flood prevention or the conservation, development and
 858 utilization, of soil and water resources and the disposal of
 859 water within the district's boundaries or territory contiguous
 860 to the district's boundaries ~~district~~, subject to such
 861 conditions as the supervisors may deem necessary to advance the
 862 purposes of this chapter;

863 (6) To make available, on such terms as it shall
 864 prescribe, to landowners and occupiers within the district's
 865 boundaries or territory contiguous to the district's boundaries
 866 ~~district~~, agricultural and engineering machinery and equipment,
 867 fertilizer, seeds and seedlings, and such other material or

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868 equipment, as will assist such landowners and occupiers to carry
 869 on operations upon their lands for the conservation of soil
 870 resources and for the prevention or control of soil erosion and
 871 for flood prevention or the conservation, development and
 872 utilization, of soil and water resources and the disposal of
 873 water;

874 (8) To develop comprehensive plans for the conservation of
 875 soil and water resources and for the control and prevention of
 876 soil erosion and for flood prevention or the conservation,
 877 development and utilization of soil and water resources, and the
 878 disposal of water within the district's boundaries or territory
 879 contiguous to the district's boundaries ~~district~~, which plans
 880 shall specify in such detail as may be possible the acts,
 881 procedures, performances, and avoidances which are necessary or
 882 desirable for the effectuation of such plans, including the
 883 specification of engineering operations, methods of cultivation,
 884 the growing of vegetation, cropping programs, tillage practices,
 885 and changes in use of land; control of artesian wells; and to
 886 publish such plans and information and bring them to the
 887 attention of owners and occupiers of lands within the district's
 888 boundaries or territory contiguous to the district's boundaries
 889 ~~district~~;

890 (9) To take over, by purchase, lease, or otherwise, and to
 891 administer any soil-conservation, erosion-control, erosion-
 892 prevention project, or any project for flood-prevention or for
 893 the conservation, development and utilization of soil and water
 894 resources, and the disposal of water, located within the
 895 district's ~~its~~ boundaries or territory contiguous to the

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896 district's boundaries, undertaken by the United States or any of
 897 its agencies, or by this state or any of its agencies; to manage
 898 as agent of the United States or any of its agencies, or of the
 899 state or any of its agencies, any soil-conservation, erosion-
 900 control, erosion-prevention, or any project for flood-prevention
 901 or for the conservation, development, and utilization of soil
 902 and water resources, and the disposal of water within the
 903 district's ~~its~~ boundaries or territory contiguous to the
 904 district's boundaries; to act as agent for the United States, or
 905 any of its agencies, or for the state or any of its agencies, in
 906 connection with the acquisition, construction, operation or
 907 administration of any soil-conservation, erosion-control,
 908 erosion-prevention, or any project for flood-prevention or for
 909 the conservation, development and utilization of soil and water
 910 resources, and the disposal of water within the district's ~~its~~
 911 boundaries or territory contiguous to the district's boundaries;
 912 to accept donations, gifts, and contributions in money,
 913 services, materials, or otherwise, from the United States or any
 914 of its agencies, or from this state or any of its agencies, or
 915 from others, and to use or expend such moneys, services,
 916 materials or other contributions in carrying on its operations;

917 Section 38. Section 582.29, Florida Statutes, is amended
 918 to read:

919 582.29 State agencies to cooperate.—Agencies of this state
 920 which shall have jurisdiction over, or be charged with, the
 921 administration of any state-owned lands, and of any county, or
 922 other governmental subdivision of the state, which shall have
 923 jurisdiction over, or be charged with the administration of, any

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924 county-owned or other publicly owned lands, lying within the
 925 boundaries of any district organized under this chapter or
 926 territory contiguous to the district's boundaries, shall
 927 cooperate to the fullest extent with the supervisors of such
 928 districts in the effectuation of programs and operations
 929 undertaken by the supervisors under the provisions of this
 930 chapter. The supervisors of such districts shall be given free
 931 access to enter and perform work upon such publicly owned lands.
 932 The provisions of land use regulations adopted shall be in all
 933 respects observed by the agencies administering such publicly
 934 owned lands.

935 Section 39. Subsection (3) of section 582.30, Florida
 936 Statutes, is amended, and subsection (5) is added to that
 937 section, to read:

938 582.30 Discontinuance of districts; referendum;
 939 commissioner's authority.-

940 (3) In the alternative, ~~upon review and recommendation of~~
 941 ~~the Soil and Water Conservation Council regarding the continued~~
 942 ~~viability of a district~~, the Commissioner of Agriculture may
 943 dissolve or discontinue a such district if: ~~the commissioner~~
 944 ~~certifies that the continued operation of the district is not~~
 945 ~~administratively practicable and feasible.~~

946 (a) Upon review and recommendation of the Social and Water
 947 Conservation Council, the council determines that the continued
 948 operation of the district is not administratively practicable
 949 and feasible under the provisions of this chapter;

950 (b) The If A district fails ~~has failed~~ to comply with any
 951 ~~of the audit~~ or ~~and~~ financial reporting requirement ~~requirements~~

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952 | of chapter 189, or fails to comply with any requirement of s.
 953 | 582.20(1)-(9), and the commissioner, after review and
 954 | ~~confirmation by the department's inspector general~~ reviews and
 955 | confirms in writing that the district has failed to comply with
 956 | such requirement; or, may certify dissolution or discontinuance
 957 | ~~of such district without prior review and recommendation of the~~
 958 | ~~Soil and Water Conservation Council.~~

959 | (c) The department receives a resolution adopted by the
 960 | supervisors of the district requesting that the commissioner
 961 | issue a certificate determining that the continued operation of
 962 | the district is not administratively practicable and feasible
 963 | under the provisions of this chapter.

964 | (4) If the requirements for dissolution or discontinuance
 965 | of a district are satisfied under subsection (1), subsection
 966 | (2), or subsection (3), the department shall publish notice of a
 967 | ~~such~~ proposed certification determining that the continued
 968 | operation of the district is not administratively practicable
 969 | and feasible under the provisions of this chapter. The notice of
 970 | ~~dissolution or discontinuance~~ shall be published once a week for
 971 | 2 weeks in a newspaper of general circulation within the county
 972 | or counties in which ~~wherein~~ the district is located, stating
 973 | the name of the district and a general description of the
 974 | territory included in the district, and requiring that any
 975 | comments or objections to the proposed certification,
 976 | ~~dissolution~~ or any claims against the assets of the district,
 977 | must be filed with the department clerk not later than 60 days
 978 | after following the date of last publication.

979 | (5) (a) Upon expiration of the 60-day period after the date

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980 of last publication, the commissioner, upon review of any
 981 comments or objections received under subsection (4), may issue
 982 a certificate determining that the continued operation of the
 983 district is not administratively practicable and feasible under
 984 the provisions of this chapter.

985 (b) If the commissioner issues a certificate determining
 986 that the continued operation of a district is not
 987 administratively practicable and feasible under the provisions
 988 of this chapter, the department shall file the original
 989 certificate with the Department of State and shall provide a
 990 copy of the certificate to the supervisors of the district at
 991 the district's principal office designated under s.
 992 582.15(1)(c).

993 Section 40. Section 582.31, Florida Statutes, is amended
 994 to read:

995 582.31 Certification of results of referendum;
 996 dissolution.—Upon receipt from the Department of Agriculture and
 997 Consumer Services of a certification that the department has
 998 determined that the continued operation of the district is not
 999 administratively practicable and feasible, pursuant to the
 1000 provisions of this chapter, the supervisors shall forthwith
 1001 proceed to terminate the affairs of the district. The
 1002 supervisors shall dispose of all property belonging to the
 1003 district at public auction and shall pay over the proceeds of
 1004 such sale to be converted into the State Treasury, which amount
 1005 shall be placed to the credit of the district ~~department~~ for the
 1006 purpose of liquidating any legal obligations said district may
 1007 have at the time of its discontinuance. The supervisors shall

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1008 thereupon file an application, duly verified, with the
 1009 Department of State for the discontinuance of such district, and
 1010 shall transmit with such application the certificate of the
 1011 Department of Agriculture and Consumer Services setting forth
 1012 the determination of the department that the continued operation
 1013 of such district is not administratively practicable and
 1014 feasible. The application shall recite that the property of the
 1015 district has been disposed of and the proceeds paid over as in
 1016 this section provided, and shall set forth a full accounting of
 1017 such properties and proceeds of the sale. The Department of
 1018 State shall issue to the supervisors a certificate of
 1019 dissolution and shall record such certificate in an appropriate
 1020 book of record in its office.

1021 Section 41. Section 582.32, Florida Statutes, is amended
 1022 to read:

1023 582.32 Effect of dissolution; judgments; time limits
 1024 ~~Continuance of existing contracts, etc.-~~

1025 (1) Upon issuance of a certificate of dissolution all
 1026 previously adopted land use regulations ~~theretofore adopted and~~
 1027 in force within such districts are void ~~shall be of no further~~
 1028 ~~force and effect~~. All contracts theretofore entered into, to
 1029 which the district or supervisors are parties, shall remain in
 1030 force and effect for the period provided in such contracts. The
 1031 Department of Agriculture and Consumer Services shall be
 1032 substituted for the district or supervisors as party to such
 1033 contracts. ~~The department shall be entitled to all benefits and~~
 1034 ~~subject to all liabilities under such contracts and shall have~~
 1035 ~~the same right and liability to perform, to require performance,~~

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1036 ~~and to modify or terminate such contracts by mutual consent or~~
 1037 ~~otherwise, as the supervisors of the district would have had.~~
 1038 Such dissolution does ~~shall~~ not affect the lien of any judgment
 1039 entered under ~~the provisions of~~ this chapter or, ~~nor~~ the
 1040 pendency of any action instituted under ~~the provisions of~~ this
 1041 chapter, ~~and the department shall succeed to all the rights and~~
 1042 ~~obligations of the district or supervisors as to such liens and~~
 1043 ~~actions.~~

1044 (2) The department is ~~shall~~ not be required to entertain
 1045 petitions for the discontinuance of any district, ~~nor~~ conduct
 1046 referenda upon such petitions, or ~~nor~~ make determinations
 1047 pursuant to such petitions in accordance with ~~the provisions of~~
 1048 this chapter, more often than once in any 5-year period ~~5 years.~~

1049 Section 42. Section 585.155, Florida Statutes, is
 1050 repealed.

1051 Section 43. Section 589.03, Florida Statutes, is amended
 1052 to read:

1053 589.03 Compensation and allowances.—Members of the council
 1054 shall receive no compensation for the services which they may
 1055 render under the provisions of this chapter. ~~However, they shall~~
 1056 ~~be reimbursed for per diem and travel expenses as provided in s.~~
 1057 ~~112.061 for attending meetings of the council and in the~~
 1058 ~~performance of duties as members of the council, but the~~
 1059 ~~aggregate expense of all members of the council shall not,~~
 1060 ~~during any fiscal year, exceed the sum of \$2,500.~~

1061 Section 44. Section 589.19, Florida Statutes, is amended
 1062 to read:

1063 589.19 Creation of certain state forests; naming of

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1064 certain state forests.—

1065 (1) When the Board of Trustees of the Internal Improvement
 1066 Trust Fund, any state agency, or any agency created by state
 1067 law, authorized to accept reforestation lands in the name of the
 1068 state, approves the recommendations of the Florida Forest
 1069 Service ~~Division of Forestry~~ in reference to the acquisition of
 1070 land and acquire such land, the said board, state agency, or
 1071 agency created by state law, may formally designate and dedicate
 1072 any area as a reforestation project, or state forest, and where
 1073 so designated and dedicated such area shall be under the
 1074 administration of the Florida Forest Service, ~~division~~ which is
 1075 ~~shall be~~ authorized to manage and administer such ~~said~~ area
 1076 according to the purpose for which it was designated and
 1077 dedicated.

1078 (2) The first state forest acquired by the Board of
 1079 Trustees of the Internal Improvement Trust Fund in Baker County
 1080 is to be named the John M. Bethea State Forest. This is to honor
 1081 Mr. John M. Bethea who was Florida's fourth state forester and
 1082 whose distinguished career in state government spanned 46 years
 1083 and who is a native of Baker County.

1084 (3) The state forest managed by the Florida Forest Service
 1085 ~~Division of Forestry~~ in Seminole County is to be named the
 1086 Charles H. Bronson State Forest to honor Charles H. Bronson, the
 1087 tenth Commissioner of Agriculture, for his distinguished
 1088 contribution to this state's agriculture and natural resources.

1089 (4) (a) The Florida Forest Service ~~Division of Forestry~~
 1090 shall designate one or more areas of state forests as an
 1091 "Operation Outdoor Freedom a "Wounded Warrior Special Hunt Area"

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1092 to honor wounded veterans and servicemembers. The purpose of
 1093 such designated areas is to provide special outdoor recreational
 1094 opportunities for eligible veterans and servicemembers.

1095 (b) The Florida Forest Service ~~division~~ shall limit guest
 1096 admittance to such designated areas to any person who:

1097 1. Is an active duty member of any branch of the United
 1098 States Armed Forces and has a combat-related injury as
 1099 determined by his or her branch of the United States Armed
 1100 Forces; or

1101 2. Is a veteran who served during a period of wartime
 1102 service as defined in s. 1.01(14) or peacetime service as
 1103 defined in s. 296.02 and:

1104 a. Has a service-connected disability as determined by the
 1105 United States Department of Veterans Affairs; or

1106 b. Was discharged or released from military service
 1107 because of a disability acquired or aggravated while serving on
 1108 active duty.

1109 (c) The Florida Forest Service ~~division~~ may grant
 1110 admittance to such designated areas to a person who is not an
 1111 eligible veteran or servicemember for purposes of accompanying
 1112 an eligible veteran or servicemember who requires the person's
 1113 assistance to use such designated areas.

1114 (d) Funding required for specialized accommodations shall
 1115 be provided through the Friends of Florida State Forests Program
 1116 created under s. 589.012.

1117 (e) The Florida Forest Service ~~division~~ may adopt rules to
 1118 administer this subsection.

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1119 Section 45. Section 589.277, Florida Statutes, is amended
 1120 to read:

1121 589.277 Tree planting programs.—

1122 (1) The ~~Division of Forestry of the~~ Florida Forest Service
 1123 ~~Department of Agriculture and Consumer Services~~ shall administer
 1124 federal, state, and privately sponsored tree planting programs
 1125 designed to assist private rural landowners and urban
 1126 communities.

1127 (2) Contributions from governmental and private sources
 1128 for tree planting programs may be accepted into the Federal
 1129 Grants Trust Fund or the Incidental Trust Fund of the Florida
 1130 Forest Service.

1131 (3) The Florida Forest Service shall ~~Division of Forestry~~
 1132 ~~is authorized and directed to~~ develop and implement guidelines
 1133 and procedures under which the financial resources of the fund
 1134 allocated for tree planting programs may be utilized for urban
 1135 and rural reforestation.

1136 (4) Grants to municipalities, counties, nonprofit
 1137 organizations, and qualifying private landowners may be made
 1138 from allocated moneys in the fund for the purpose of purchasing,
 1139 planting, and maintaining native tree species.

1140 (5) The Florida Forest Service ~~Division of Forestry~~ shall
 1141 assist the Department of Education in developing programs that
 1142 teach the importance of trees in the urban, rural, and global
 1143 environment.

1144 Section 46. Section 590.02, Florida Statutes, is amended
 1145 to read:

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1146 590.02 Florida Forest Service; ~~Division~~ powers, authority,
 1147 and duties; liability; building structures; Florida Center for
 1148 Wildfire and Forest Resources Management Training.—

1149 (1) The Florida Forest Service ~~division~~ has the following
 1150 powers, authority, and duties:

1151 (a) To enforce the provisions of this chapter;

1152 (b) To prevent, detect, suppress, and extinguish wildfires
 1153 wherever they may occur on public or private land in this state
 1154 and to do all things necessary in the exercise of such powers,
 1155 authority, and duties;

1156 (c) To provide firefighting crews, who shall be under the
 1157 control and direction of the Florida Forest Service ~~division~~ and
 1158 its designated agents;

1159 (d) To appoint center managers, forest area supervisors,
 1160 forestry program administrators, a forest protection bureau
 1161 chief, a forest protection assistant bureau chief, a field
 1162 operations bureau chief, deputy chiefs of field operations,
 1163 district managers, forest operations administrators, senior
 1164 forest rangers, investigators, forest rangers, firefighter
 1165 rotorcraft pilots, and other employees who may, at the Florida
 1166 Forest Service's ~~division's~~ discretion, be certified as forestry
 1167 firefighters pursuant to s. 633.35(4). Other provisions of law
 1168 notwithstanding, center managers, district managers, forest
 1169 protection assistant bureau chief, and deputy chiefs of field
 1170 operations shall have Selected Exempt Service status in the
 1171 state personnel designation;

1172 (e) To develop a training curriculum for forestry
 1173 firefighters which must contain the basic volunteer structural

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1174 fire training course approved by the Florida State Fire College
 1175 of the Division of State Fire Marshal and a minimum of 250 hours
 1176 of wildfire training;

1177 (f) To make rules to accomplish the purposes of this
 1178 chapter;

1179 (g) To provide fire management services and emergency
 1180 response assistance and to set and charge reasonable fees for
 1181 performance of those services. Moneys collected from such fees
 1182 shall be deposited into the Incidental Trust Fund of the Florida
 1183 Forest Service ~~division~~; and

1184 (h) To require all state, regional, and local government
 1185 agencies operating aircraft in the vicinity of an ongoing
 1186 wildfire to operate in compliance with the applicable state
 1187 Wildfire Aviation Plan.

1188 (2) The Florida Forest Service's ~~Division~~ employees, and
 1189 the firefighting crews under their control and direction, may
 1190 enter upon any lands for the purpose of preventing and
 1191 suppressing wildfires and investigating smoke complaints or open
 1192 burning not in compliance with authorization and to enforce the
 1193 provisions of this chapter.

1194 (3) Employees of the Florida Forest Service ~~division~~ and
 1195 of federal, state, and local agencies, and all other persons and
 1196 entities that are under contract or agreement with the Florida
 1197 Forest Service ~~division~~ to assist in firefighting operations as
 1198 well as those entities, called upon by the Florida Forest
 1199 Service ~~division~~ to assist in firefighting may, in the
 1200 performance of their duties, set counterfires, remove fences and
 1201 other obstacles, dig trenches, cut firelines, use water from

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1202 public and private sources, and carry on all other customary
 1203 activities in the fighting of wildfires without incurring
 1204 liability to any person or entity.

1205 (4) (a) The department may build structures,
 1206 notwithstanding chapters 216 and 255, not to exceed a cost of
 1207 \$50,000 per structure from existing resources on forest lands,
 1208 federal excess property, and unneeded existing structures. These
 1209 structures must meet all applicable building codes.

1210 (b) Notwithstanding s. 553.80(1), the department shall
 1211 exclusively enforce the Florida Building Code as it pertains to
 1212 wildfire and law enforcement facilities under the jurisdiction
 1213 of the department.

1214 (5) The Florida Forest Service ~~division~~ shall organize its
 1215 operational units to most effectively prevent, detect, and
 1216 suppress wildfires, and to that end, may employ the necessary
 1217 personnel to manage its activities in each unit. The Florida
 1218 Forest Service ~~division~~ may construct lookout towers, roads,
 1219 bridges, firelines, and other facilities and may purchase or
 1220 fabricate tools, supplies, and equipment for firefighting. The
 1221 Florida Forest Service ~~division~~ may reimburse the public and
 1222 private entities that it engages to assist in the suppression of
 1223 wildfires for their personnel and equipment, including aircraft.

1224 (6) The Florida Forest Service ~~division~~ shall undertake
 1225 privatization alternatives for fire prevention activities
 1226 including constructing fire lines and conducting prescribed
 1227 burns and, where appropriate, entering into agreements or
 1228 contracts with the private sector to perform such activities.

1229 (7) The Florida Forest Service ~~division~~ may organize,

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1230 staff, equip, and operate the Florida Center for Wildfire and
 1231 Forest Resources Management Training. The center shall serve as
 1232 a site where fire and forest resource managers can obtain
 1233 current knowledge, techniques, skills, and theory as they relate
 1234 to their respective disciplines.

1235 (a) The center may establish cooperative efforts involving
 1236 federal, state, and local entities; hire appropriate personnel;
 1237 and engage others by contract or agreement with or without
 1238 compensation to assist in carrying out the training and
 1239 operations of the center.

1240 (b) The center shall provide wildfire suppression training
 1241 opportunities for rural fire departments, volunteer fire
 1242 departments, and other local fire response units.

1243 (c) The center will focus on curriculum related to, but
 1244 not limited to, fuel reduction, an incident management system,
 1245 prescribed burning certification, multiple-use land management,
 1246 water quality, forest health, environmental education, and
 1247 wildfire suppression training for structural firefighters.

1248 (d) The center may assess appropriate fees for food,
 1249 lodging, travel, course materials, and supplies in order to meet
 1250 its operational costs and may grant free meals, room, and
 1251 scholarships to persons and other entities in exchange for
 1252 instructional assistance.

1253 (e) An advisory committee consisting of the following
 1254 individuals or their designees must review program curriculum,
 1255 course content, and scheduling: the director of the Florida
 1256 Forest Service Division of Forestry; the assistant director of
 1257 the Florida Forest Service Division of Forestry; the director of

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

1271 (8) The Cross City Work Center shall be named the L. Earl
 1272 Peterson Forestry Station. This is to honor Mr. L. Earl
 1273 Peterson, Florida's sixth state forester, whose distinguished
 1274 career in state government has spanned 44 years, and who is a
 1275 native of Dixie County.

1276 (9)(a) Notwithstanding ss. 273.055 and 287.16, the
 1277 department may retain, transfer, warehouse, bid, destroy, scrap,
 1278 or otherwise dispose of surplus equipment and vehicles that are
 1279 used for wildland firefighting.

1280 (b) All money received from the disposition of state-owned
 1281 equipment and vehicles that are used for wildland firefighting
 1282 shall be retained by the department. Money received pursuant to
 1283 this section is appropriated for and may be disbursed for the
 1284 acquisition of exchange and surplus equipment used for wildland
 1285 firefighting, and for all necessary operating expenditures

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Redraft - B

YEAR

1286 related to such equipment, in the same fiscal year and the
 1287 fiscal year following the disposition. The department shall
 1288 maintain records of the accounts into which the money is
 1289 deposited.

1290 (10)(a) The Florida Forest Service ~~division~~ has exclusive
 1291 authority to require and issue authorizations for broadcast
 1292 burning and agricultural and silvicultural pile burning. An
 1293 agency, commission, department, county, municipality, or other
 1294 political subdivision of the state may not adopt or enforce
 1295 laws, regulations, rules, or policies pertaining to broadcast
 1296 burning or agricultural and silvicultural pile burning unless an
 1297 emergency order is declared in accordance with s. 252.38(3).

1298 (b) The Florida Forest Service ~~division~~ may delegate to a
 1299 county or municipality its authority, as delegated by the
 1300 Department of Environmental Protection pursuant to ss.
 1301 403.061(28) and 403.081, to require and issue authorizations for
 1302 the burning of yard trash and debris from land clearing
 1303 operations in accordance with s. 590.125(6).

1304 Section 47. Subsection (3) of section 597.0021, Florida
 1305 Statutes, is amended to read:

1306 597.0021 Legislative intent.—

1307 (3) It is the intent of the Legislature that the
 1308 Aquaculture Review Council is ~~and the Aquaculture Interagency~~
 1309 ~~Coordinating Council~~ are established to provide a means of
 1310 communication between the aquaculture industry and the
 1311 regulatory agencies.

1312 Section 48. Paragraphs (b) and (d) of subsection (1) of
 1313 section 597.003, Florida Statutes, are amended to read:

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YEAR

1314 597.003 Powers and duties of Department of Agriculture and
 1315 Consumer Services.-

1316 (1) The department is hereby designated as the lead agency
 1317 in encouraging the development of aquaculture in the state and
 1318 shall have and exercise the following functions, powers, and
 1319 duties with regard to aquaculture:

1320 (b) Coordinate the development, annual revision, and
 1321 implementation of a state aquaculture plan. The plan shall
 1322 include prioritized recommendations for research and development
 1323 as suggested by the Aquaculture Review Council, ~~the Aquaculture~~
 1324 ~~Interagency Coordinating Council,~~ and public and private
 1325 institutional research, extension, and service programs.

1326 (d) Provide staff for the Aquaculture Review Council ~~and~~
 1327 ~~the Aquaculture Interagency Coordinating Council.~~

1328 Section 49. Paragraph (j) is added to subsection (1) of
 1329 section 597.004, Florida Statutes, to read:

1330 597.004 Aquaculture certificate of registration.-

1331 (1) CERTIFICATION.-Any person engaging in aquaculture must
 1332 be certified by the department. The applicant for a certificate
 1333 of registration shall submit the following to the department:

1334 (j) The annual registration fee is waived for each
 1335 elementary, middle, or high school and each vocational school
 1336 that participates in the aquaculture certification program.

1337 Section 50. Subsection (1), paragraphs (a) and (b) of
 1338 subsection (2), and paragraph (h) of subsection (3) of section
 1339 597.005, Florida Statutes, are amended to read:

1340 597.005 Aquaculture Review Council.-

1341 (1) COMPOSITION.-There is created within the department

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1342 the Aquaculture Review Council to consist of eight ~~nine~~ members
 1343 as follows: the chair of the State Agricultural Advisory Council
 1344 or designee; ~~the chair of the Aquaculture Interagency~~
 1345 ~~Coordinating Council~~; and seven additional members to be
 1346 appointed by the commissioner, including an alligator farmer, a
 1347 food fish farmer, a shellfish farmer, a tropical fish farmer, an
 1348 aquatic plant farmer, a representative of the commercial fishing
 1349 industry, and a representative of the aquaculture industry at
 1350 large. Members shall be appointed for 4-year terms. Each member
 1351 shall be selected from no fewer than two or more than three
 1352 nominees submitted by recognized statewide organizations
 1353 representing each industry segment or the aquaculture industry
 1354 at large. In the absence of nominees, the commissioner shall
 1355 appoint persons who otherwise meet the qualifications for
 1356 appointment to the council. Members shall serve until their
 1357 successors are duly qualified and appointed. An appointment to
 1358 fill a vacancy shall be for the unexpired portion of the term.

1359 (2) MEETINGS; PROCEDURES; RECORDS.-

1360 (a) The members of the council shall meet at least
 1361 quarterly; shall elect a chair, a vice chair, and a secretary,
 1362 ~~and an industry representative to the Aquaculture Interagency~~
 1363 ~~Coordinating Council~~; and shall use accepted rules of procedure.
 1364 The terms of such officers shall be for 1 year.

1365 (b) The council shall meet at the call of its chair, at
 1366 the request of a majority of its membership, at the request of
 1367 the department, or at such times as may be prescribed by its
 1368 rules of procedure. ~~However, the council shall hold a joint~~
 1369 ~~annual meeting with the Aquaculture Interagency Coordinating~~

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1370 ~~Council.~~

1371 (3) RESPONSIBILITIES.—The primary responsibilities of the

1372 Aquaculture Review Council are to:

1373 (h) For any problem that cannot be solved through simple

1374 cooperation or negotiation, provide an issue analysis ~~to the~~

1375 ~~Aquaculture Interagency Coordinating Council~~ and to the chairs

1376 of the legislative agriculture appropriations committees. The

1377 analysis shall include, but not be limited to, specific facts

1378 and industry hardships, regulatory provisions, questions

1379 relative to the issue, and suggestions for solving the problem.

1380 Section 51. Section 597.006, Florida Statutes, is

1381 repealed.

1382 Section 52. Subsection (3) of section 616.252, Florida

1383 Statutes, is amended to read:

1384 616.252 Florida State Fair Authority; membership; number,

1385 terms, compensation.—

1386 (3) Members of the authority are not entitled to

1387 compensation for their services as members but shall be

1388 reimbursed for per diem and travel expenses as provided in s.

1389 112.061 ~~and may not be reimbursed for travel expenses.~~ Except

1390 for the nonvoting youth member, each member may be compensated

1391 for any special or full-time service performed in the

1392 authority's behalf as officers or agents of the authority.

1393 Section 53. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 12-01 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:

4
5 **Amendment**

6 Remove line 393 and insert:
7 States Department of Health and Human Services, Public Health
8 Service, and Food and Drug Administration, when applicable and
9

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 12-01 (2012)

Amendment No. 2

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 PCB: Agriculture & Natural
2 Resources Subcommittee

3 Representative Caldwell offered the following:

Amendment (with title amendment)

6 Remove lines 491-493 and insert:
7 receive no compensation per diem and reimbursement for travel
8 expenses as provided in s. 112.061 for their services.

12
13 **T I T L E A M E N D M E N T**

14 Remove lines 45-46 and insert:
15 receiving per diem, or travel expenses; repealing
16

Amendment No. 3

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 PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:

Amendment (with title amendment)

6 Remove line 613 and insert:
7 reimbursement from the foundation for per diem and travel
8 expenses as provided in s.

12 -----
13 **T I T L E A M E N D M E N T**

14 Remove line 64 and insert:
15 reimbursement from the foundation for per diem and travel
16 expenses;

Amendment No. 4

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 PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:

Amendment (with title amendment)

6 Remove lines 822-926 and insert:
7 district's boundaries, or on lands where no district exists, or
8 on lands within another district with the concurrence of such
9 district, ~~district~~ on lands owned or controlled by this state or
10 any of its agencies, with the cooperation of the agency
11 administering and having jurisdiction thereof;⁷ and on any other
12 lands within the district's boundaries, or on lands where no
13 district exists, or on lands within another district with the
14 concurrence of such district, ~~district~~ upon obtaining the
15 consent of the owner and occupiers of such lands or the
16 necessary rights or interests in such lands, in order to
17 demonstrate by example the means, methods, and measures by which
18 soil and soil resources may be conserved, and soil erosion in
19 the form of soil blowing and soil washing may be prevented and

Amendment No. 4

20 controlled, and works of improvement for flood prevention or the
21 conservation, development and utilization of soil and water
22 resources, and the disposal of water may be carried out;

23 (3) To carry out preventive and control measures and works
24 of improvement for flood prevention or the conservation,
25 development and utilization of soil and water resources, and the
26 disposal of water within the district's boundaries, or on lands
27 where no district exists, or on lands within another district
28 with the concurrence of such district, including, but not
29 limited to, engineering operations, methods of cultivation, the
30 growing of vegetation, changes in use of land, and the measures
31 listed in s. 582.04 on lands owned or controlled by this state
32 or any of its agencies, with the cooperation of the agency
33 administering and having jurisdiction thereof; and on any other
34 lands within the district's boundaries, or on lands where no
35 district exists, or on lands within another district with the
36 concurrence of such district upon obtaining the consent of the
37 owner and the occupiers of such lands or the necessary rights or
38 interests in such lands;

39 (4) To cooperate, or enter into agreements with, and
40 within the limits of appropriations duly made available to it by
41 law, to furnish financial or other aid to, any agency,
42 governmental or otherwise, or any owner or occupier of lands
43 within the district's boundaries, or on lands where no district
44 exists, or on lands within another district with the concurrence
45 of such district, in the carrying on of erosion control or
46 prevention operations and works of improvement for flood
47 prevention or the conservation, development and utilization, of
PCB ANRS 12-01 a4

Amendment No. 4

48 soil and water resources and the disposal of water within the
49 district's boundaries, or on lands where no district exists, or
50 on lands within another district with the concurrence of such
51 district, subject to such conditions as the supervisors may deem
52 necessary to advance the purposes of this chapter;

53 (6) To make available, on such terms as it shall
54 prescribe, to landowners and occupiers within the district's
55 boundaries, or on lands where no district exists, or on lands
56 within another district with the concurrence of such district,
57 agricultural and engineering machinery and equipment,
58 fertilizer, seeds and seedlings, and such other material or
59 equipment, as will assist such landowners and occupiers to carry
60 on operations upon their lands for the conservation of soil
61 resources and for the prevention or control of soil erosion and
62 for flood prevention or the conservation, development and
63 utilization, of soil and water resources and the disposal of
64 water;

65 (8) To develop comprehensive plans for the conservation of
66 soil and water resources and for the control and prevention of
67 soil erosion and for flood prevention or the conservation,
68 development and utilization of soil and water resources, and the
69 disposal of water within the district's boundaries, or on lands
70 where no district exists, or on lands within another district
71 with the concurrence of such district, which plans shall specify
72 in such detail as may be possible the acts, procedures,
73 performances, and avoidances which are necessary or desirable
74 for the effectuation of such plans, including the specification
75 of engineering operations, methods of cultivation, the growing

PCB ANRS 12-01 a4

Amendment No. 4

76 of vegetation, cropping programs, tillage practices, and changes
77 in use of land; control of artesian wells; and to publish such
78 plans and information and bring them to the attention of owners
79 and occupiers of lands within the district's boundaries, or on
80 lands where no district exists, or on lands within another
81 district with the concurrence of such district;

82 (9) To take over, by purchase, lease, or otherwise, and to
83 administer any soil-conservation, erosion-control, erosion-
84 prevention project, or any project for flood-prevention or for
85 the conservation, development and utilization of soil and water
86 resources, and the disposal of water, located within the
87 district's ~~its~~ boundaries, or on lands where no district exists,
88 or on lands within another district with the concurrence of such
89 district, undertaken by the United States or any of its
90 agencies, or by this state or any of its agencies; to manage as
91 agent of the United States or any of its agencies, or of the
92 state or any of its agencies, any soil-conservation, erosion-
93 control, erosion-prevention, or any project for flood-prevention
94 or for the conservation, development, and utilization of soil
95 and water resources, and the disposal of water within the
96 district's ~~its~~ boundaries, or on lands where no district exists,
97 or on lands within another district with the concurrence of such
98 district; to act as agent for the United States, or any of its
99 agencies, or for the state or any of its agencies, in connection
100 with the acquisition, construction, operation or administration
101 of any soil-conservation, erosion-control, erosion-prevention,
102 or any project for flood-prevention or for the conservation,
103 development and utilization of soil and water resources, and the
PCB ANRS 12-01 a4

Amendment No. 4

104 disposal of water within the district's ~~its~~ boundaries, or on
105 lands where no district exists, or on lands within another
106 district with the concurrence of such district; to accept
107 donations, gifts, and contributions in money, services,
108 materials, or otherwise, from the United States or any of its
109 agencies, or from this state or any of its agencies, or from
110 others, and to use or expend such moneys, services, materials or
111 other contributions in carrying on its operations;

112 Section 38. Section 582.29, Florida Statutes, is amended
113 to read:

114 582.29 State agencies to cooperate.—Agencies of this state
115 which shall have jurisdiction over, or be charged with, the
116 administration of any state-owned lands, and of any county, or
117 other governmental subdivision of the state, which shall have
118 jurisdiction over, or be charged with the administration of, any
119 county-owned or other publicly owned lands, lying within the
120 boundaries of any district organized under this chapter, or on
121 lands where no district exists, or on lands within another
122 district with the concurrence of such district, shall
123
124
125

126 -----
127 **T I T L E A M E N D M E N T**

128 Remove lines 101-102 and insert:
129 to include lands where no district exists or on lands within
130 another district with the concurrence of such district; amending
131 s. 582.30, F.S.; revising
PCB ANRS 12-01 a4

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 12-01 (2012)

Amendment No. 5

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 PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:

4
5 **Amendment**
6 Remove line 946 and insert:
7 (a) Upon review and recommendation of the Soil and Water
8

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 12-01 (2012)

Amendment No. 6

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 PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:
4

Amendment (with title amendment)

Remove lines 1021-1048

T I T L E A M E N D M E N T

Remove lines 110-113 and insert:

Treasury;

Amendment No. 7

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 PCB: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Caldwell offered the following:

Amendment (with directory and title amendments)

Remove lines 1053-1060

D I R E C T O R Y A M E N D M E N T

Remove line 1051 and insert:

Section 43. Section 589.03, Florida Statutes, is repealed.

T I T L E A M E N D M E N T

Remove lines 115-118 and insert:

and vaccination of cattle for brucellosis; repealing s. 589.03,
F.S.; relating to compensation and allowance for the Florida
Forestry Council; amending s. 589.19, F.S.;

Amendment No. 8

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 PCB: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Caldwell offered the following:

Amendment (with title amendment)

6 Remove line 1388 and insert:
 7 reimbursed by the authority for per diem and travel expenses as
 8 provided in s.

12 -----
 13 **T I T L E A M E N D M E N T**

14 Remove line 145 and insert:
 15 s. 616.252, F.S.; providing for the reimbursement by the Florida
 16 State Fair Authority of

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANRS 12-02 Environmental Resource Permitting
SPONSOR(S): Agriculture & Natural Resources Subcommittee
TIED BILLS: None IDEN./SIM. BILLS: None

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: Orig. Comm.: Agriculture & Natural Resources Subcommittee, Deslatte, Blalock

SUMMARY ANALYSIS

Part IV of Chapter 373, F.S., establishes the Environmental Resource Permit (ERP) program, which is the primary tool used by the Department of Environmental Protection (DEP) and the Water Management Districts (WMDs) for preserving natural resources, fish and wildlife, minimizing degradation of water resources caused by stormwater discharges, and providing for the management of water and related land resources.

ERP applications are processed by either the DEP or one of the state's WMDs in accordance with the division of responsibilities specified in operating agreements between the DEP and the WMDs. The agreements set out which entity has regulatory authority for implementing the ERP program based on the type of permitted activity.

The WMDs review all other ERP applications.

The bill directs the DEP, in coordination with the WMDs, to adopt statewide ERP rules that would be implemented by the DEP and the WMDs, without further rulemaking by the WMDs. The purpose of the rule is to improve statewide consistency in implementing criteria and standards for issuance of permits, permitting thresholds, permit types, application and reporting forms, procedural review, agency action, and noticing requirements.

The bill also provides that the DEP's Applicant's Handbook must contain, at a minimum, general program information, application and review procedures, a specific discussion of how environmental criteria are evaluated, and a discussion of stormwater quality and quantity criteria. The WMDs can continue to adopt rules governing the design and performance standards for stormwater quality and quantity, and the DEP can incorporate these design and performance standards by reference for use within the geographical jurisdiction of each WMD.

Until the rules adopted become effective, existing rules adopted pursuant to part IV of chapter 373, F.S., remain in full force and effect. Existing rules that are superseded by the rules adopted pursuant to this section may be repealed without further rulemaking pursuant to s. 120.54, F.S., by publication of a notice of repeal in the Florida Administrative Weekly and subsequent filing of a list of the rules repealed with the Department of State.

There does not appear to be a fiscal impact on state or local governments. According to the DEP, the ERP application fees would not be changed at this time. The permitting thresholds may cause some entities to have to obtain a permit where they currently do not, and other entities to not require a permit where they currently do.

1 Chapter 120, F.S. is the Administrative Procedures Act.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Part IV of Chapter 373, F.S., establishes the Environmental Resource Permit (ERP) program, which is the primary tool used by the Department of Environmental Protection (DEP) and the Water Management Districts (WMDs) for preserving natural resources, fish and wildlife, minimizing degradation of water resources caused by stormwater discharges, and providing for the management of water and related land resources. The ERP program is a merging of much of DEP's dredge and fill permitting program, previously implemented under ss. 403.91 and 403.929, F.S., with the WMD's management and storage of surface waters (MSSW) permitting program under chapter 373, part IV.

The activities regulated under the ERP program include the construction, alteration, operation, maintenance, abandonment and removal of "stormwater management systems", "dams", "impoundments", "reservoirs", "appurtenant works", and "works". Individually and collectively these terms are referred to as "surface water management systems" or "systems". Common examples of surface water management systems which affect surface waters include ditches, canals, borrow pits, mines, buildings, parking lots, and roads with their associated culverts. The "dredging" and "filling" of wetlands or other surface waters is also regulated under the ERP program, just as it was under the MSSW program prior to the ERP consolidation. In addition to DEP, the "dredging and filling" of certain wetlands and navigable water bodies is also regulated by the U.S. Army Corps of Engineers and local governments. The term "filling" includes the placement or depositing of any material that is placed in wetlands or other surface waters. Dirt, sand, gravel, rocks, shell, pilings, and concrete are all considered fill if placed in wetlands. The term "dredging" refers to any type of excavation conducted in wetlands or other surface waters. Dredging includes digging, pulling up vegetation by the roots, leaving vehicular ruts, or any other activity that disturbs the soil.

Alteration of wetlands and other surface waters may have a detrimental impact on the environment. Such impacts can extend beyond the limits of the work site, affecting other public or private property. Polluted waters can be conveyed off-site through connecting water bodies. The elimination or degradation of wetlands causes a reduction of beneficial functions provided by the wetlands. A person proposing to construct a regulated surface water management system or a person seeking to dredge or fill wetlands must first receive an ERP.

ERP applications are processed by either the DEP or one of the state's WMDs in accordance with the division of responsibilities specified in operating agreements between the DEP and the WMDs. The agreements set out which entity has regulatory authority for implementing the ERP program based on the type of permitted activity. The division of responsibility ensures that applicants need only apply for permits from the DEP or the individual WMD, but not both. Generally, the DEP reviews permit applications that involve the following:

- Solid, hazardous, domestic and industrial waste facilities;
- Mining, except borrow pits;
- Power plants, transmission and communication cables and lines, and oil and gas activities;
- Certain docking facilities and structures, and dredging that is not part of a larger development plan;
- Navigational dredging by government entities that is not part of a larger project permitted by a WMD;
- Certain types of systems located seaward of the coastal construction control line or those serving a single family dwelling unit or residential unit;
- Seaports; and
- Smaller, separate water-related activities not part of a larger development plan.

The WMDs review all other ERP applications.

To obtain an ERP, an applicant must provide reasonable assurance that:

- The construction or alteration of a surface water management system or “system” will not be harmful to the water resources of the district².
- The operation or maintenance of a surface water management system will not be harmful to the water resources of the district and will not be inconsistent with the overall objectives of the district³.
- The abandonment or removal of a surface water management system will not be inconsistent with the overall objectives of the district⁴.

In addition, proposed projects must meet all permit conditions and a public interest balancing test, pursuant to s. 373.414(1)(a), F.S. The public interest test is based on the following criteria:

- Whether the activity will adversely affect the public health, safety, or welfare or the property of others;
- Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
- Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- Whether the activity will be of a temporary or permanent nature;
- Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of s. 367.061, F.S.; and
- The current condition and relative value of functions being performed by areas affected by the proposed activity.

The statutory standards described above, harm to the water resources and inconsistency with the overall objectives of the district, have been implemented by the DEP and WMDs through their rules. The rules of the WMDs are partly codified in the Florida Administrative Code, and partly contained in manuals published by the WMDs. The manuals of each of the WMDs are called either an Applicant’s Handbook or a Basis of Review. The relevant portions of each WMDs Applicant’s Handbook or Basis of Review are adopted as rules by reference in the Florida Administrative Code. Provisions of the St. Johns River Water Management District’s (SJRWMD) Applicant’s Handbook are adopted as rules by reference in Rule 40C–4.091. The other water management districts adopt provisions of their Applicant’s Handbooks or Basis of Review as rules by reference in Rules 40B–400.091(1), 40C–4.091, 40D–4.091, and 40E–4.091. These Applicant’s Handbooks provide detailed criteria and guidelines that permit applicants must follow, and that each WMD rely on when deciding whether to issue a permit or what conditions to place on a permit.

The ERP rules delineate the substantive conditions for issuance of a permit in two primary rule sections. One is entitled “Conditions for Issuance of Permits” and the other is “Additional Conditions for Issuance of Permits.” The criteria in the “Conditions for Issuance” rules were based primarily on the WMDs MSSW permitting rules in effect before the ERP rules became effective. There is no balancing of the criteria, and thus, an applicant must establish compliance with each criterion. The Suwannee River Water Management District (SRWMD), SJRWMD, Southwest Florida Water Management District (SWFWMD), and South Florida Water Management District (SFWMD) have all adopted these rules; however, each WMD has certain variations⁵.

² Section 373.413(1), F.S.

³ Section 373.416(1), F.S.

⁴ Section 373.426(1), F.S.

⁵ Rules 40B-400.103, 40B-400.104, 40C-4.301, 40C-4.302, 40D-4.301, 40D-4.302, 40E-4.301, 40E-4.302, F.A.C.

The criteria in the rules entitled "Additional Conditions for Issuance of Permits" were based primarily on DEP's dredge and fill permitting rules in existence before the ERP rules became effective. The rule criteria are derived from s. 373.414(1), F.S., detailed above.

Certain activities have been exempted by statute and rule from the need for obtaining an ERP under state law or by agency rule. To be exempt by rule, the activities have been previously determined by the agencies to be capable of causing no more than minimal individual and cumulative adverse impacts to wetlands and other surface waters. Examples of exempt activities include, but are not limited to:

- Construction, repair, and replacement of certain private docking facilities below certain size thresholds;
- Maintenance dredging of existing navigational channels and canals;
- Construction and alteration of boat ramps within certain size limits;
- Construction, repair, and replacement of seawalls and rip rap in artificial waters;
- Repair and replacement of structures; and
- Construction of certain agricultural activities.

In addition, the state has issued a number of "noticed general permits" for activities that are slightly larger than those that qualify for the above exemptions and that otherwise have been determined to have the potential for no more than minimal individual direct and secondary impacts. These include, but are not limited to:

- Construction and modification of boat ramps of certain sizes;
- Installation and repair of riprap at the base of existing seawalls;
- Installation of culverts associated with stormwater discharge facilities; and
- Construction and modification of certain utility and public roadway construction activities.

Anything that does not specifically qualify for an exemption or noticed general permit generally requires an ERP permit.

Each of the WMDs and the DEP operate under separate ERP rules and guidelines. This has resulted in different implementation and enforcement of the ERP criteria by the different WMDs causing confusion and inconsistency around the state for those applicants that seek permits from the various WMDs and DEP. The WMDs use a combination of the DEP's environmental criteria and the WMD's former MSSW rules, which were independently adopted by each WMD. After the four WMD's adopted their own ERP rules, the DEP incorporated, by reference, each of the WMDs rules to be able to do DEP permitting activities in the WMDs. For the DEP to incorporate the WMD rules by reference, the DEP must undertake rulemaking. However, the DEP does not appear to be up to date on all WMD rules. Each of the WMDs have also established their own general permits for certain activities, which has led to the different WMDs having varying degrees of general permits and criteria resulting in an additional lack of uniformity throughout the state for applicants.

The ERP implementation in the Northwest Florida WMD was developed more recently than the other WMDs, with close coordination with the DEP, as directed by the Legislature. Pursuant to s. 373.4145, F.S., the Northwest Florida WMD is specifically authorized to implement the jointly developed rules without adoption. As a result, both the DEP and the WMD regulate ERPs under a unified rule. Any changes or amendments to the rules may be adopted by the DEP under normal rulemaking procedures. The Northwest Florida WMD may then begin implementing any such changes without rulemaking⁶.

Effect of Proposed Changes

The bill directs the Department of Environmental Protection (DEP), in coordination with the Water Management Districts (WMDs), to adopt statewide Environmental Resource Permitting (ERP) rules by

⁶ Senate Statewide Environmental Resource Permit interim report, 2011.

October 1, 2012, governing the construction, alteration, operation, maintenance, repair, abandonment, and removal of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works. The bill provides that the rules must provide for statewide, consistent regulation of these activities, and include, at a minimum:

- Criteria and thresholds for requiring permits.
- Types of permits.
- Procedures governing the review of applications and notices, duration and modification of permits, operational requirements, transfers of permits, provisions for emergencies, and provisions for abandonment and removal of systems.
- Exemptions and general permits that do not allow significant adverse impacts to occur individually or cumulatively.
- Conditions for issuance.
- General permit conditions, including monitoring, inspection, and reporting requirements.
- Standardized fee categories for activities under part IV of chapter 373, F.S., to promote consistency. The DEP and WMDs are authorized to amend their fee rules to reflect these categories, but are not required to adopt identical fees for those categories.
- Application, notice, and reporting forms. To the maximum extent practicable, the DEP and WMDs shall provide for electronic submittal of forms and notices.
- An Applicant's Handbook that, at a minimum, contain general program information, application and review procedures, a specific discussion of how environmental criteria are evaluated, and discussion of stormwater quality and quantity criteria .

The bill also requires that the rules rely primarily on the existing rules of the DEP and the WMDs in effect immediately prior to the effective date of this section, except that the DEP can:

- Reconcile differences and conflicts to achieve a consistent statewide approach;
- Account for different physical or natural characteristics, including special basin considerations, of individual WMDs; and
- Implement additional permit streamlining measures.

The application of the rules are to continue to be governed by the first sentence of s. 70.001(12), F.S., which provides that no cause of action exists under the Bert Harris Private Property Rights Protection Act as to the application of any law enacted on or before May 11, 1005, or as to the application of any rule, regulation, or ordinance adopted, or formally noticed for adoption, on or before that date.

Upon adoption of the rules, the WMDs and local governments delegated local pollution control program authority under s. 373.441, F.S.⁷, must implement the rules, but are not required to follow the rulemaking procedures under chapter 120.54, F.S.

A county, municipality, or local pollution control program that has a delegation of local pollution control program authority or proposes to be delegated of such authority under s. 373.441, F.S., must:

- Directly and without modification incorporate by reference and use the rules adopted to implement the provisions described above when reviewing and taking action on the department's behalf on a delegated permitting, compliance, or enforcement matter under this part.
- Amend its local ordinances or regulations to conform to the requirements of this bill within 12 months after the effective date of the rules adopted to implement the provisions described above.

⁷ Section 373.441, F.S., describes the process and requirements that must be met for a local government to obtain delegation of the state ERP program from the DEP.

The DEP and each local program with the authority to implement or seeking to implement a delegation of local pollution control program authority must identify and reconcile any duplicative permitting as part of the delegation.

Until the adopted rules required under this bill become effective, existing rules remain in full force and effect. Existing rules that are superseded by the rules adopted to implement the provisions in the bill can be repealed without further rulemaking under chapter 120, F.S., by publication of a notice of repeal in the Florida Administrative Weekly and subsequent filing of a list of the rules repealed with the Department of State.

The WMDs, with the DEP's oversight, can continue to adopt rules governing the design and performance standards for stormwater quality and quantity, and the DEP can incorporate the design and performance standards by reference for use within the geographical jurisdiction of each WMD. If a stormwater management system is designed in accordance with the stormwater treatment requirements and criteria adopted by the DEP or WMD rules, then that system design is presumed to not cause or contribute to violations of applicable state water quality standards. If a stormwater management system is constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption, then there is a presumption that stormwater discharged from that system does not cause or contribute to violations of applicable state water quality standards.

Regardless of the adoption of rules to implement the provisions in the bill, the following activities will continue to be governed by the rules of the DEP, the WMDs, and any delegated local program in effect before the effective date of such rules, unless the applicant elects review in accordance with the rules adopted pursuant to the provisions in the bill:

- The operation and maintenance of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof, legally in existence before the effective date of the rules adopted pursuant to this section if the terms and conditions of the permit, exemption, or other authorization for such activity continues to be met;
- Activities determined in writing by the DEP, a WMD, or a local government delegated under s. 373.441, F.S., to be exempt from, or not subject to, the permitting requirements of this part, including self-certifications submitted to the DEP, a WMD, or a delegated local government prior to the effective date of this section; and
- The activities approved in a permit issued pursuant to this part and the review of activities proposed in a permit application that is complete before the effective date of the rules adopted pursuant to this section. This paragraph also applies to any modification of the plans, terms, and conditions of the permit, including new activities, within the geographical area to which the permit applies; and to any modification that lessens or does not increase impacts. However, this paragraph does not apply to a modification that is reasonably expected to lead to additional or substantially different impacts.

Lastly, the bill provides that to ensure consistent implementation and interpretation of the rules adopted to implement the provisions in the bill, the DEP must conduct or oversee regular assessment and training of its staff and the staffs of the WMDs and local governments delegated local pollution control program authority.

B. SECTION DIRECTORY:

Section 1. Creates s. 373.4131, F.S.; requiring the DEP, in coordination with the WMDs, to adopt statewide environmental resource permitting rules for activities relating to the management and storage of surface waters; providing rule requirements; preserving an exemption from causes of action under the "Bert J. Harris, Jr., Private Property Rights Protection Act"; providing an exemption from the rulemaking provisions of ch. 120, F.S., for implementation of the rules by WMDs and delegated local programs; requiring counties, municipalities, and delegated local programs to amend ordinances and regulations within a specified timeframe to conform with the rules; providing for applicability, effect, and repeal of specified rules; authorizing WMDs to adopt and retain specified rules; authorizing the DEP to incorporate certain rules; providing a presumption of compliance for specified design, construction,

operation, and maintenance of certain stormwater management systems; providing exemptions for specified stormwater management systems and permitted activities; requiring the DEP to conduct or oversee staff assessment and training.

Section 2. Reenacts s. 70.001(12), F.S., relating the "Bert J. Harris, Jr., Private Property Rights Protection Act," for purposes of a cross-reference in s. 373.4131, F.S.

Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the DEP, the ERP permitting processes and procedures costs will likely be similar to those currently existing because the rules are expected to be based primarily on the existing rules of the DEP and the WMDs, except to reconcile differences and conflicts that are not based on geographic differences in physical or natural characteristics.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the DEP, the ERP permitting processes and procedures costs will likely be similar to those currently existing because the rules are expected to be based primarily on the existing rules of the DEP and the WMDs, except to reconcile differences and conflicts that are not based on geographic differences in physical or natural characteristics.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the DEP, existing application fees are not proposed to be changed at this time. The proposed rules are expected to be based primarily on the existing rules of the DEP and the WMDs, except to reconcile differences and conflicts that are not based on geographic differences in physical or natural characteristics. However, permitting thresholds, which currently differ throughout the state, are proposed to be unified to the maximum extent practical, which may cause some entities to have to obtain a permit where they currently do not, and other entities to not require a permit where they currently do.

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:

The bill directs the DEP, in cooperating with the WMDs, to adopt a statewide ERP rule that would be implemented by the DEP and the WMDs without having to go through chapter 120, F.S. rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

PCB ANRS 12-02

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to statewide environmental resource
 3 permitting; creating s. 373.4131, F.S.; requiring the
 4 Department of Environmental Protection, in
 5 coordination with the water management districts, to
 6 adopt statewide environmental resource permitting
 7 rules for activities relating to the management and
 8 storage of surface waters; providing rule
 9 requirements; preserving an exemption from causes of
 10 action under the "Bert J. Harris, Jr., Private
 11 Property Rights Protection Act"; providing an
 12 exemption from the rulemaking provisions of ch. 120,
 13 F.S., for implementation of the rules by water
 14 management districts and delegated local programs;
 15 requiring counties, municipalities, and delegated
 16 local programs to amend ordinances and regulations
 17 within a specified timeframe to conform with the
 18 rules; providing for applicability, effect, and repeal
 19 of specified rules; authorizing water management
 20 districts to adopt and retain specified rules;
 21 authorizing the department to incorporate certain
 22 rules; providing a presumption of compliance for
 23 specified design, construction, operation, and
 24 maintenance of certain stormwater management systems;
 25 providing exemptions for specified stormwater
 26 management systems and permitted activities; requiring
 27 the department to conduct or oversee staff assessment
 28 and training; reenacting s. 70.001(12), F.S., relating

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29 | the "Bert J. Harris, Jr., Private Property Rights
 30 | Protection Act," for purposes of a cross-reference in
 31 | s. 373.4131, F.S.; providing an effective date.

32 |
 33 | Be It Enacted by the Legislature of the State of Florida:

34 |
 35 | Section 1. Section 373.4131, Florida Statutes, is created
 36 | to read:

37 | 373.4131 Statewide environmental resource permitting
 38 | rules.-

39 | (1)(a) No later than October 1, 2012, the department shall
 40 | initiate rulemaking to adopt, in coordination with the water
 41 | management districts, statewide environmental resource
 42 | permitting rules governing the construction, alteration,
 43 | operation, maintenance, repair, abandonment, and removal of any
 44 | stormwater management system, dam, impoundment, reservoir,
 45 | appurtenant work, works, or any combination thereof, under this
 46 | part.

47 | (b) The rules shall provide for statewide, consistent
 48 | regulation of activities under this part and shall include, at a
 49 | minimum:

- 50 | 1. Criteria and thresholds for requiring permits.
 51 | 2. Types of permits.
 52 | 3. Procedures governing the review of applications and
 53 | notices, duration and modification of permits, operational
 54 | requirements, transfers of permits, provisions for emergencies,
 55 | and provisions for abandonment and removal of systems.

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56 4. Exemptions and general permits that do not allow
 57 significant adverse impacts to occur individually or
 58 cumulatively.

59 5. Conditions for issuance.

60 6. General permit conditions, including monitoring,
 61 inspection, and reporting requirements.

62 7. Standardized fee categories for activities under this
 63 part to promote consistency. The department and water management
 64 districts may amend fee rules to reflect the standardized fee
 65 categories but are not required to adopt identical fees for
 66 those categories.

67 8. Application, notice, and reporting forms. To the
 68 maximum extent practicable, the department and water management
 69 districts shall provide for electronic submittal of forms and
 70 notices.

71 9. An applicant's handbook that, at a minimum, contains
 72 general program information, application and review procedures,
 73 a specific discussion of how environmental criteria are
 74 evaluated, and discussion of stormwater quality and quantity
 75 criteria.

76 (c) The rules shall rely primarily on the rules of the
 77 department and water management districts in effect immediately
 78 prior to the effective date of this section, except that the
 79 department may:

80 1. Reconcile differences and conflicts to achieve a
 81 consistent statewide approach.

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82 | 2. Account for different physical or natural
 83 | characteristics, including special basin considerations, of
 84 | individual water management districts.

85 | 3. Implement additional permit streamlining measures.

86 | (d) The application of the rules shall continue to be
 87 | governed by the first sentence of s. 70.001(12).

88 | (2)(a). Upon adoption of the rules, the water management
 89 | districts and local governments delegated local pollution
 90 | control program authority under s. 373.441 shall implement the
 91 | rules without the need for further rulemaking pursuant to s.
 92 | 120.54. The districts and local governments shall have
 93 | substantive jurisdiction to implement and interpret the rules,
 94 | consistent with any guidance from the department, in any license
 95 | or final order pursuant to s. 120.60 or s. 120.57(1)(1).

96 | (b)1. A county, municipality, or local pollution control
 97 | program that has a delegation of local pollution control program
 98 | authority or proposes to be delegated such authority under s.
 99 | 373.441 shall directly and without modification incorporate by
 100 | reference and use the rules adopted pursuant to this section
 101 | when reviewing and taking action on the department's behalf on a
 102 | delegated permitting, compliance, or enforcement matter under
 103 | this part.

104 | 2. A county, municipality, or local pollution control
 105 | program that has a delegation of local pollution control program
 106 | authority under s. 373.441 must amend its local ordinances or
 107 | regulations to conform to the requirements of this section
 108 | within 12 months after the effective date of the rules adopted
 109 | pursuant to this section.

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110 3. The department and each local program with the
 111 authority to implement or seeking to implement a delegation of
 112 local pollution control program authority under s. 373.441 shall
 113 identify and reconcile any duplicative permitting as part of the
 114 delegation.

115 (c) Until the rules adopted pursuant to this section
 116 become effective, existing rules adopted pursuant to this part
 117 remain in full force and effect. Existing rules that are
 118 superseded by the rules adopted pursuant to this section may be
 119 repealed without further rulemaking pursuant to s. 120.54 by
 120 publication of a notice of repeal in the Florida Administrative
 121 Weekly and subsequent filing of a list of the rules repealed
 122 with the Department of State.

123 (3)(a) After the adoption of rules pursuant to this
 124 section, the water management districts, with department
 125 oversight, may continue to adopt rules governing design and
 126 performance standards for stormwater quality and quantity, and
 127 the department may incorporate the design and performance
 128 standards by reference for use within the geographic
 129 jurisdiction of each district.

130 (b) If a stormwater management system is designed in
 131 accordance with the stormwater treatment requirements and
 132 criteria adopted by the department or a water management
 133 district under this part, the system design is presumed not to
 134 cause or contribute to violations of applicable state water
 135 quality standards.

136 (c) If a stormwater management system is constructed,
 137 operated, and maintained for stormwater treatment in accordance

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138 with a valid permit or exemption under this part, the stormwater
 139 discharged from the system is presumed not to cause or
 140 contribute to violations of applicable state water quality
 141 standards.

142 (4) Notwithstanding the adoption of rules pursuant to this
 143 section, the following activities shall continue to be governed
 144 by the rules adopted by the department, the water management
 145 districts, and delegated local programs under this part in
 146 effect before the effective date of the rules adopted pursuant
 147 to this section, unless the applicant elects review in
 148 accordance with the rules adopted pursuant to this section:

149 (a) The operation and maintenance of any stormwater
 150 management system, dam, impoundment, reservoir, appurtenant
 151 work, works, or any combination thereof legally in existence
 152 before the effective date of the rules adopted pursuant to this
 153 section if the terms and conditions of the permit, exemption, or
 154 other authorization for such activity continue to be met.

155 (b) The activities determined in writing by the
 156 department, a water management district, or a local government
 157 delegated local pollution control program authority under s.
 158 373.441 to be exempt from the permitting requirements of this
 159 part, including self-certifications submitted to the department,
 160 a water management district, or a delegated local government
 161 before the effective date of the rules adopted pursuant to this
 162 section.

163 (c) The activities approved in a permit issued pursuant to
 164 this part and the review of activities proposed in a permit
 165 application that is complete before the effective date of the

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166 rules adopted pursuant to this section. This paragraph applies
 167 to any modification of the plans, terms, and conditions of the
 168 permit, including new activities, within the geographical area
 169 to which the permit applies and to any modification that lessens
 170 or does not increase impacts. However, this paragraph does not
 171 apply to a modification that is reasonably expected to lead to
 172 additional or substantially different impacts.

173 (5) To ensure consistent implementation and interpretation
 174 of the rules adopted pursuant to this section, the department
 175 shall conduct or oversee regular assessment and training of its
 176 staff and the staffs of the water management districts and local
 177 governments delegated local pollution control program authority
 178 under s. 373.441.

179 Section 2. For the purpose of a cross-reference in section
 180 373.4131, Florida Statutes, as created by this act, subsection
 181 (12) of section 70.001, Florida Statutes, is reenacted to read:

182 70.001 Private property rights protection.-

183 (12) No cause of action exists under this section as to
 184 the application of any law enacted on or before May 11, 1995, or
 185 as to the application of any rule, regulation, or ordinance
 186 adopted, or formally noticed for adoption, on or before that
 187 date. A subsequent amendment to any such law, rule, regulation,
 188 or ordinance gives rise to a cause of action under this section
 189 only to the extent that the application of the amendatory
 190 language imposes an inordinate burden apart from the law, rule,
 191 regulation, or ordinance being amended.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 12-02 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:

4
5 **Amendment**

6 Remove lines 92-93 and insert:
7 120.54. Rules adopted by the department pursuant to this
8 section shall also be considered rules of the water management
9 districts and local governments delegated under s. 373.441. The
10 districts and local governments shall have substantive
11 jurisdiction to implement and interpret rules adopted by the
12 department under part IV of this chapter,
13

PCB ANRS 12-02 a2

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 12-02 (2012)

Amendment No. 2

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 PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:

4
5 **Amendment**

6 Remove line 99 and insert:
7 373.441 shall without modification incorporate by
8

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 12-02 (2012)

Amendment No. 3

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 PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:

4
5
6
7
8

Amendment

Remove lines 123-124 and insert:

(3) (a) The water management districts, with department

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANRS 12-03 Fish and Wildlife Conservation Commission
SPONSOR(S): Agriculture & Natural Resources Subcommittee
TIED BILLS: None IDEN./SIM. BILLS: None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee		Deslatte <i>SD</i>	Blalock <i>AFB</i>

SUMMARY ANALYSIS

The bill provides that all proceeds from the Florida Panther license plate fees be deposited into the Florida Panther Research and Management Trust Fund, which is managed by the Florida Fish and Wildlife Conservation Commission (FWCC). The bill deletes a requirement that 15%, but not less than \$300,000, of such fees be deposited in the Florida Communities Trust Fund.

Current law provides for vessel registration fees to 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 one-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 violations as a Level 5 violation, 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 (five years in prison) on a case by case basis.

The FWCC anticipates a slight reduction of revenues into the Marine Resources Conservation Trust Fund due to the reduction in the fee for the blue crab soft shell endorsement, but indicates it will be able to absorb this loss of revenue. The FWCC also expects a loss of \$38,000 in subscription fees for the *Florida Wildlife* magazine. The bill does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Panther License Plate

Current Situation

Beginning in 1990, the Department of Environmental Protection (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% were distributed into the Florida Communities Trust Fund within the Department of Community Affairs (DCA) to fund the administration of the Florida Communities Trust program.

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

During the 2011 legislative session, the Department of Economic Opportunity was created, in part, to replace the DCA. Subsequently, the Florida Communities Trust program was transferred 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%, 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., to the proceeds of the sale of environmental license plates as a funding source for 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 replace 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 also to encourage good stewardship of the state's wildlife resources¹.

In 2004, a seven-member Florida Wildlife Magazine Advisory Council (Council) was created² 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 cut the budget for the *Florida Wildlife* magazine by \$240,000, 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 in order 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 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., provides 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.

¹ FWCC 2011 analysis, on file with staff.

² 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 due to 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 (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 issued³. 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 three 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 endorsement⁴.

Due to 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.

³ FWCC 2011 analysis, on file with staff.

⁴ Section 379.366, F.S.

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. Due to demand, supply, and higher prices, the 2010-2011 and 2011-2012 seasons have had a sharp increase in lobster trap theft. According to the FWCC, as a result of the theft, \$4.2 million is lost per commercial fishing season.

Section 379.367, F.S., provides that it is unlawful for any person to willfully molest any 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 provided in s. 775.082 or s. 775.083, F.S. Section 775.082, F.S., provides that a felony of the third degree may not exceed five 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 one 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 22. 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 921.0022, F.S., provides an offense severity ranking chart for specific offenses that must be used with the Criminal Punishment Code worksheet⁵ 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., designating a spiny lobster trap violation in s. 921.022, F.S., as a Level 5 violation, 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 (five 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 one-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.

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.

⁵ Section 922.0024, F.S.

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

Section 8. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FWCC would receive additional revenues of at least \$300,000 annually from the proceeds of the sale of Florida Panther license plates to the Florida Panther Research and Management Trust Fund for the purposes of protecting the endangered Florida panther. The Department of Environmental Protection would no longer receive 15%, but not less than \$300,000, of such proceeds to fund the Florida Communities Trust Act.

2. Expenditures:

See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Subscribers to the printed version of the *Florida Wildlife* magazine would be 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.

D. FISCAL COMMENTS:

Florida Wildlife Magazine: According to the FWCC analysis, \$38,000 in subscription fees would be lost due to the elimination of the print version of the magazine.

Blue Crab Soft Shell Endorsement reduction fee: There would be a slight reduction of revenues to the Marine Resources Conservation Trust Fund. If all 83 endorsements were renewed for 2011-12, at a cost of \$125, the reduction would be \$10,375. All monies in the Trust Fund are appropriated to the FWCC's Division of Marine Fisheries Management, Fish and Wildlife Research Institute, Division of Law Enforcement, and the Office of Licensing and Permitting. These entities would absorb the reduction of revenue to the Trust Fund.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

PCB ANRS 12-03

BILL

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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 provisions for the use of
 7 funds provided to the Marine Resources Conservation
 8 Trust Fund; authorizing the use of funds from vessel
 9 registration fees for specified purposes; eliminating
 10 a requirement for the carryover and distribution of
 11 certain funds; amending s. 379.2342, F.S.; eliminating
 12 requirements relating to the publication of the
 13 Florida Wildlife Magazine; eliminating provisions
 14 relating to the creation of the Florida Wildlife
 15 Magazine Advisory Council; amending s. 379.3581, F.S.;
 16 deleting the one-year limitation on the mentoring
 17 exemption, which would allow persons to hunt without
 18 taking a hunter safety course with a licensed hunter
 19 21 years or older, for more than one year; amending s.
 20 379.366, F.S.; reducing the fee amount for a soft-
 21 shell blue crab endorsement; amending s. 380.511,
 22 F.S.; revising a cross-reference to conform to changes
 23 made by the act; amending s. 921.0022, F.S.;
 24 recalculating spiny lobster trap violations as a Level
 25 5 violation; providing an effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:
 28

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29 Section 1. Paragraph (b) of subsection (5) of section
30 320.08058, Florida Statutes, is amended to read:

31 320.08058 Specialty license plates.—

32 (5) FLORIDA PANTHER LICENSE PLATES.—

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

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

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

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

46 379.208 Marine Resources Conservation Trust Fund;
47 purposes.—

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

52 (a) To reimburse the cost of activities authorized
53 pursuant to the Fish and Wildlife Service of the United States
54 Department of the Interior. The facilities must be involved in
55 the actual rescue and full-time acute care veterinarian-based
56 rehabilitation of manatees. The cost of activities includes, but

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57 | is not limited to, costs associated with expansion, capital
 58 | outlay, repair, maintenance, and operation related to the
 59 | rescue, treatment, stabilization, maintenance, release, and
 60 | monitoring of manatees. Moneys distributed through the
 61 | contractual agreement to each facility for manatee
 62 | rehabilitation must be proportionate to the number of manatees
 63 | under acute care rehabilitation; the number of maintenance days
 64 | medically necessary in the facility; and the number released
 65 | during the previous fiscal year. The commission may set a cap on
 66 | the total amount reimbursed per manatee per year.

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

70 | (c) For program administration costs of the agency.

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

73 | Section 3. Present subsections (3) through (7) of section
 74 | 379.2342, Florida Statutes, are renumbered as subsections (2)
 75 | through (6), respectively, and subsection (2) of that section is
 76 | amended, to read:

77 | 379.2342 Private publication agreements; advertising;
 78 | costs of production.—

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

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85 | ~~magazine shall be to promote the heritage of hunting and fishing~~
 86 | ~~in Florida. The magazine shall also disseminate information~~
 87 | ~~regarding other outdoor recreational opportunities available to~~
 88 | ~~Floridians and visitors.~~

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

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

112 | ~~1. The content of articles included in each edition of the~~

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113 | ~~magazine.~~

114 | ~~2. Advertising proposed for each edition of the magazine.~~

115 | ~~3. Strategies to improve distribution and circulation of~~

116 | ~~the magazine.~~

117 | ~~4. Cost-reduction measures regarding publication of the~~

118 | ~~magazine.~~

119 | ~~(d) The Florida Wildlife Magazine Advisory Council shall~~

120 | ~~consist of seven members appointed by the commission, and~~

121 | ~~initial appointments shall be made no later than August 1, 2004.~~

122 | ~~When making initial appointments to the council and filling~~

123 | ~~vacancies, the commission shall appoint members to represent the~~

124 | ~~following interests: hunting; saltwater fishing; freshwater~~

125 | ~~fishing; recreational boating; recreational use of off-road~~

126 | ~~vehicles; hiking, biking, bird watching, or similar passive~~

127 | ~~activities; general business interests; and magazine publishing.~~

128 | ~~(e) Two of the initial appointees shall serve 2-year~~

129 | ~~terms, two of the initial appointees shall serve 3-year terms,~~

130 | ~~and three of the initial appointees shall serve 4-year terms.~~

131 | ~~Subsequent to the expiration of the initial terms, advisory~~

132 | ~~council appointees shall serve 4-year terms.~~

133 | ~~(f) The members of the advisory council shall elect a~~

134 | ~~chair annually.~~

135 | ~~(g) The council shall meet at least quarterly at the call~~

136 | ~~of its chair, at the request of a majority of its membership, or~~

137 | ~~at the request of the commission. A majority of the council~~

138 | ~~shall constitute a quorum for the transaction of business.~~

139 | ~~(h) The commission shall provide the council with~~

140 | ~~clerical, expert, technical, or other services. All expenses of~~

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141 | ~~the council shall be paid from appropriations made by the~~
 142 | ~~Legislature to the commission. All vouchers shall be approved by~~
 143 | ~~the executive director before submission to the Chief Financial~~
 144 | ~~Officer for payment.~~

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

148 | ~~(j) Advisory council members may be reappointed. Advisory~~
 149 | ~~council members shall serve at the pleasure of the commission.~~

150 | Section 4. Paragraph (b) of subsection (2) of section
 151 | 379.3581, Florida Statutes, is amended to read:

152 | 379.3581 Hunter safety course; requirements; penalty.-

153 | (2)

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

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168 Section 5. Effective beginning with the 2012-2013 blue
 169 crab license year, paragraph (a) of subsection (3) of section
 170 379.366, Florida Statutes, is amended to read:

171 379.366 Blue crab; regulation.—

172 (3)(a) Endorsement fees.—

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

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

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

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

191 Section 6. Paragraph (c) of subsection (1) of section
 192 380.511, Florida Statutes, is amended to read:

193 380.511 Florida Communities Trust Fund.—

194 (1) There is created the Florida Communities Trust Fund as
 195 a nonlapsing, revolving fund for projects, activities,

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196 acquisitions, and operating expenses necessary to carry out this
 197 part. The fund shall be held and administered by the trust. The
 198 following shall be credited to or deposited in the Florida
 199 Communities Trust Fund:

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

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

208 Section 7. Paragraph (e) of subsection (3) of section
 209 921.0022, Florida Statutes, is amended to read:

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

212 (3) OFFENSE SEVERITY RANKING CHART

213 (e) LEVEL 5

214

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.

215

216

217

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218	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
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219	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
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220	<u>379.367 (4) (a)</u>	<u>3rd</u>	<u>Willful molestation by any person of a commercial harvester's spiny lobster trap, line or buoy.</u>
-----	------------------------	------------	--------------------------------------------------------------------------------------------------------

221	<u>379.367 (c) 3</u>	<u>3rd</u>	<u>Willful molestation, possession of or removal of another commercial harvester's trap contents or trap gear.</u>
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222 Section 8. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 12-03 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing PCB: Agriculture & Natural
2 Resources Subcommittee
3 Representative Caldwell offered the following:

Amendment

Remove line 219 and insert:

7			
8	<u>379.367(4)</u>	<u>3rd</u>	<u>Willful molestation by any</u>
9			<u>person of a commercial</u>
10			<u>harvester's spiny lobster trap,</u>
11			<u>line or buoy.</u>
12			
13	<u>379.3671(2)(c)3</u>	<u>3rd</u>	<u>Willful molestation, possession</u>
14			<u>of or removal of another</u>
15			<u>commercial harvester's trap</u>
16			<u>contents or trap gear.</u>
17			