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# **Agriculture and Natural Resources Policy Committee**

## **Meeting Packet**

**March 17, 2010  
2:15 pm - 5:00 pm  
102 Reed Hall**

**Larry Cretul  
Speaker**

**Trudi Williams  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Agriculture & Natural Resources Policy Committee

**Start Date and Time:** Wednesday, March 17, 2010 02:15 pm

**End Date and Time:** Wednesday, March 17, 2010 05:00 pm

**Location:** Reed Hall (102 HOB)

**Duration:** 2.75 hrs

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

HB 1047 City of Clearwater, Pinellas County by Frishe  
HB 1221 Animal Control or Cruelty Ordinances by Randolph  
HB 1225 Sewage Disposal Facilities by Gibbons  
HB 1385 Petroleum Contamination Site Cleanup by Poppell  
HB 1445 Department of Agriculture and Consumer Services by Nelson

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

PCB ANR 10-09 -- Consumptive Use Permits  
PCB ANR 10-10 -- Water Conservation  
PCB ANR 10-11 -- Stormwater

**Presentation on Florida agriculture:**

John Hoblick, President, Florida Farm Bureau Federation

Larry Arrington, Interim Senior Vice President for Agriculture and Natural Resources, University of Florida

**NOTICE FINALIZED on 03/15/2010 16:17 by Cunningham.Reid**

# **Agenda**

## **AGRICULTURE AND NATURAL RESOURCES POLICY COMMITTEE**

**March 17, 2010**

**2:15-5:00 p.m.**

**Reed Hall**

- I. Call to Order**
- II. Roll Call**
- III. Opening Remarks by Chair Williams**
- IV. HB 1047 by Rep. Frishe – City of Clearwater, Pinellas County**
- V. HB 1221 by Rep. Randolph – Animal Control or Cruelty Ordinances**
- VI. HB 1225 by Rep. Gibbons – Sewage Disposal Facilities**
- VII. HB 1385 by Rep. Poppell – Petroleum Contamination Site Cleanup**
- VIII. HB 1445 by Rep. Nelson – Department of Agriculture & Consumer Services**
- IX. PCB ANR 10-09 – Consumptive Use Permits**
- X. PCB ANR 10-10 – Water Conservation**
- XI. PCB ANR 10-11 – Stormwater**
- XII. Presentation by John Hoblick, President, Florida Farm Bureau Federation**
- XIII. Closing Remarks by Chair Williams**
- XIV. Adjourn**

HB 1047

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1047

City of Clearwater, Pinellas County

**SPONSOR(S):** Frishe

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2180

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	12 Y, 0 N	Rojas	Hoagland
2)	Agriculture & Natural Resources Policy Committee		Kaiser <i>[Signature]</i>	Reese <i>[Signature]</i>
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

**SUMMARY ANALYSIS**

The bill allows the City of Clearwater to authorize the use of the filled upland portion of the property for recreational purposes and commercial working waterfronts, with the intent of providing greater access for the public to the navigable waters of the state, as well as providing access to water-dependent commercial activities.

The bill provides that the submerged portions of the property continue to be used as stipulated in current law, and that the city uses any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.

The bill also provides that any filled portion of the lands, currently existing as uplands to the west of the east abutment of the west bridge, be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. The bill also releases these lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.

Changes to the filled land that currently exist as the City of Clearwater Beach Marina must be approved at a referendum if the changes meet any of the following triggers:

- Any lease or license for a new purpose or for a period longer than 30 years;
- Any sale or transfer, other than utility easements, or
- Any alterations from existing public land use map designation.

According to the Economic Impact Statement, the bill has no fiscal impact. The effective date of this legislation is upon becoming law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Clearwater Harbor—Memorial Causeway Submerged Lands

The State conveyed submerged lands in 1925 via Chapter 11050, L.O.F., to Pinellas County to be surrendered to the City of Clearwater, for the purpose of building the Memorial Causeway.<sup>1</sup> The act provided that the property was to be used exclusively for public purposes by the city, and that it would revert to the State if it was ever used for any other purpose. The act also provided that *"the owners (present and future) of the land abutting said land on the north, the City of Clearwater or the County of Pinellas shall have the right to fill said land lying north of said line to be used for public parks and places of recreation only...provided further that should said property ever cease to be used for public parks and places of recreation only, same shall revert to the State."*

Submerged lands to the north of the Memorial Causeway Submerged Lands (which were not included in the special act grant) were later filled, resulting in the "Island Estates" subdivision. Consequently, the Island Estates' most southerly boundary extended along the northerly boundary of the Memorial Causeway Submerged Lands. In 1958, a Deed of Dedication was granted by the Clearwater City Commission and recorded in the public record to "dedicate, grant and convey unto the Public in general," a portion of the Memorial Causeway Submerged Lands, subject to express provisions in the dedication, and conditions and provisions of law (presumably including the 1925 Special Act). The dedication stated that the land was to be used as a "waterway for boating and boat traffic," "docks, boat slips or piers" by "lessees, tenants, permittees or assigns." As a result of this dedication, docks were built within the Memorial Causeway Submerged Lands area for use by Island Estates' upland owners in 1965.

Pursuant to Chapter 86-345, L.O.F, the Legislature released a portion of the property granted by the 1925 special act from the right of reverter retained by the State in order to permit the development and maintenance of a nonprofit marine science center as approved by the city commission and electors of the City of Clearwater.<sup>2</sup> The act declared that the use of the property as a marine science center was

<sup>1</sup> This land included 500 feet to the north and 700 feet to the south of a centerline, east to west, following the course of the former Memorial Causeway.

<sup>2</sup> The Clearwater City Commission adopted Ordinance 4028-85, finding that the development and maintenance of the property as a marine science center was in the interest of public health, safety and welfare of the citizens of Clearwater, and authorized the

for a proper public purpose, and conditioned the act upon the city conveying the property to the Clearwater Marine Science Center subject to the restriction that the center devote the property solely to the expansion of its facility, or that such property would automatically revert to the city.

#### Chapter 2007-312, Laws of Florida

Chapter 2007-312, L.O.F., ratified any use of the property described in the 1925 special act<sup>3</sup> and authorized by the City of Clearwater on or before the effective date of the act, whether or not the use was for a public purpose. The act also declared that any use of the property described in Chapter 86-345, L.O.F., is consistent with the grant made in the earlier act for the purpose of developing and maintaining a marine science center. This provision pertains to uses undertaken on or before the effective date of Chapter 2007-312, L.O.F. This ratification preserved the property to the ownership of the Clearwater Marine Science Center.

Additionally, Chapter 2007-312, L.O.F., provided that the City of Clearwater may authorize private uses of the submerged property<sup>4</sup> for which it had received an application no later than December 31, 2006, if such uses were consistent with the laws and rules governing the management of state sovereignty submerged lands by the Board of Trustees of the Internal Improvement Trust Fund (BOT). The act provided that a dock or mooring facility for a multi-family dwelling or a dock for a single-family dwelling which is consistent with such laws and rules does not violate this act. The alteration of any existing public land use designation of this property must first be approved by the voters of the City of Clearwater in a "site-specific" referendum. The City of Clearwater is required to use any revenue generated by authorizing private use of the subject submerged land to fund water-related activities for the benefit of the public:

Finally, Chapter 2007-312, L.O.F., provided for reversion of the submerged lands granted under the 1925 special act to the State if the BOT finds that any use, which is authorized by the City of Clearwater and not ratified by the act, is inconsistent with the laws and rules governing the BOT's management of such lands. This language governs future actions by the city with regard to the submerged land.

The act did not modify or supersede any provision of the City of Clearwater's charter concerning the requirement of a referendum for use of waterfront property that is owned by the city. The city's charter contains numerous provisions relating to the use of real property in ARTICLE II. LEGISLATIVE POWER, Section 2.01. Council; composition; powers.<sup>5</sup> Section 2.01(d)(5) provides, in relevant part, that:

no municipal or other public real property constituting the Memorial Causeway or lands immediately contiguous thereto, more particularly described as: That portion of Memorial Causeway (S.R. 60) a 1200-foot-wide right-of-way, lying between the east abutment of the west bridge and the east line of Clearwater Harbor, and the submerged portions of Board of Trustees of the Internal Improvement Trust Fund Deed Numbers 17,500 and 17,502, shall be developed or maintained other than as open space and public utilities together with associated appurtenances, except upon a finding by the council at a duly advertised public hearing that such development is necessary in the interest of the public health, safety and welfare of the citizens of the city and approval of such finding at referendum, conducted subsequent to the public hearing.

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conveyance of the property to the Clearwater Marine Science Center subject to a right of reverter. The electors of the city approved the action by a special referendum election called for that purpose on October 1, 1985.

<sup>3</sup> Chapter 11050, L.O.F., 1925

<sup>4</sup> As described in Chapter 11050, L.O.F., 1925

<sup>5</sup> <http://www.municode.com/resources/gateway.asp?pid=10148&sid=9>.

## Working Waterfronts

CS/CS/SB 542<sup>6</sup> created the Stan Mayfield Working Waterfronts Program within the Florida Communities Trust (FCT) program. Working Waterfronts are defined as parcels of lands directly used for the commercial harvest of saltwater products and the marketing of seafood and aquaculture. The FCT, working with the Department of Agriculture and Consumer Services (DACs), developed rules to administer the program and developed a process that evaluates, scores and ranks working waterfront acquisitions.

### **Effect of the Bill**

The bill allows the City of Clearwater to authorize the use of the filled upland portion of the property described in Chapter 11050, L.O.F., 1925, for recreational purposes and commercial working waterfronts as defined in s. 342.07, F.S., with the intent of providing greater access for the public to the navigable waters of the state, and providing access to water-dependent commercial activities.

The bill provides that the submerged portions of the property granted to the City of Clearwater under Chapter 11050, L.O.F., 1925, continue to be used as provided for in that act, as well as Chapter 2007-312, L.O.F., and that the city use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.

The bill also provides that any filled portion of the lands granted under Chapter 11050, L.O.F., 1925, currently existing as uplands to the west of the east abutment of the west bridge, be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. The bill also releases these lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.

This bill expressly provides that this law does not modify or supersede any provision of the Charter of the City of Clearwater concerning the requirement of a referendum for the use of waterfront property that is owned by the City of Clearwater. Therefore, any lease or license of the filled land that currently exists as the City of Clearwater Beach Marina for a new purpose or for a period longer than 30 years, or any sale or transfer, other than utility easements, must be approved at a referendum. Additionally, if the portion of filled lands comprising the City of Clearwater Beach Marina is altered from existing public land use map designation, the change must first be approved at a referendum.

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

- Section 1. Authorizes the use of the filled upland portion of the property for recreational purposes and commercial working waterfronts.
- Section 2. Provides that the submerged portions of the property continue to be used as provided for and that the city use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.
- Section 3. Provides that specified filled portions of the lands be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. Releases lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.
- Section 4. Provides that it does not modify or supersede any provision of the Charter of the City of Clearwater concerning the requirement of a referendum for the use of waterfront property that is owned by the City of Clearwater.

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<sup>6</sup> Chapter 2008-229, L.O.F.

Section 5. Specifies events that will trigger referendum requirement.

Section 6. Provides that this act take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN?

January 15, 2010

WHERE?

Gulf Coast Business Review

Clearwater, Pinellas County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, the bill will have no fiscal impact.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

## IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
 2           An act relating to the City of Clearwater, Pinellas  
 3           County; providing for use of specified city-owned property  
 4           for recreational and commercial working waterfronts;  
 5           providing for use of revenue from specified city-owned  
 6           property; providing for development of specified city-  
 7           owned property consistent with the Florida Coastal  
 8           Management Program, the Waterfronts Florida Program, the  
 9           city comprehensive plan and code of ordinances, and other  
 10          applicable law; providing for preservation of referendum  
 11          requirement of use of certain city-owned property;  
 12          requiring a referendum for lease, license, sale, or  
 13          transfer of certain land and for any alteration to  
 14          existing public land use map designation for such land;  
 15          providing an effective date.

16  
 17          WHEREAS, the right-of-way for the causeway to Clearwater  
 18          Beach known as Memorial Causeway, including certain adjacent  
 19          submerged lands, was granted to the City of Clearwater under  
 20          chapter 11050, Laws of Florida, 1925, to be owned and maintained  
 21          as provided in that act, and

22          WHEREAS, chapter 2007-312, Laws of Florida, ratified  
 23          existing uses as consistent with the original grant and  
 24          reiterating certain restrictions on such uses, and

25          WHEREAS, the Legislature recognizes an important state  
 26          interest in maintaining viable water-dependent support  
 27          facilities, as well as providing access to the state's navigable  
 28          waters as a vital conduit for commerce, transportation of goods,

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29 and maintaining and enhancing the annual \$71 billion economic  
 30 impact of tourism and boating, and

31 WHEREAS, the City of Clearwater wishes to address the  
 32 physical and economic decline of its existing coastal and  
 33 working waterfront areas by revitalizing its waterfront as a  
 34 recreational and commercial working waterfront, and

35 WHEREAS, the City of Clearwater has taken the requisite  
 36 action to revitalize its coastal and waterfront areas by  
 37 implementing sections 197.303–197.3047, Florida Statutes, 2005,  
 38 as subsequently amended, through adoption of tax deferrals for  
 39 recreational and commercial working waterfront properties and  
 40 amending its comprehensive plan, which implements both a future  
 41 land use element requiring that redevelopment activities be  
 42 sensitive to the city's waterfront and promote public access to  
 43 the city's waterfront resources and a coastal management element  
 44 encouraging the preservation of recreational and commercial  
 45 working waterfronts and marinas and other water-dependent  
 46 facilities, and

47 WHEREAS, the city wishes to expand such revitalization  
 48 efforts consistent with the Florida Coastal Management Program  
 49 and the Waterfronts Florida Program and provide for the limited  
 50 elimination of reversion provisions that inherently conflict  
 51 with the city's working waterfront and coastal revitalization  
 52 efforts contained in the 1925 special act and chapter 2007–312,  
 53 Laws of Florida, NOW, THEREFORE,

54

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

56

57        Section 1. The City of Clearwater may authorize the use of  
 58 the filled upland portion of the property described in chapter  
 59 11050, Laws of Florida, 1925, for purposes of recreational and  
 60 commercial working waterfronts as defined in section 342.07,  
 61 Florida Statutes, thereby providing access for the public to the  
 62 navigable waters of the state, and providing access to water-  
 63 dependent commercial activities.

64        Section 2. Submerged portions of the property granted to  
 65 the City of Clearwater under chapter 11050, Laws of Florida,  
 66 1925, shall continue to be used as provided for in chapter  
 67 11050, Laws of Florida, 1925, and chapter 2007-312, Laws of  
 68 Florida, and the city shall use any revenue generated by public  
 69 or private use of the submerged land to fund water-related  
 70 activities for the benefit of the public.

71        Section 3. Any filled portion of the lands granted under  
 72 chapter 11050, Laws of Florida, 1925, currently existing as  
 73 uplands to the west of the east abutment of the west bridge,  
 74 shall be used and developed in accordance with the Florida  
 75 Coastal Management Program, the Waterfronts Florida Program, the  
 76 City of Clearwater Comprehensive Plan, the City of Clearwater  
 77 Code of Ordinances, and other applicable law, and are hereby  
 78 released from a right of reverter to the extent that the use and  
 79 development of the property are consistent therewith.

80        Section 4. This act shall not modify or supersede any  
 81 provision of the Charter of the City of Clearwater concerning  
 82 the requirement of a referendum for the use of waterfront  
 83 property that is owned by the City of Clearwater.

84           Section 5. (1) Any lease or license of the land for a new  
 85 purpose for a period longer than 30 years, or any sale or  
 86 transfer, other than utility easements, of the land or any  
 87 portion thereof, with respect to any filled portion of the lands  
 88 granted under chapter 11050, Laws of Florida, 1925, and chapter  
 89 2007-312, Laws of Florida, that currently exist as uplands upon  
 90 which the City of Clearwater Beach Marina exists, must be  
 91 approved at a referendum by vote of the electors of the City of  
 92 Clearwater voting in such referendum.

93           (2) Additionally, if that portion of filled lands granted  
 94 under chapter 11050, Laws of Florida, 1925, and chapter 2007-  
 95 312, Laws of Florida, that currently exist as uplands upon which  
 96 the City of Clearwater Beach Marina exists is altered from  
 97 existing public land use map designation, such change must first  
 98 be approved at a referendum by vote of the electors of the City  
 99 of Clearwater voting in such referendum.

100           Section 6. This act shall take effect upon becoming a law.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1221  
SPONSOR(S): Randolph  
TIED BILLS:

Animal Control or Cruelty Ordinances

IDEN./SIM. BILLS: SB 2372

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture & Natural Resources Policy Committee		Thompson <i>JT</i>	Reese <i>AR</i>
2) Military & Local Affairs Policy Committee			
3) Finance & Tax Council			
4) General Government Policy Council			
5)			

SUMMARY ANALYSIS

Section 828.27, F.S., authorizes county and municipal governments to enact animal control and cruelty ordinances. A violation of this section is a civil infraction punishable by a maximum \$500 fine plus applicable administrative fees and court costs. To pay the costs of training for animal control officers, the governing body of a county or municipality is authorized to impose a surcharge of up to \$5 for each violation of animal control and cruelty ordinances and to use the proceeds accordingly.

The bill revises the provisions allowing local governments to impose a surcharge for violations of animal control and cruelty ordinances. Specifically, the bill requires the governing body of a county or municipality to collect a \$15 surcharge for each civil penalty for said violations. The bill allocates the proceeds from the surcharge in the following manner:

- Authorizes \$1 to be retained by the clerk of the court,
- Preserves the current \$5 allocation used for the costs of training for animal control officers, and
- Requires the remaining \$9, if the clerk of the court retains the \$1 or \$10 if they do not, to be used to subsidize the costs of spaying or neutering dogs and cats whose owners voluntarily submit their animals for sterilization.

The bill provides that owners of dogs and cats who voluntarily submit their animals for sterilization may not be charged more for the spaying or neutering than the cost of sterilization less the subsidy paid from the surcharge. The bill specifies that it does not require the enactment of animal control and cruelty ordinances.

The mandates provision appears to apply; however, an exception applies because Article VII, Section 18(a) of the Florida Constitution, provides an exception for expenditures in which sufficient funds have been appropriated to cover the mandate requirement. The fiscal impact to local government is indeterminate.

The bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Pet overpopulation has become an increasing threat to public health and safety within certain areas in the United States. Unsterilized animals result in high numbers of unwanted pets, overcrowding at animal care centers and high rates of euthanasia.

In six years, according to The Humane Society of the United States, one female dog and her offspring can give birth to hundreds of puppies, and, in seven years, one cat and her young can produce hundreds of kittens. High reproduction rates lead to millions of such animals being euthanized in shelters nationwide each year.<sup>1</sup>

Some studies show that dogs and cats that are spayed or neutered tend to have fewer health problems and are less likely to roam far from home seeking a mate. Additionally, sterilized dogs have been known to be less aggressive. Statistically, unaltered dogs are two times more likely to bite than sterilized animals and unsterilized dogs account for 95 percent of all fatal maulings.<sup>2</sup> On the other hand, studies have shown that dogs that undergo spaying or neutering procedures – surgical or hormonal – are at increased risks for certain cancers, thyroid disorder, incontinence and some of the same behavior issues, such as aggression, that sterilization is said to prevent.<sup>3</sup>

In 1980, the Legislature enacted section 823.15, F.S., stating that it is the policy of the state to encourage every feasible means of reducing the number of unneeded and unwanted puppies and kittens in the state.

Section 828.27, F.S., authorizes county and municipal governments to enact animal control and cruelty ordinances. A violation of this section is a civil infraction punishable by a maximum \$500 fine plus applicable administrative fees and court costs. To pay the costs of training for animal control officers, the governing body of a county or municipality is authorized to impose a surcharge of up to \$5 for each violation of animal control and cruelty ordinances and to use the proceeds accordingly.

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<sup>1</sup> The Humane Society of the United States ; [humanesociety.org](http://humanesociety.org)

<sup>2</sup> *Id.*

<sup>3</sup> The American College of Theriogenologists and The Society for Theriogenology; Basis for Position on Mandatory Spay-Neuter in the Canine and Feline.

## Proposed Changes

The bill requires local governments to impose a \$15 surcharge for each civil penalty for each violation of animal control and cruelty ordinances. The bill allocates the proceeds from said surcharge in the following manner:

- Authorizes \$1 to be retained by the clerk of the court,
- Preserves the current \$5 allocation used for the costs of training for animal control officers, and
- Requires the remaining \$9, if the clerk of the court retains the \$1 or \$10 if they do not, to be used to subsidize the costs of spaying or neutering dogs and cats whose owners voluntarily submit their animals for sterilization.

The bill prohibits the owners of dogs and cats who voluntarily submit their animals for sterilization from being charged more for the spaying or neutering than the cost of sterilization less the subsidy paid from the surcharge. The bill specifies that it does not require the enactment of animal control and cruelty ordinances.

### B. SECTION DIRECTORY:

Section 1. Amends s. 828.27, F.S.; requiring a \$15 surcharge for violations of county or municipal animal control and cruelty ordinances; allocating the proceeds; subsidizing the cost to owners who voluntarily submit their animals for sterilization; clarifying the intent.

Section 2. Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None

#### 2. Expenditures:

None

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill requires a county or municipality to impose and collect a \$15 surcharge for each violation of an animal control or cruelty ordinance and authorizes \$1 to be retained by the clerk of the court. Depending on how many animal control or cruelty violations may occur, this requirement may increase revenues for local governments. Sufficient local records quantifying violations of current animal control or cruelty ordinances do not exist. The related fiscal impact to local government is indeterminate.

#### 2. Expenditures:

None

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

The bill requires the subsidization for spaying or neutering of dogs and cats whose owners voluntarily submit their animals for sterilization. This may encourage additional owners to voluntarily sterilize their animals, which may improve the health of these animals in Florida, associated medical and insurance costs to the private sector may be decreased.

D. FISCAL COMMENTS:

None

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill requires local governments to subsidize the costs of spaying or neutering dogs and cats whose owners voluntarily submit their animals for sterilization. This would require the local government to spend funds; however, an exception applies because Article VII, Section 18(a) of the Florida Constitution, provides an exception for expenditures in which sufficient funds have been appropriated to cover the mandate requirement. The surcharge should provide for sufficient funds to cover this requirement.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

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1                   A bill to be entitled  
 2           An act relating to animal control or cruelty ordinances;  
 3           amending s. 828.27, F.S.; requiring a county or  
 4           municipality enacting an ordinance relating to animal  
 5           control or cruelty to impose a specified surcharge on the  
 6           civil penalty for violations of the ordinance; specifying  
 7           use of the proceeds of the surcharge; providing  
 8           construction; providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Paragraph (b) of subsection (4) of section  
 13           828.27, Florida Statutes, is amended to read:

14           828.27 Local animal control or cruelty ordinances;  
 15           penalty.—

16           (4)

17           (b) The governing body of a county or municipality  
 18           enacting an ordinance relating to animal control or cruelty  
 19           shall may impose and collect a surcharge of \$15 ~~up to \$5~~ upon  
 20           each civil penalty imposed for each violation of the an  
 21           ordinance relating to animal control or cruelty. One dollar of  
 22           the surcharge may be retained by the clerk of the court, \$5 of  
 23           the surcharge ~~proceeds from such surcharges~~ shall be used to pay  
 24           the costs of training for animal control officers, and the  
 25           remainder of the surcharge shall be used to subsidize the costs  
 26           of spaying or neutering of dogs and cats whose owners  
 27           voluntarily submit their animals for sterilization. Owners of  
 28           such animals may not be charged more for the spaying or

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29 neutering than the cost of sterilization less the subsidy paid  
30 from the surcharge. This paragraph does not require the  
31 governing body of a county or municipality to enact such an  
32 ordinance.

33 Section 2. This act shall take effect July 1, 2010.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1225

Sewage Disposal Facilities

**SPONSOR(S):** Gibbons

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2354

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee		Deslatte JD	Reese JR
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

Currently, any sewage disposal facility that has been discharging through an ocean outfall on July 1, 2008, shall install a functioning reuse system no later than December 31, 2025. A "functioning reuse system" means an environmentally, economically, and technically feasible system that provides a minimum of 60 percent of the facility's actual flow on an annual basis for irrigation of public access areas, residential properties, or agricultural crops; aquifer recharge; groundwater recharge; industrial cooling; or other acceptable reuse purposes authorized by the Department of Environmental Protection (DEP). Flows directed from the outfall facilities to other facilities that will provide 100 percent reuse of the redirected flows prior to December 31, 2025, count towards meeting the 60 percent requirement. For utilities operating more than one outfall, the reuse requirement can be met if the combined actual reuse flows from facilities served by the outfalls is at least 60 percent of the sum of the total actual flows from these facilities, including flows diverted to other facilities for 100 percent reuse prior to December 31, 2025. In the event treatment in addition to the advanced wastewater treatment and management requirements is needed in order to support a functioning reuse system, such treatment must be fully operational no later than December 31, 2025.

The bill requires that any facility that diverts wastewater flow from a facility that discharges domestic wastewater through an ocean outfall to which it has previously contributed wastewater flow, is required to meet the 60 percent reuse requirement and that reuse must be credited to the facility discharging domestic wastewater through an ocean outfall.

There is no fiscal impact to state government. If a facility, either a local government or private entity, diverts flow, then that party will be responsible for the cost of meeting the 60 percent reuse requirement for the diverted flow and the facility discharging through an ocean outfall will get credit toward its reuse requirement.

The bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Section 403.086, F.S., provides that by December 31, 2018, sewage disposal facilities with ocean outfall discharges must implement advanced wastewater treatment and management requirements. "Advanced wastewater treatment and management requirements" means the advanced waste treatment requirements set forth in subsection (4) of s. 403.086, F.S., or a reduction in outfall baseline loadings of total nitrogen and total phosphorus which is equivalent to that which would be achieved by the advanced waste treatment requirements in subsection (4) of s. 403.086, F.S., or a reduction in cumulative outfall loadings of total nitrogen and total phosphorus occurring between December 31, 2008, and December 31, 2025, which is equivalent to that which would be achieved if the advanced waste treatment requirements in subsection (4) of s. 403.086, F.S., were fully implemented beginning December 31, 2018, and continued through December 31, 2025. The DEP will establish the baseline loadings of pollutants (nitrogen and phosphorus) based on existing 5 year average loadings and will use the baseline loadings for the determination of required nutrient reductions. The baseline loadings and required loading reductions of total nitrogen and total phosphorus shall be expressed as an average annual daily loading value. The advanced wastewater and management requirements must be deemed to be met for a facility that has installed a fully functioning reuse system comprising 100 percent of the facility's average annual daily flow no later than 2018.

Any facility that has been discharging through an ocean outfall on July 1, 2008, must install a functioning reuse system no later than December 31, 2025. A "functioning reuse system" means an environmentally, economically, and technically feasible system that provides a minimum of 60 percent of the facility's actual flow on an annual basis for irrigation of public access areas, residential properties, or agricultural crops; aquifer recharge; groundwater recharge; industrial cooling; or other acceptable reuse purposes authorized by the DEP. The term "facility's actual flow on an annual basis" means the annual average flow of domestic wastewater discharging through a facility's ocean outfall, as determined by the DEP, using monitoring data available. Flows directed from the outfall facilities to other facilities that will provide 100 percent reuse of the redirected flows prior to December 31, 2025, count towards meeting the 60 percent requirement. For utilities operating more than one outfall, the reuse requirement can be met if the combined actual reuse flows from facilities served by the outfalls is at least 60 percent of the sum of the total actual flows from these facilities, including flows diverted to other facilities for 100 percent reuse prior to December 31, 2025. In the event treatment in addition to the advanced wastewater treatment and management requirements is needed in order to support a functioning reuse system, such treatment shall be fully operational no later than December 31, 2025.

The discharge of wastewater through ocean outfalls is prohibited after December 31, 2025, except as a backup discharge that is part of a functioning reuse system authorized by the DEP. A backup discharge may occur only during periods of reduced demand for reclaimed water in the reuse system, such as periods of wet weather, and shall comply with the advanced wastewater treatment and management requirements.

### **Effect of Proposed Changes**

The bill requires that any facility that diverts wastewater flow from a facility that discharges domestic wastewater through an ocean outfall to which it has previously contributed wastewater flow, is required to meet the 60 percent reuse requirement and that reuse shall be credited to the facility discharging domestic wastewater through an ocean outfall.

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

Section 1. Amends s. 403.086, F.S., requiring facilities contributing domestic wastewater to facilities discharging through ocean outfalls to meet specified reuse requirements if they divert such flows from the facilities discharging through ocean outfalls; providing that such reuse is credited to the facilities discharging through ocean outfalls.

Section 2. Provides an effective date.

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

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

1. Revenues:

None

2. Expenditures:

None

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

1. Revenues:

See Fiscal Comments below

2. Expenditures:

See Fiscal Comments below

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

None

#### **D. FISCAL COMMENTS:**

According to DEP, if no party currently contributing flow chooses to divert that flow, there is no fiscal impact. If a party does divert flow, that party will be responsible for the cost of meeting the 60 percent reuse requirement for the diverted flow and the facility discharging through an ocean outfall will get credit toward its reuse requirement. DEP also states that if the bill does not pass, if a party does divert flow there might be a cost savings to that party, but there would be an increased cost and possible inability to comply with the reuse requirement of s. 403.086(9), F.S., for the facility discharging through an ocean outfall.

### **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:**

According to DEP, as drafted the bill language is somewhat confusing, since it uses the term 'facility' to refer to two different parties: the domestic wastewater facilities that discharge through an ocean outfall on July 1, 2008, and other parties or entities, such as a city, that contribute wastewater flow to the domestic wastewater facilities that discharge through an ocean outfall on July 1, 2008.

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

1                                   A bill to be entitled  
 2           An act relating to sewage disposal facilities; amending s.  
 3           403.086, F.S.; requiring facilities contributing domestic  
 4           wastewater to facilities discharging through ocean  
 5           outfalls to meet specified reuse requirements if they  
 6           divert such flows from the facilities discharging through  
 7           ocean outfalls; providing that such reuse is credited to  
 8           the facilities discharging through ocean outfalls;  
 9           providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. Paragraph (i) is added to subsection (9) of  
 14           section 403.086, Florida Statutes, to read:

15           403.086 Sewage disposal facilities; advanced and secondary  
 16           waste treatment.—

17           (9) The Legislature finds that the discharge of domestic  
 18           wastewater through ocean outfalls wastes valuable water supplies  
 19           that should be reclaimed for beneficial purposes to meet public  
 20           and natural systems demands. The Legislature also finds that  
 21           discharge of domestic wastewater through ocean outfalls  
 22           compromises the coastal environment, quality of life, and local  
 23           economies that depend on those resources. The Legislature  
 24           declares that more stringent treatment and management  
 25           requirements for such domestic wastewater and the subsequent,  
 26           timely elimination of ocean outfalls as a primary means of  
 27           domestic wastewater discharge are in the public interest.

28           (i) A facility that diverts wastewater flow from a

HB 1225

2010

29 facility that discharges domestic wastewater through an ocean  
30 outfall to which it had previously contributed wastewater flow  
31 is required to meet the 60-percent reuse requirement of  
32 paragraph (c), and that reuse shall be credited to the facility  
33 discharging domestic wastewater through an ocean outfall.

34       Section 2. This act shall take effect July 1, 2010.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1225 (2010)

Amendment No. 1

COUNCIL/COMMITTEE 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 Council/Committee hearing bill: Agriculture & Natural Resources  
2 Policy Committee  
3 Representative(s) Mayfield and Gibbons offered the following:  
4

5 **Amendment**

6 Remove lines 28-33 and insert:

7 (i)An entity that diverts wastewater flow from a receiving  
8 facility that discharges domestic wastewater through an ocean  
9 outfall is required to meet the 60-percent reuse requirement of  
10 paragraph (c). Reuse by the diverting entity of any such  
11 diverted flows shall be credited to the diverting entity, the  
12 diverted flow shall also be correspondingly deducted from the  
13 receiving facility's actual flow on an annual basis from which  
14 the required reuse is calculated pursuant to paragraph (c) and  
15 the receiving facility's reuse requirement shall be recalculated  
16 accordingly.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1385

Petroleum Contamination Site Cleanup

SPONSOR(S): Poppell

TIED BILLS:

IDEN./SIM. BILLS: SB 2592

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture & Natural Resources Policy Committee		Deslatte	Reese
2) Natural Resources Appropriations Committee			
3) General Government Policy Council			
4)			
5)			

SUMMARY ANALYSIS

The bill allows the Department of Environmental Protection (DEP) to establish a long-term natural attenuation monitoring category for sites in the Petroleum Cleanup Program. The DEP is required to utilize natural attenuation monitoring strategies and, when cost-effective, transition sites eligible for restoration funding assistance to long-term natural attenuation monitoring where a site meets certain criteria.

The bill requires DEP to evaluate whether higher natural attenuation default concentrations for natural attenuation monitoring or long-term natural attenuation monitoring are cost-effective and will adequately protect public health and the environment. DEP must also evaluate site-specific characteristics that will allow for higher natural attenuation or long-term natural attenuation concentration levels.

Unless institutional controls have been imposed by the responsible party or property owner to restrict the uses of the site, the bill precludes local governments from denying development orders or permits on the grounds that petroleum contamination exists onsite.

The bill establishes a low-scored site initiative for sites with a priority ranking score of 10 points or less and provides conditions for voluntary participation. If these conditions are met, DEP must issue a No Further Action (NFA) order, which means minimal contamination exists onsite and that contamination is not a threat to human health or the environment. If no contamination is detected, DEP may issue a site rehabilitation completion order (SRCO).

Sites that are eligible will be initiated by the source property owner or responsible party for the contamination and are strictly voluntarily. DEP may pre-approve the cost of the assessment pursuant to s. 376.30711, F.S., including 6 months of groundwater monitoring, not to exceed \$30,000 for each site. 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 DEP issues its approval.

The bill authorizes DEP to spend no more than \$10 million per fiscal year to assess low scored sites. Funds will be made available on a first-come, first-served basis and will be limited to 10 sites in each fiscal year for each responsible party or property owner.

The bill deletes the provisions relating to funding for limited interim soil-source removals, which sunsets June 30, 2010.

There is no fiscal impact to state or local government.

The bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

The Petroleum Cleanup Program, within DEP's Division of Waste Management, encompasses the technical oversight, management, and administrative activities necessary to prioritize, assess, and cleanup sites contaminated by discharges of petroleum and petroleum products from stationary petroleum storage systems. These sites include those determined eligible for state-funded cleanup using preapproval contractors designated by the property owner or responsible party and state lead contractors under direct contract with the DEP, as well as non-program or voluntary cleanup sites that are funded by responsible parties

In order to pay for the expedited cleanup of petroleum contaminated sites, the Florida Legislature created the Inland Protection Trust Fund (s. 376.3071, F.S.). The Trust Fund (Fund) is a non-lapsing revolving trust fund with revenues generated from an excise tax per barrel of petroleum products currently produced or imported into the state as defined by s. 206.9935, F.S.<sup>1</sup>

Section 376.3071 (5), F.S., provides site selection and cleanup criteria. The statute states that DEP shall adopt rules to establish priorities for state-conducted cleanup at petroleum contamination sites based upon a scoring system and factors that include:

1. The degree to which human health, safety, or welfare may be affected by exposure to the contamination;
2. The size of the population or area affected by the contamination;
3. 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
4. The effect of the contamination on the environment.

Pursuant to s. 376.3071 (5) (c), F.S., DEP must require source removal, if warranted and cost-effective, at each site eligible for restoration funding from the Fund. This includes funding for limited interim soil-source removals, which will sunset June 30, 2010.

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<sup>1</sup> DEP's Petroleum Contamination Cleanup and Discharge Prevention Programs, December 2009.

Once the removal is completed, DEP may reevaluate the site to determine the degree of active cleanup needed to continue site rehabilitation. The DEP must also determine if the reevaluated site qualifies for natural attenuation monitoring or no further action (NFA)<sup>2</sup>. If additional site rehabilitation is necessary to reach the NFA status, the site rehabilitation must be conducted in the order established by the priority ranking system and the DEP is encouraged to utilize natural attenuation and monitoring where site conditions warrant. However, DEP has no authority to establish a long-term natural attenuation monitoring category to determine whether natural processes can significantly degrade petroleum contamination to cleanup target levels established by rule. Therefore, DEP uses active remediation techniques, pursuant to Rule 62-770.700 F.A.C., to improve sites to cleanup target levels<sup>3</sup>.

The DEP must issue a determination of "No Further Action" at sites ranked with a total priority score of 10 or less meeting certain conditions<sup>4</sup>. According to DEP's analysis, DEP has no authority to expend appropriated dollars to assess sites below the established score range for expenditures, pursuant to statute. The score range for expenditures is established based upon the DEP's projections on how many sites can be funded during a fiscal year with available appropriations. Low scored sites that could be assessed and possibly removed from the backlog of sites yet to be activated remain in the backlog. Responsible parties that have sites eligible for state funded cleanup are reluctant or unable to spend their own dollars to apply for the nonreimbursable voluntary cleanup.

### **Effect of Proposed Changes**

The bill amends s. 376.3071 (5)(c), F.S., deleting provisions relating to funding for limited interim soil-source removals, which sunsets June 30, 2010.

The bill allows the DEP to establish a long-term natural attenuation monitoring category for sites. The DEP is required to utilize natural attenuation monitoring strategies and, when cost-effective, transition sites eligible for restoration funding assistance to long-term natural attenuation monitoring when the plume is shrinking or stable and confined to the source property boundaries and the petroleum products' chemicals of concern meet the natural attenuation default concentrations, as defined by department rule.

DEP is required to evaluate whether higher natural attenuation default concentrations for natural attenuation monitoring or long-term natural attenuation monitoring are cost-effective and will adequately protect public health and the environment. DEP must also evaluate site-specific characteristics that will allow for higher natural attenuation or long-term natural attenuation concentration levels.

Unless institutional controls have been imposed by the responsible party or property owner to restrict the uses of the site, the bill precludes local governments from denying development orders or permits on the grounds that petroleum contamination exists onsite.

The bill amends s. 376.3071 (11)(b), F.S., by establishing a low-scored site initiative for sites with a priority ranking score of 10 points or less and providing 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;

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<sup>2</sup> As defined in Rule 62-782, Florida Administrative Code (F.A.C.), natural attenuation means an approach to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization

<sup>3</sup> DEP analysis (on file)

<sup>4</sup> See s. 376.3071 (11)(b), F.S.

- 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, DEP must issue a NFA, which means minimal contamination exists onsite and that contamination is not a threat to human health or the environment. If no contamination is detected, DEP may issue a site rehabilitation completion order (SRCO).

Sites that are eligible will be initiated by the source property owner or responsible party for the contamination and are strictly voluntary. For sites eligible for state restoration funding, DEP may pre-approve the cost of the assessment pursuant to s. 376.30711, F.S., including 6 months of groundwater monitoring, not to exceed \$30,000 for each site. 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 DEP issues its approval.

The bill authorizes DEP to spend no more than \$10 million per fiscal year to assess low scored sites. Funds will be made available on a first-come, first-served basis and will be limited to 10 sites in each fiscal year for each responsible party or property owner.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 376.3071, F.S., revising provisions relating to petroleum contamination site selection and cleanup criteria; deleting provisions relating to funding for limited interim soil-source removals; requiring the Department of Environmental Protection to utilize natural attenuation monitoring strategies to transition sites into long-term natural attenuation monitoring under specified conditions; providing for natural attenuation and active remediation of sites; requiring the department to evaluate certain costs and strategies; prohibiting local governments from denying development orders and permits on the grounds that a property is contaminated; providing an exception; establishing a low-scored site initiative; providing conditions for participation; requiring the department to issue certain determinations and orders; providing that certain sites are eligible for payment of preapproved costs; requiring assessment work to be completed within a certain timeframe; providing payment and funding limitations; deleting provisions relating to nonreimbursable voluntary cleanup.

Section 2. Provides for an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

None

##### 2. Expenditures:

See Fiscal Comments section

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

##### 1. Revenues:

None

##### 2. Expenditures:

None

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

According to DEP, the establishment of the long-term natural attenuation monitoring category will provide entities responsible for cleaning up non-state funded sites the option to cease active remediation if the contamination meets the proposed criteria. The person responsible for site rehabilitation must also monitor the plume for 42 months to determine whether natural processes are further degrading the contamination.

Costs normally consumed by active remediation can be either avoided or spread out over a longer period of time. Sites scored 10 points or less can qualify for either a Site Rehabilitation Completion Order or a No Further Action if they meet certain criteria, thereby eliminating these sites from the state funded cleanup backlog<sup>5</sup>.

**D. FISCAL COMMENTS:**

According to the DEP analysis, the proposed legislation will allow the department to use available appropriations for both active and passive remediation techniques and to assess low scored sites to minimize or eliminate contamination threats to public health and the environment in an improved, efficient and effective manner. In addition, state-funded contaminated sites that are in the backlog will become active sooner thereby reducing the backlog of over 8,800 sites that qualify for state funding.

**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/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

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<sup>5</sup> DEP analysis (on file)  
STORAGE NAME: h1385.ANR.doc  
DATE: 3/11/2010

1                                   A bill to be entitled  
 2           An act relating to petroleum contamination site cleanup;  
 3           amending s. 376.3071, F.S.; revising provisions relating  
 4           to petroleum contamination site selection and cleanup  
 5           criteria; deleting obsolete provisions relating to funding  
 6           for limited interim soil-source removals; requiring the  
 7           Department of Environmental Protection to utilize natural  
 8           attenuation monitoring strategies to transition sites into  
 9           long-term natural attenuation monitoring under specified  
 10          conditions; providing for natural attenuation and active  
 11          remediation of sites; requiring the department to evaluate  
 12          certain costs and strategies; prohibiting local  
 13          governments from denying development orders and permits on  
 14          the grounds that a property is contaminated; providing an  
 15          exception; establishing a low-scored site initiative;  
 16          providing conditions for participation; requiring the  
 17          department to issue certain determinations and orders;  
 18          providing that certain sites are eligible for payment of  
 19          preapproved costs; requiring assessment work to be  
 20          completed within a certain timeframe; providing payment  
 21          and funding limitations; deleting provisions relating to  
 22          nonreimbursable voluntary cleanup; providing an effective  
 23          date.

24  
 25   Be It Enacted by the Legislature of the State of Florida:  
 26

27 Section 1. Paragraph (c) of subsection (5) and paragraph  
28 (b) of subsection (11) of section 376.3071, Florida Statutes,  
29 are amended to read:

30 376.3071 Inland Protection Trust Fund; creation; purposes;  
31 funding.-

32 (5) SITE SELECTION AND CLEANUP CRITERIA.-

33 (c) The department shall require source removal, if  
34 warranted and cost-effective, at each site eligible for  
35 restoration funding from the Inland Protection Trust Fund.

36 1. Funding for free product recovery may be provided in  
37 advance of the order established by the priority ranking system  
38 under paragraph (a) for site cleanup activities. However, a  
39 separate prioritization for free product recovery shall be  
40 established consistent with paragraph (a). No more than \$5  
41 million shall be encumbered from the Inland Protection Trust  
42 Fund in any fiscal year for free product recovery conducted in  
43 advance of the priority order under paragraph (a) established  
44 for site cleanup activities.

45 ~~2. Funding for limited interim soil source removals for~~  
46 ~~sites that will become inaccessible for future remediation due~~  
47 ~~to road infrastructure and right-of-way restrictions resulting~~  
48 ~~from a pending Department of Transportation road construction~~  
49 ~~project or for secondary containment upgrading of underground~~  
50 ~~storage tanks required under chapter 62-761, Florida~~  
51 ~~Administrative Code, may be provided in advance of the order~~  
52 ~~established by the priority ranking system under paragraph (a)~~  
53 ~~for site cleanup activities. The department shall provide~~  
54 ~~written guidance on the limited source removal information and~~

55 ~~technical evaluation necessary to justify a request for a~~  
 56 ~~limited source removal in advance of the priority order pursuant~~  
 57 ~~to paragraph (a) established for site cleanup activities.~~  
 58 ~~Prioritization for limited source removal projects associated~~  
 59 ~~with a secondary containment upgrade in any fiscal year shall be~~  
 60 ~~determined on a first-come, first-served basis according to the~~  
 61 ~~approval date issued under s. 376.30711 for the limited source~~  
 62 ~~removal. Funding for limited source removals associated with~~  
 63 ~~secondary containment upgrades shall be limited to 10 sites in~~  
 64 ~~each fiscal year for each facility owner and any related person.~~  
 65 ~~The limited source removal for secondary containment upgrades~~  
 66 ~~shall be completed no later than 6 months after the department~~  
 67 ~~issues its approval of the project, and the approval~~  
 68 ~~automatically expires at the end of the 6 months. Funding for~~  
 69 ~~Department of Transportation and secondary containment upgrade~~  
 70 ~~source removals may not exceed \$50,000 for a single facility~~  
 71 ~~unless the department makes a determination that it is cost-~~  
 72 ~~effective and environmentally beneficial to exceed this amount,~~  
 73 ~~but in no event shall the department authorize costs in excess~~  
 74 ~~of \$100,000 for a single facility. Department funding for~~  
 75 ~~limited interim soil-source removals associated with Department~~  
 76 ~~of Transportation projects and secondary containment upgrades~~  
 77 ~~shall be limited to supplemental soil assessment, soil~~  
 78 ~~screening, soil removal, backfill material, treatment or~~  
 79 ~~disposal of the contaminated soil, dewatering related to the~~  
 80 ~~contaminated soil removal in an amount of up to 10 percent of~~  
 81 ~~the total interim soil-source removal project costs, treatment,~~  
 82 ~~and disposal of the contaminated groundwater and preparation of~~

83 ~~the source removal report. No other costs associated with the~~  
 84 ~~facility upgrade may be paid with department funds. No more than~~  
 85 ~~\$1 million for Department of Transportation limited source~~  
 86 ~~removal projects and \$10 million for secondary containment~~  
 87 ~~upgrade limited source removal projects conducted in advance of~~  
 88 ~~the priority order established under paragraph (a) for site~~  
 89 ~~cleanup activities shall be encumbered from the Inland~~  
 90 ~~Protection Trust Fund in any fiscal year. This subparagraph is~~  
 91 ~~repealed effective June 30, 2010.~~

92 ~~2.3-~~ Once free product removal and other source removal  
 93 identified in this paragraph are completed at a site, and  
 94 notwithstanding the order established by the priority ranking  
 95 system under paragraph (a) for site cleanup activities, the  
 96 department may reevaluate the site to determine the degree of  
 97 active cleanup needed to continue site rehabilitation. Further,  
 98 the department shall determine if the reevaluated site qualifies  
 99 for natural attenuation monitoring, long-term natural  
 100 attenuation monitoring, or no further action. If additional site  
 101 rehabilitation is necessary to reach no further action status,  
 102 the site rehabilitation shall be conducted in the order  
 103 established by the priority ranking system under paragraph (a).  
 104 ~~and~~ The department shall ~~is encouraged to~~ utilize natural  
 105 attenuation ~~and~~ monitoring strategies and, when cost-effective,  
 106 transition sites eligible for restoration funding assistance to  
 107 long-term natural attenuation monitoring where the plume is  
 108 shrinking or stable and confined to the source property  
 109 boundaries and the petroleum products' chemicals of concern meet  
 110 the natural attenuation default concentrations, as defined by

111 department rule. If the plume migrates beyond the source  
 112 property boundaries, natural attenuation monitoring may be  
 113 conducted in accordance with department rule, or if the site no  
 114 longer qualifies for natural attenuation monitoring, active  
 115 remediation may be resumed. If the petroleum products' chemicals  
 116 of concern increase or are not significantly reduced after 42  
 117 months of monitoring, active remediation shall be resumed as  
 118 necessary. For sites undergoing active remediation, the  
 119 department shall evaluate the cost of natural attenuation  
 120 monitoring pursuant to s. 376.30711 to ensure that site  
 121 mobilizations are performed in a cost-effective manner. Sites  
 122 that are not eligible for state restoration funding may  
 123 transition to long-term natural attenuation monitoring using the  
 124 criteria in this subparagraph. Nothing in this subparagraph  
 125 precludes a site from pursuing a "No Further Action" order with  
 126 conditions where site conditions warrant.

127 3. The department shall evaluate whether higher natural  
 128 attenuation default concentrations for natural attenuation  
 129 monitoring or long-term natural attenuation monitoring are cost-  
 130 effective and would adequately protect public health and the  
 131 environment. The department shall also evaluate site-specific  
 132 characteristics that would allow for higher natural attenuation  
 133 or long-term natural attenuation concentration levels.

134 4. Unless institutional controls have been imposed by the  
 135 responsible party or property owner to restrict the uses of the  
 136 site, a local government may not deny a development order or  
 137 other permit on the grounds that petroleum contamination exists  
 138 onsite.

139 (11)  
 140 (b) Low-scored site initiative ~~Nonreimbursable voluntary~~  
 141 ~~cleanup.~~ Notwithstanding s. 376.30711, any site ~~For sites with~~  
 142 ~~releases reported prior to January 1, 1995, the department shall~~  
 143 ~~issue a determination of "No Further Action" at sites ranked~~  
 144 ~~with a total priority ranking score of 10 points or less may~~  
 145 ~~voluntarily participate in the low-scored site initiative,~~  
 146 ~~whether or not the site is eligible for state restoration~~  
 147 ~~funding.~~

148 1. To participate in the low-scored site initiative, the  
 149 responsible party or property owner must affirmatively  
 150 demonstrate that, ~~which meet~~ the following conditions are met:

151 a.1. Upon reassessment pursuant to department rule, the  
 152 site retains a priority ranking score of 10 points or less ~~No~~  
 153 ~~free product exists in wells, boreholes, subsurface utility~~  
 154 ~~conduits, or vaults or buildings and no other fire or explosion~~  
 155 ~~hazard exists as a result of a release of petroleum products.~~

156 b.2. No excessively contaminated soil, as defined by  
 157 department rule, exists onsite as a result of a release of  
 158 petroleum products.

159 c.3. A minimum of 6 months of groundwater monitoring  
 160 indicates that the plume is shrinking or stable ~~Public supply~~  
 161 ~~wells for consumptive use of water expected to be affected by~~  
 162 ~~the site shall not be located within a 1/2-mile radius of the~~  
 163 ~~site; private supply wells for consumptive use of water expected~~  
 164 ~~to be affected by the site shall not be located within a 1/4-~~  
 165 ~~mile radius of the site; and there must be no current or~~  
 166 ~~projected consumptive use of the water affected by the site for~~

167 ~~at least the following 3 years. Where appropriate, institutional~~  
 168 ~~controls meeting the requirements of subparagraph (5)(b)4. may~~  
 169 ~~be required by the department to meet these criteria.~~

170 d.4. The release of petroleum products at the site does  
 171 ~~shall~~ not adversely affect adjacent surface waters, including  
 172 their effects on human health and the environment.

173 e.5. The area of groundwater containing the petroleum  
 174 products' chemicals of concern ~~in concentrations greater than~~  
 175 ~~the boundary values defined in subparagraph 7.~~ is less than one-  
 176 quarter acre and is confined to the source property boundaries  
 177 of the real property on which the discharge originated.

178 f.6. Soils onsite that are subject to human exposure found  
 179 between land surface and 2 feet below land surface ~~shall~~ meet  
 180 the soil cleanup target levels ~~criteria~~ established by  
 181 department rule or human exposure is limited by ~~pursuant to sub-~~  
 182 ~~subparagraph (5)(b)9.a. Where appropriate, institutional or~~  
 183 ~~engineering controls meeting the requirements of subparagraph~~  
 184 ~~(5)(b)4. may be required by the department to meet these~~  
 185 ~~criteria.~~

186 2. Upon affirmative demonstration of the conditions under  
 187 subparagraph 1., the department shall issue a determination of  
 188 "No Further Action." Such determination acknowledges that  
 189 minimal contamination exists onsite and that such contamination  
 190 is not a threat to human health or the environment. If no  
 191 contamination is detected, the department may issue a site  
 192 rehabilitation completion order.

193 3. Sites that are eligible for state restoration funding  
 194 may receive payment of preapproved costs for the low-scored site

195 initiative as follows:

196 a. A responsible party or property owner may submit an  
 197 assessment plan designed to affirmatively demonstrate that the  
 198 site meets the conditions under subparagraph 1. Notwithstanding  
 199 the priority ranking score of the site, the department may  
 200 preapprove the cost of the assessment pursuant to s. 376.30711,  
 201 including 6 months of groundwater monitoring, not to exceed  
 202 \$30,000 for each site. The department may not pay the costs  
 203 associated with the establishment of institutional or  
 204 engineering controls.

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

207 c. No more than \$10 million for the low-scored site  
 208 initiative shall be encumbered from the Inland Protection Trust  
 209 Fund in any fiscal year. Funds shall be made available on a  
 210 first-come, first-served basis and shall be limited to 10 sites  
 211 in each fiscal year for each responsible party or property  
 212 owner.

213 ~~7. Concentrations of the petroleum products' chemicals of~~  
 214 ~~concern in groundwater at the property boundary of the real~~  
 215 ~~property on which the petroleum contamination originates shall~~  
 216 ~~not exceed the criteria established pursuant to sub-subparagraph~~  
 217 ~~(5)(b)7.a. Where appropriate, institutional or engineering~~  
 218 ~~controls meeting the requirements of subparagraph (5)(b)4. may~~  
 219 ~~be required by the department to meet these criteria.~~

220 ~~8. The department is authorized to establish alternate~~  
 221 ~~cleanup target levels for onsite nonboundary wells pursuant to~~  
 222 ~~the criteria in subparagraph (5)(b)8.~~

223           ~~9. A scientific evaluation that demonstrates that the~~  
 224 ~~boundary criteria in subparagraph 7. will not be exceeded and a~~  
 225 ~~1-year site-specific groundwater monitoring plan approved in~~  
 226 ~~advance by the department validates the scientific evaluation.~~  
 227 ~~If the boundary criteria in subparagraph 7. are exceeded at any~~  
 228 ~~time, the department may order an extension of the monitoring~~  
 229 ~~period for up to 12 additional months from the time of the~~  
 230 ~~excess reading. The department shall determine the adequacy of~~  
 231 ~~the groundwater monitoring system at a site. All wells required~~  
 232 ~~by the department pursuant to this paragraph shall be installed~~  
 233 ~~before the monitoring period begins.~~

234           ~~10. Costs associated with activities performed pursuant to~~  
 235 ~~this paragraph for sites which qualify for a determination of~~  
 236 ~~"No Further Action" under this paragraph shall not be~~  
 237 ~~reimbursable from the Inland Protection Trust Fund.~~

238           Section 2. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE 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 Council/Committee hearing bill: Agriculture & Natural Resources  
2 Policy Committee  
3 Representative(s) Poppell offered the following:  
4

5 **Amendment (with title amendment)**

6 Between lines 26 and 27, insert:

7 Section 1. Creates subsection (7) of section 376.303, F.S.  
8 relating to Powers and duties of the Department of Environmental  
9 Protection-

10 (7) Facility owners and operators with underground  
11 petroleum storage systems shall ensure that all persons having  
12 primary responsibility or daily responsibility for on-site  
13 operations and maintenance of petroleum storage systems and  
14 persons having primary responsibility for addressing emergencies  
15 presented by a spill or release at their facilities are trained  
16 and certified pursuant to 42 U.S.C. Section 6991i. The  
17 department shall develop a training, testing and certification  
18 program by August 8, 2012, consistent with 42 U.S.C. Section  
19 6991i and the relevant guidelines of the U.S. Environmental

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1385 (2010)

Amendment No. 1

20 Protection Agency. Facility owners and operators shall ensure  
21 that all persons who are required to be trained and certified  
22 have copies of their certificates at their facilities for  
23 inspection and compliance purposes.

24 Between lines 237 and 238, insert:

25 Section 3. Creates a subsection (1) and subsection (2) of  
26 section 376.3077, F.S., relating to Unlawful to deposit motor  
27 fuel in tank required to be registered, without proof of  
28 registration display-

29 (1)It is unlawful for any owner, operator, or supplier to  
30 pump or otherwise deposit any motor fuel into a tank required to  
31 be registered under s. 376.303 unless proof of valid  
32 registration placard is displayed on such tank itself or the  
33 dispensing or measuring device connected thereto or, where  
34 appropriate, in the office or kiosk of the facility where the  
35 tank is located. The department shall enforce the provisions of  
36 this section pursuant to this chapter. The department may enter  
37 into an interagency agreement with the Department of Agriculture  
38 and Consumer Services to enforce the provisions of this section.

39 (2)The Department is authorized to establish rules for the  
40 suspension or denial of a placard at a facility with underground  
41 storage tanks pursuant to 42 U.S.C. Section 6991 and the  
42 relevant guidelines of the U.S. Environmental Protection Agency.

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Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove line 3 and insert:  
amending s. 376.303, F.S.; requiring the department to develop  
and implement a training, testing and certification program to  
address emergencies presented by a spill or release at a  
facility that has underground petroleum storage systems;  
amending s. 376.3071, F.S.; revising provisions relating

Remove line 22 and insert:  
nonreimbursable voluntary cleanup; amending s. 376.3077, F.S.;  
relating to unlawful deposit of motor fuel in tanks required to  
be registered, without proof of registration display; providing  
an effective



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1445

Department of Agriculture and Consumer Services

**SPONSOR(S):** Nelson

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2348

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Agriculture &amp; Natural Resources Policy Committee</u>	_____	Kaiser <i>[Signature]</i>	Reese <i>[Signature]</i>
2) <u>Natural Resources Appropriations Committee</u>	_____	_____	_____
3) <u>General Government Policy Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

**SUMMARY ANALYSIS**

HB 1445 addresses several issues related to agriculture and the powers and duties of the Department of Agriculture and Consumer Services (department). The bill:

- gives the Department of Environmental Protection (DEP) rule-making authority to periodically update the Model Ordinance (model ordinance) for Florida-Friendly Fertilizer Use on Urban Landscapes;
- requires local governments, in some areas, to meet certain criteria prior to adopting additional or more stringent standards relating to the model ordinance;
- allows on-line submission of certain applications to the department;
- requires a security officer school or recovery agent school to obtain the division's approval for use of a fictitious name;
- requires all 40 hours of training be completed prior to private investigator intern and security officer licensees submitting their applications;
- specifies the quantity of antifreeze to be submitted to the department for testing;
- authorizes the department to collect fees for the analysis and inspection of ethanol;
- removes language restricting the stop-sale order for brake fluid to be confined to the location where the violation occurred;
- changes the registration renewal fee for brake fluid from \$50 to \$100;
- transfers to the food banks and food recovery programs the responsibility to provide pertinent information to the department for dissemination to the public;
- provides for audits on marketing orders to be performed at the request of the advisory council associated with the marketing order;
- allows the inspection and registration of sites in the natural environment where aquatic plants are tended for harvest;
- increases the administrative fine cap for violations relating to plant industry;
- deletes language regarding the grading of poultry, which has not been used in 10 years;
- grants the department authority to delegate to local governments the issuance of authorizations for open burning;
- establishes a certified pile burner program within the department;
- amends the Florida Farm Winery program to recognize wine produced from agricultural products other than grapes;
- exempts tropical foliage from the provisions of the License and Bond law;
- clarifies that if a dealer in agricultural products fails, refuses or neglects to apply and qualify for a license renewal on or before its expiration date, a penalty shall apply;
- revises the minimum amount of surety bonds or certificates of deposit required for agricultural products dealer licenses;
- exempts contracts involving sellers of travel from the requirements of a written contract;
- requires a concealed firearm license applicant to submit fingerprints administered by the department; and,
- repeals language relating to the Florida Agricultural Museum as well as the Florida Agricultural Exposition from statute.

At the time this document was published, a fiscal analysis from the department for this legislation had not yet been received. Once the department provides a fiscal analysis of this legislation, this document will be updated and re-published. The effective date of this legislation is July 1, 2010.

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

**STORAGE NAME:** h1445.ANR.doc

**DATE:** 3/15/2010

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Florida Friendly Fertilizer:**

In 2009, the Legislature passed CS/CS/CS/SB 494, relating to water conservation. Among other things, the bill directed the Department of Environmental Protection (DEP) to create a Model Ordinance (model ordinance) for Florida-Friendly Fertilizer Use on Urban Landscapes by January 15, 2010, for adoption by local governments, which may adopt the ordinance by October 1, 2010. The model ordinance assesses penalties on licensed contractors in violation of certain requirements, including the requirement to inspect automatic landscape irrigation systems and report systems not in compliance with statutory requirements. It allows for regular maintenance of broken systems without assessing penalties when fixed within a reasonable time. The funds raised through penalties are dispersed for water-conservation activities and for administration and enforcement activities.

CS/CS/CS/SB 494 also provided legislative findings regarding the beneficial effect of the implementation of the model ordinance and encouraged adoption by local governments. It dictated adoption by local governments that are located in an area where water is impaired by certain nutrients, and allowed local governments to adopt more stringent standards if specified criteria are met. Local governments that have adopted their own ordinance prior to January 1, 2009, are exempted from these provisions, as are farm operations.

The bill revises, in statute, the edition of the current model ordinance. The bill also gives DEP rule-making authority to periodically update the model ordinance, in cooperation with Florida Consumer Fertilizer Task Force, the Department of Agriculture and Consumer Services, and the University of Florida's Institute of Food and Agricultural Sciences.

The bill requires local governments that are located in an area where water is impaired by certain nutrients to adopt the most recent version of the model ordinance. In areas where water is impaired, the bill provides criteria for local governments to adhere to prior to adopting additional or more stringent standards than the model ordinance. The criteria include:

- Components to be included in the comprehensive program.
- A review and report by a workgroup<sup>1</sup> addressing the economical and technical feasibility of enforcing the proposed additional or more stringent standards.
- Documentation in the public record of the need for more stringent standards. If an agency/organization providing input challenges the scientific basis of the proposed standards, the local government must address these concerns prior to adoption.

And lastly, the bill exempts lands currently used in urban stormwater, water quality, agronomic or horticultural research from the provisions regulating fertilizer use.

#### **Division of Licensing:**

The Division of Licensing (division) oversees the regulation of private security, private investigative and recovery services, as well as the issuance of licenses to carry concealed weapons or concealed firearms. Current law is not clear regarding the management of a security agency by an actively employed law enforcement officer. The bill clarifies this provision stating that an actively employed law enforcement officer is not allowed to manage a security agency.

Current law<sup>2</sup> requires applications for private security, private investigative and/or repossession services be submitted in writing. With the advent of Internet accessibility, the bill changes current law to accommodate the submission of applications on-line.

Current law does not provide the public with the ability to determine the owner of an entity. The bill requires a security officer school or recovery agent school to obtain the division's approval for use of a fictitious name. The bill also clarifies that an agency licensee structured as a sole proprietor or partnership may do business under one fictitious name. However, an agency licensee structured as a corporation or limited liability company (LLC) can conduct business under the corporate/LLC name or under one fictitious name per license.

Current law allows certain classes of private investigative and security officers to take their required educational training in two parts: 24 hours prior to application and 16 hours post application. It is difficult for the division to monitor the completion of the post application training. The bill requires private investigative intern and security officer applicants to complete the entire 40 hours of training prior to submitting their application. The bill also clarifies that because bodyguard service is not investigative-related, it does not satisfy the experience requirement for persons applying for a private investigator intern license or security officers license.

Additionally, the bill updates Florida statutes to conform to federal laws and terminologies; provides flexibility in payment methods for fees; and corrects outdated references.

#### **Antifreeze Act of 1978**

The Antifreeze Act of 1978<sup>3</sup> provides guidance to the Department of Agriculture and Consumer Services (department) regarding the regulation of antifreeze products in the state. Current law requires properly labeled samples of antifreeze to be furnished to the department for testing prior to the issuance of a permit. While specific sample amounts are required to perform the necessary testing, the amounts are not stipulated in statute. Therefore, some samples submitted are not adequate to perform the necessary tests, while other samples are too large, thus necessitating disposal of the excess antifreeze. The bill amends current law to specify a quantity to be submitted for testing.

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<sup>1</sup> The workgroup shall include a representative of the local government appointed by its governing body; a representative of the fertilizer applicator industry appointed by the Florida Nursery, Growers and Landscape Association, Inc.; a representative of a retail business that sells fertilizer appointed by the Florida Retail Federal, Inc.; a representative of the Department of Environmental Protection; and a representative of the Department of Agriculture and Consumer Services.

<sup>2</sup> Section 493.6105, F.S.

<sup>3</sup> Sections 501.91-501.923, F.S.

## **Gasoline and Oil Inspection**

Chapter 525, F.S., governs the regulation of gasoline and oil inspection in the state. In the recent past, ethanol has begun to be blended in 70-80 percent of all gasoline sold in Florida. And by December 31, 2010, all gasoline sold in Florida will be required to contain 9-10 percent ethanol. Additionally, the presence of E85 (85 percent ethanol and 15 percent gasoline) is gaining attention in Florida for use in Flex Fuel Vehicles. Although E85 does not have a large presence at this time, it is anticipated to increase in volume in the near future.

The department is given statutory authority<sup>4</sup> to collect fees to defray the cost of inspecting and analyzing specified petroleum fuels. Even though the department is required to collect and analyze ethanol before it has been blended with gasoline, ethanol is currently not subject to the petroleum inspection fee. The bill includes ethanol in the list of petroleum fuels subject to the surcharge for inspection and testing.

## **Sale of Brake Fluid**

Businesses that sell and distribute brake fluid products in Florida must meet certain requirements in order to register or renew registration of their products. Even though the cost to the department to renew a registration for brake fluid as compared to the original registration is the same, the fee for renewal is less than the registration fee. Hence, the fee to renew the product does not cover the cost to the department of materials, labor and analysis to register the renewal. The bill changes the renewal fee from \$50 to \$100.

Currently, the department may only issue a stop-sale order on brake fluid at the location where the violation occurred. If the violation deals with product quality, brake fluid from the same "lot" may be available for sale at other locations in the state. The bill removes language that restricts the stop-sale order to only the location where the violation occurred.

## **Sale of Liquefied Petroleum Gas (LP Gas)**

Chapter 527, F.S., regulates the sale and use of LP gas in Florida. Currently, the statutes do not provide the department authority to issue stop-use, stop-operation, or stop-sale orders when a LP gas regulated entity fails to comply with the requirements of Chapter 527, F.S., or the rules promulgated under this section of law. While not all violations of the LP gas law meet the criteria<sup>5</sup> for an immediate final order, the department currently lacks the authority to issue stop-operation orders when violations occur. The bill authorizes the department to issue stop-use, stop-operation, and stop-sale orders as warranted.

## **Food Recovery Programs**

Florida law<sup>6</sup> requires the department to develop a public information brochure detailing the need for and benefit of food recovery programs, the manner in which organizations may become involved in food recovery programs, the protection afforded to such programs under Florida law<sup>7</sup>, and the food recovery programs or food banks that exist in the state. Current law also requires the brochure to be updated annually.

The department states that, as the law is currently written, production of an accurate publication is not feasible for the following reasons:

- The department does not have access to information regarding food recovery entities or food banks operating in the state unless they currently contract with the department.
- Theoretically, any food bank, food pantry, soup kitchen, shelter, etc., may accept recovered food. The statutes provide no definition for these entities.
- Sub-distributing entities, such as food banks, food pantries, soup kitchens, etc., may number in the thousands.

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<sup>4</sup> Section 525.09, F.S.

<sup>5</sup> To issue an immediate final order, the department must find an immediate serious danger to public health, safety and welfare.

<sup>6</sup> Section 570.0725, F.S.

<sup>7</sup> Section 768.136, F.S.

The bill makes the public dissemination of information on food banks and food recovery programs optional for the department. The bill also transfers the responsibility to the food banks and food recovery programs to provide pertinent information to the department for dissemination to the public. The department is given rule-making authority to implement to provisions of the legislation.

### **Plant Industry:**

In 2008, the department assumed responsibility for the regulation of aquatic plants, including harvesting, distribution and sale. The current definition of nursery excludes aquatic plants harvested from the natural environment. The bill removes the exemption of aquatic plants from the definition of nursery to allow for the identification, inspection and registration of sites in the natural environment where aquatic plants are tended for harvest. The department states that monitoring of these sites will ensure that over-collection does not occur or otherwise damage the ecosystem in which the aquatic plants thrive.

The law currently authorizes the department, after notice and hearing, to impose an administrative fine not exceeding \$5000 per violation relating to plant industry laws. This fine cap has not been raised in more than 30 years and is no longer commensurate with the damage that may result to agriculture or the environment. For example, a nursery that unlawfully sells nursery stock that is under quarantine for an exotic pest can result in a new pest species being introduced throughout the state, making eradication difficult and costly. With fines capped at \$5000 per infraction, the amount to be gained by the seller from selling a quarantined plant may far outweigh the monetary penalty. The bill increases the administrative fine cap to \$10,000 per violation.

### **Sale of Eggs and Poultry**

State law<sup>8</sup> provides for dressed or ready-to-cook poultry offered for sale in bulk in the state to be held in a container clearly labeled with the grade and the part name or whole-bird statement of such poultry. The grade may be expressed as "premium," "good," or "standard." The grade may also be expressed in terms of equal standard as used in other states or by a federal agency. The United States Department of Agriculture (USDA) recently advised the department that current statutory language<sup>9</sup> violates the Poultry Products Inspection Act because it preempts federal law. The bill deletes language regarding the grading of poultry, which has not been used in 10 years.

### **Forest Protection**

Currently, the Division of Forestry (division) does not have the statutory authority to delegate issuance of open burning authorizations to local governments, although many local governments have expressed an interest, and ability, to implement a burn authorization program with division guidance. Some counties issue permits under their own authority, but the division is required to come behind and re-issue daily authorization due to the lack of delegation authority. The bill authorizes the delegation of authority to issue authorizations for open burning by the division to local governments.

The local government's program must be approved by the division, provide ordinance or local law that complies with state law, provide enforcement of the program's requirements and provide financial, personnel and other resources needed to carry out the program. If the division determines that a local government's program does not comply with state law or corresponding rules, the division can require the local government to take corrective action within a reasonable timeframe. If the local government fails to comply within the allotted time, the division shall resume administration of the open burning authorization program from the local government. Local governments administering an open burning authorization program are responsible for cooperating and assisting the division in carrying out the division's powers, duties and functions. Violations of a local government's open burning authorization program are subject to penalties as provided in s. 590.14, F.S.

In November, 2006, the division implemented a Certified Pile Burner program (program). The bill codifies this program in statute. It provides definitions for "certified pile burner," "pile burning," "land-clearing operation" and "yard trash," as well as revises the definition of "extinguished." The bill requires the certified pile burner to ensure that:

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<sup>8</sup> Section 583.13(1), F.S.

<sup>9</sup> Id.

- Prior to ignition, the piles are properly placed and the content is conducive to efficient burning.
- The piles are properly extinguished no later than 1 hour after sunset. In certain areas, the piles must be properly extinguished at least 1 hour before sunset.
- The specific consent of the landowner or his agent must be obtained before requesting authorization to burn.
- An authorization to burn has been obtained from the division prior to ignition.
- There are adequate firebreaks and sufficient personnel and firefighting equipment at the burn site to control the fire.

If a burn is conducted in accordance with the provisions of the program, the property owner and his/her agent are not liable under applicable Florida law<sup>10</sup> for damage or injury caused by the fire or resulting smoke unless gross negligence is proven. Violations of program provisions are a misdemeanor of the second degree, punishable by imprisonment not exceeding 60 days or a \$500 fine. The division is given rule-making authority to implement the certified pile burning program.

The bill also delegates to the county tax collector the responsibility for sending notices of Wildfire Hazard Reduction Treatment to landowners in wildfire hazard areas.

The bill recognizes the violation of division rules as a criminal act. When the division sets burn restrictions by rule, nothing in the statutes allows enforcement of these rules. Therefore, there is no retribution for someone who chooses not to comply.

### **Florida Farm Winery Program**

Currently, the Florida Farm Winery program is limited to those wineries that produce wine from grapes. Several Florida wine producers use fruits, other than grapes, and vegetables to make wine. However, these producers are not eligible to be registered and certified by the department as Florida Farm Wineries. The bill amends the Florida Farm Winery Program to recognize wine produced from products other than grapes.

### **Dealers in Agricultural Products**

The Florida License and Bond Law (law)<sup>11</sup> was enacted in 1941 to give market protection to producers of perishable agricultural commodities. The law is intended to facilitate the marketing of Florida agricultural products by encouraging a better understanding between buyers and sellers and by providing a marketplace that is relatively free of unfair trading practices and defaults.

In 2004, the Committee on Agriculture in the Florida House of Representatives reviewed the law as part of an interim project and recommended changes to the then-current statutes. During the 2005 legislative session, HB 1231 implemented the recommendations suggested by the interim project. Based on one of the recommendations, the bill amended the definition of the term "agricultural products" to include tropical foliage as a non-exempt agricultural product produced in the state. Until that point, tropical foliage had been exempt from the provisions of the law. For the most part, agricultural products considered exempt from the law are generally those offered by growers or groups of growers selling their own product(s); all persons who buy for cash and pay at the time of purchase with U.S. currency; dealers operating as bonded licensees under the Federal Packers and Stockyards Act; or retail operations purchasing less than \$1,000 in product per month from Florida producers.

Due to the manner by which the foliage business is conducted, the change implemented by HB 1231 has not proven beneficial to the foliage industry, and the industry has requested a reenactment of the exemption. This bill reverses the legislation enacted in 2005 and returns tropical foliage to exempted status from the provisions of the law.

The bill also amends current law to clarify that no person who has held a responsible position with a person, partnership, corporation or other business entity against whom the department has entered an administrative complaint, final order or whose license has been suspended or revoked for failure to

<sup>10</sup> Section 590.13, F.S.

<sup>11</sup> Sections 604.15-604.34, F.S.

comply with an order of the department may hold a responsible position with an agricultural dealer, licensed or otherwise, until the pending order has been satisfied. This is intended to close a loophole for individuals who register a corporation for the purchasing of agricultural products and then shut it down to avoid licensure or enforcement only to register a new corporation and continue operating without a license.

The bill revises the minimum amount of surety bonds or certificates of deposit required for agricultural products dealer licenses. The bill clarifies that if a dealer in agricultural products fails, refuses or neglects to apply and qualify for a license renewal on or before its expiration date, a penalty<sup>12</sup> shall apply and be added to the license fee for the principal place of business and to the license fee for each additional place of business named in the application.

#### **Sellers of Travel:**

Section 686.201, F.S., requires the agreement between a principal and any sales representative paid on a commission basis to be subject to a written contract signed by both parties. If the contract is not in writing and it is terminated, failure to pay the commission within 30 days makes the principal to an action liable for treble damages, attorney's fees and cost.

In the Florida travel industry, travel packages, cruise vacations, time share units, hotel rooms, etc., are routinely made available by providers, often via websites, to "sellers of travel" registered under Part XI of Chapter 550, F.S. The sellers of travel may then sell those services to the public. In such instances, the provider generally has no exclusive relationship with the seller of travel involved, so it is particularly burdensome and costly for a travel provider to enter into a separate written contract with every seller of travel who may decide to access the provider's travel offerings. Moreover, there is no real confusion in the travel industry regarding commissions and payment terms because such conditions are routinely published by travel providers and made available to all sellers of travel. As such, section 686.201, F.S., imposes what appear to be unnecessary costs on travel providers without conferring any real public benefit.

The bill exempts contracts involving sellers of travel from the requirements of a written contract.

#### **Miscellaneous:**

In several statutory cites, for which the department has oversight, the department is required to obtain social security numbers of the applicants. The bill deletes this requirement because social security numbers are no longer needed or used.

During the 2008 regular session, the Legislature removed all funding for the Florida Agricultural Museum due to a decrease in use and significant increases in the cost of operation. Section 570.901, F.S., referencing the Florida Agricultural Museum is being repealed, by this bill, from statute, as well as other cross-references to the museum. Section 570.071, F.S., relating to the Florida Agricultural Exposition, is also being repealed from statute.

The bill provides for audits on marketing orders to be performed at the request of the advisory council associated with the marketing order. Previously, an annual audit by a certified public accountant was required.

The bill requires a concealed firearm license applicant to submit fingerprints administered by the Division of Licensing.

The bill also removes references to the Florida State Collection of Arthropods contract with the department as a direct service organization, which ended several years ago.

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

**Section 1:** Amends s. 403.9336, F.S.; amends the legislative findings regarding the implementation of the Model Ordinance (model ordinance) for Florida-Friendly Fertilizer Use on Urban Landscapes.

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<sup>12</sup> Not to exceed \$100.

**Section 2:** Amends s. 403.9337, F.S.; revises edition of the model ordinance; requires counties to adopt most recent version of model ordinance; provides criteria to be included in the comprehensive program; requires the local government to convene a workgroup consisting of specific representatives; requires the local government to document the need for more stringent standards; requires the local government to address concerns relating to criteria for more stringent standards; and, exempts lands used for certain research from provisions regulating fertilizer use on urban landscapes.

**Section 3:** Amends s. 493.6102, F.S.; provides that certain provisions relating to security officers do not apply to certain officers performing off-duty activities.

**Section 4:** Amends s. 493.6105, F.S.; revises information to be included in an application for private investigators, private security officers and recovery agents.

**Section 5:** Amends s. 493.6106, F.S.; revises citizenship requirements and documentation for private investigators, private security officers and recovery agents; and, requires applicants to have the right to purchase or possess a firearm.

**Section 6:** Amends s. 493.6107, F.S.; revises methods by which fees may be paid.

**Section 7:** Amends s. 493.6108, F.S.; revises requirements for criminal history checks of license applicants whose fingerprints are not legible; and, requires investigation of the mental and emotional fitness of the applicants for firearms instructor licenses.

**Section 8:** Amends s. 493.6111, F.S.; requires security officer school or recovery agent school to obtain department approval for use of a fictitious name.

**Section 9:** Amends s. 493.6113, F.S.; revises application renewal procedures and requirements.

**Section 10:** Amends s. 493.6115, F.S.; conforms cross-references.

**Section 11:** Amends s. 493.6118, F.S.; revises grounds for disciplinary action.

**Section 12:** Amends s. 493.6121, F.S.; deletes provisions for department access to certain criminal history records provided to licensed gun dealers.

**Section 13:** Amends s. 493.6202, F.S.; revises methods by which fees may be paid.

**Section 14:** Amends s. 493.6203, F.S.; clarifies that bodyguard services do not count toward certain license requirements; and, revises training requirements for private investigator intern license applicants.

**Section 15:** Amends s. 493.6302, F.S.; revises methods by which fees may be paid.

**Section 16:** Amends s. 493.6303, F.S.; revises training requirements for security officer license applicants.

**Section 17:** Amends s. 493.6304, F.S.; revises application requirements and procedures for security school licenses.

**Sections 18-20:** Amends ss. 493.6401, 493.6402, and 493.6406, F.S.; revises out-dated terminology.

**Sections 21-22:** Amends ss. 501.605 and 501.607, F.S.; revises information to be included on license for commercial telephone seller.

**Section 23:** Amends s. 501.913, F.S.; revises size of antifreeze sample to be submitted to the department with application.

**Section 24:** Amends s. 525.01, F.S.; revises requirements for petroleum fuel affidavits.

**Section 25:** Amends s. 525.09, F.S.; imposes an inspection fee on certain alternative fuels containing alcohol.

**Section 26:** Amends s. 526.50, F.S.; provides definitions for “brand” and “formula.”

**Section 27:** Amends s. 526.51, F.S.; revises brake fluid permit application requirements; deletes permit renewal requirements; provides for reregistration of brake fluid; and establishes fees.

**Section 28:** Amends s. 526.52, F.S.; revises information to be included on brake fluid labels.

**Section 29:** Amends s. 526.53, F.S.; revises criteria for issuing a stop-sale order.

**Section 30:** Amends s. 527.0201, F.S.; revises requirements for liquefied petroleum gas qualifying examinations; and, increases continuing education requirements for certain liquefied petroleum gas qualifiers.

**Section 31:** Amends s. 527.12, F.S.; authorizes the department to issue a stop-use order, stop-operation order or stop-sale order for violations relating to liquefied petroleum gas.

**Sections 32-33:** Amends ss. 559.805 and 559.928, F.S.; deletes requirements that lists of independent agents of sellers of business opportunities and the agents’ registration affidavits include the agents’ social security numbers.

**Section 34:** Amends s. 570.0725, F.S.; revises provisions for public information regarding food banks and food recovery programs; and, grants rule-making authority to the department.

**Sections 35-36:** Amends ss. 570.53 and 570.54, F.S.; conforms cross-references.

**Section 37:** Amends s. 570.55, F.S.; revises requirements for identifying sellers or handlers of tropical fruit or vegetables.

**Section 38:** Amends s. 570.902, F.S.; revises definitions.

**Section 39:** Amends s. 570.903, F.S.; deletes references to the Florida Agricultural Museum; and, deletes references to the Florida State Collection of Arthropods.

**Section 40:** Amends s. 573.118, F.S.; provides for an audit of marketing orders when requested by the advisory council; requires audit to be completed within a specified timeframe; and, requires a copy of the audit to be provided to the advisory council within a specified timeframe.

**Section 41:** Amends s. 581.011, F.S.; revises definitions.

**Section 42:** Amends s. 581.211, F.S.; increases penalty for violations of plant industry regulations.

**Section 43:** Amends s. 583.13, F.S.: deletes a prohibition on the sale of poultry without displaying the poultry grade.

**Section 44:** Amends s. 590.125, F.S.; revises definitions for pile burning authorizations; specifies purposes of certified prescribed burning; requires the authorization of the Division of Forestry (division) for certified pile burning; provides pile burning requirements; limits the liability of property owners or agents engaged in pile burning; provides for the certification of pile burners; provides penalties for violations by certified pile burners; requires rules; revises notice requirements for wildfire hazard reduction treatments; provides for approval of local government open burning authorization programs; provides program requirements; authorizes the division to close local government programs under

certain circumstances; and, provides penalties for violations of local government open burning requirements.

**Section 45:** Amends s. 590.14, F.S.; authorizes fines for violations of any division rules; provides penalties for certain violations; and, provides legislative intent.

**Section 46:** Amends s. 599.004, F.S.; revises standards that a winery must meet to qualify as a certified Florida Farm Winery.

**Section 47:** Amends s. 604.15, F.S.; revises the term "agricultural products" to make tropical foliage exempt from regulation under provisions relating to dealers in agricultural products; and, defines the term "responsible position."

**Section 48:** Amends s. 604.19, F.S.; revises requirements for late fees on agricultural products dealer applications.

**Section 49:** Amends s. 604.20, F.S.; revises the minimum amount of the surety bond or certificate of deposit required for an agricultural products dealer license; provides conditions for the payment of bond or certificate of deposit proceeds; and, requires additional documentation for issuance of a conditional license.

**Section 50:** Amends s. 604.25, F.S.; prohibits certain persons from holding a responsible position with an agricultural products dealer; and, authorizes the suspension or revocation of an agricultural products dealer license for employing such a person.

**Section 51:** Amends s. 686.201, F.S.; exempts contracts involving a seller of travel from the requirements of that section.

**Section 52:** Amends s. 790.06, F.S.; requires a concealed firearm license applicant to submit fingerprints administered by the Division of Licensing.

**Section 53:** Repeals ss. 570.071 and 570.901, F.S.; repeals language relating to the Florida Agricultural Exposition and Florida Agricultural Museum.

**Section 54:** Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments section.

#### 2. Expenditures:

See Fiscal Comments section.

### 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:**

See Fiscal Comments section.

**D. FISCAL COMMENTS:**

At the time this document was published, a fiscal analysis from the Department of Agriculture and Consumer Services (department) had not yet been received. Once the department provides a fiscal analysis of this legislation, this document will be updated and re-published.

**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 an 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 a state tax shared with counties or municipalities.

**2. Other:**

None

**B. RULE-MAKING AUTHORITY:**

The Department of Environmental Protection is given rule-making authority to update the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.

The Department of Agriculture and Consumer Services is given rule-making authority to administer the public dissemination of information regarding food banks and food recovery services and to regulate certified pile burning.

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

None

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to the Department of Agriculture and  
 3           Consumer Services; amending s. 403.9336, F.S.; revising a  
 4           reference to the Model Ordinance for Florida-Friendly  
 5           Fertilizer Use on Urban Landscapes; amending s. 403.9337,  
 6           F.S.; specifying a certain edition of the model ordinance  
 7           for adoption by certain counties and municipalities;  
 8           authorizing the Department of Environmental Protection to  
 9           adopt rules updating the model ordinance; revising the  
 10          criteria for a local government's adoption of additional  
 11          or more stringent standards; exempting lands used for  
 12          certain research from provisions regulating fertilizer use  
 13          on urban landscapes; amending s. 493.6102, F.S.;  
 14          specifying that provisions regulating security officers do  
 15          not apply to certain law enforcement, correctional, and  
 16          probation officers performing off-duty activities;  
 17          amending s. 493.6105, F.S.; revising the application  
 18          requirements and procedures for certain private  
 19          investigative, private security, recovery agent, and  
 20          firearm licenses; specifying application requirements for  
 21          firearms instructor licenses; amending s. 493.6106, F.S.;  
 22          revising citizenship requirements and documentation for  
 23          certain private investigative, private security, and  
 24          recovery agent licenses; prohibiting the licensure of  
 25          applicants for a statewide firearm license or firearms  
 26          instructor license who are prohibited from purchasing or  
 27          possessing firearms; requiring that private investigative,  
 28          security, and recovery agencies notify the Department of

29 Agriculture and Consumer Services of changes to their  
 30 branch office locations; amending s. 493.6107, F.S.;  
 31 requiring the department to accept certain methods of  
 32 payment for certain fees; amending s. 493.6108, F.S.;  
 33 revising requirements for criminal history checks of  
 34 license applicants whose fingerprints are not legible;  
 35 requiring the investigation of the mental and emotional  
 36 fitness of applicants for firearms instructor licenses;  
 37 amending s. 493.6111, F.S.; requiring a security officer  
 38 school or recovery agent school to obtain the department's  
 39 approval for use of a fictitious name; specifying that a  
 40 licensee may not conduct business under more than one  
 41 fictitious name; amending s. 493.6113, F.S.; revising  
 42 application renewal procedures and requirements; amending  
 43 s. 493.6115, F.S.; conforming cross-references; amending  
 44 s. 493.6118, F.S.; authorizing disciplinary action against  
 45 statewide firearm licensees and firearms instructor  
 46 licensees who are prohibited from purchasing or possessing  
 47 firearms; amending s. 493.6121, F.S.; deleting provisions  
 48 for the department's access to certain criminal history  
 49 records provided to licensed gun dealers, manufacturers,  
 50 and exporters; amending s. 493.6202, F.S.; requiring the  
 51 department to accept certain methods of payment for  
 52 certain fees; amending s. 493.6203, F.S.; prohibiting  
 53 bodyguard services from being credited toward certain  
 54 license requirements; revising the training requirements  
 55 for private investigator intern license applicants;  
 56 requiring the automatic suspension of an intern's license

57 | under certain circumstances; providing an exception;  
 58 | amending s. 493.6302, F.S.; requiring the department to  
 59 | accept certain methods of payment for certain fees;  
 60 | amending s. 493.6303, F.S.; revising the training  
 61 | requirements for security officer license applicants;  
 62 | amending s. 493.6304, F.S.; revising application  
 63 | requirements and procedures for security officer school  
 64 | licenses; amending s. 493.6401, F.S.; revising terminology  
 65 | for recovery agent schools and training facilities;  
 66 | amending s. 493.6402, F.S.; revising terminology for  
 67 | recovery agent schools and training facilities; requiring  
 68 | the department to accept certain methods of payment for  
 69 | certain fees; amending s. 493.6406, F.S.; revising  
 70 | terminology; requiring recovery agent school and  
 71 | instructor licenses; providing license application  
 72 | requirements and procedures; amending ss. 501.605 and  
 73 | 501.607, F.S.; revising application requirements for  
 74 | commercial telephone seller and salesperson licenses;  
 75 | amending s. 501.913, F.S.; specifying the sample size  
 76 | required for antifreeze registration application; amending  
 77 | s. 525.01, F.S.; revising requirements for petroleum fuel  
 78 | affidavits; amending s. 525.09, F.S.; imposing an  
 79 | inspection fee on certain alternative fuels containing  
 80 | alcohol; amending s. 526.50, F.S.; defining terms  
 81 | applicable to regulation of the sale of brake fluid;  
 82 | amending s. 526.51, F.S.; revising brake fluid permit  
 83 | application requirements; deleting permit renewal  
 84 | requirements; providing for reregistration of brake fluid;

85 | establishing fees; amending s. 526.52, F.S.; revising  
 86 | requirements for printed statements on brake fluid  
 87 | containers; amending s. 526.53, F.S.; revising  
 88 | requirements and procedures for brake fluid stop-sale  
 89 | orders; authorizing businesses to dispose of unregistered  
 90 | brake fluid under certain circumstances; amending s.  
 91 | 527.0201, F.S.; revising requirements for liquefied  
 92 | petroleum gas qualifying examinations; increasing  
 93 | continuing education requirements for certain liquefied  
 94 | petroleum gas qualifiers; amending s. 527.12, F.S.;  
 95 | providing for the issuance of certain stop orders;  
 96 | amending ss. 559.805 and 559.928, F.S.; deleting social  
 97 | security numbers as a listing requirement on registration  
 98 | affidavits for independent agents of sellers of business  
 99 | opportunities; amending s. 570.0725, F.S.; revising  
 100 | provisions for public information about food banks and  
 101 | similar food recovery programs; authorizing the department  
 102 | to adopt rules; amending ss. 570.53 and 570.54, F.S.;  
 103 | conforming cross-references; amending s. 570.55, F.S.;  
 104 | revising requirements for identifying sellers or handlers  
 105 | of tropical or subtropical fruit or vegetables; amending  
 106 | s. 570.902, F.S.; conforming terminology to the repeal by  
 107 | the act of provisions establishing the Florida  
 108 | Agricultural Museum; amending s. 570.903, F.S.; revising  
 109 | provisions for direct-support organizations for certain  
 110 | agricultural programs to conform to the repeal by the act  
 111 | of provisions establishing the Florida Agricultural  
 112 | Museum; deleting provisions for a direct-support

113 organization for the Florida State Collection of  
 114 Arthropods; amending s. 573.118, F.S.; requiring the  
 115 department to maintain records of marketing orders;  
 116 requiring an audit at the request of an advisory council;  
 117 requiring that the advisory council receive a copy of the  
 118 audit within a specified time; amending s. 581.011, F.S.;  
 119 deleting terminology relating to the Florida State  
 120 Collection of Arthropods; revising the term "nursery" for  
 121 purposes of plant industry regulations; amending s.  
 122 581.211, F.S.; increasing the maximum fine for violations  
 123 of plant industry regulations; amending s. 583.13, F.S.;  
 124 deleting a prohibition on the sale of poultry without  
 125 displaying the poultry grade; amending s. 590.125, F.S.;  
 126 revising terminology for open burning authorizations;  
 127 specifying purposes of certified prescribed burning;  
 128 requiring the authorization of the Division of Forestry  
 129 for certified pile burning; providing pile burning  
 130 requirements; limiting the liability of property owners or  
 131 agents engaged in pile burning; providing for the  
 132 certification of pile burners; providing penalties for  
 133 violations by certified pile burners; requiring rules;  
 134 authorizing the division to adopt rules regulating  
 135 certified pile burning; revising notice requirements for  
 136 wildfire hazard reduction treatments; providing for  
 137 approval of local government open burning authorization  
 138 programs; providing program requirements; authorizing the  
 139 division to close local government programs under certain  
 140 circumstances; providing penalties for violations of local

141 government open burning requirements; amending s. 590.14,  
 142 F.S.; authorizing fines for violations of any division  
 143 rule; providing penalties for certain violations;  
 144 providing legislative intent; amending s. 599.004, F.S.;  
 145 revising standards that a winery must meet to qualify as a  
 146 certified Florida Farm Winery; amending s. 604.15, F.S.;  
 147 revising the term "agricultural products" to make tropical  
 148 foliage exempt from regulation under provisions relating  
 149 to dealers in agricultural products; defining the term  
 150 "responsible position"; amending s. 604.19, F.S.; revising  
 151 requirements for late fees on agricultural products dealer  
 152 applications; amending s. 604.20, F.S.; revising the  
 153 minimum amount of the surety bond or certificate of  
 154 deposit required for agricultural products dealer  
 155 licenses; providing conditions for the payment of bond or  
 156 certificate of deposit proceeds; requiring additional  
 157 documentation for issuance of a conditional license;  
 158 amending s. 604.25, F.S.; revising conditions under which  
 159 the department may deny, refuse to renew, suspend, or  
 160 revoke agricultural products dealer licenses; deleting a  
 161 provision prohibiting certain persons from holding a  
 162 responsible position with a licensee; amending s. 686.201,  
 163 F.S.; exempting contracts involving a seller of travel  
 164 from requirements for certain sales representative  
 165 contracts; amending s. 790.06, F.S.; authorizing a  
 166 concealed firearm license applicant to submit fingerprints  
 167 administered by the Division of Licensing; repealing ss.  
 168 570.071 and 570.901, F.S., relating to the Florida

HB 1445

2010

169 Agricultural Exposition and the Florida Agricultural  
 170 Museum; providing an effective date.

171

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

173

174 Section 1. Section 403.9336, Florida Statutes, is amended  
 175 to read:

176 403.9336 Legislative findings.—The Legislature finds that  
 177 ~~the~~ implementation of the Model Ordinance for Florida-Friendly  
 178 Fertilizer Use on Urban Landscapes ~~(2008)~~, ~~which was developed~~  
 179 ~~by the department in conjunction with the Florida Consumer~~  
 180 ~~Fertilizer Task Force, the Department of Agriculture and~~  
 181 ~~Consumer Services, and the University of Florida Institute of~~  
 182 ~~Food and Agricultural Sciences,~~ will assist in protecting the  
 183 quality of Florida's surface water and groundwater resources.  
 184 The Legislature further finds that local conditions, including  
 185 variations in the types and quality of water bodies, site-  
 186 specific soils and geology, and urban or rural densities and  
 187 characteristics, may necessitate ~~the implementation of~~  
 188 additional or more stringent fertilizer management practices at  
 189 the local government level.

190 Section 2. Section 403.9337, Florida Statutes, is amended  
 191 to read:

192 403.9337 Model Ordinance for Florida-Friendly Fertilizer  
 193 Use on Urban Landscapes.—

194 (1) All county and municipal governments are encouraged to  
 195 adopt and enforce the Model Ordinance for Florida-Friendly  
 196 Fertilizer Use on Urban Landscapes (2009) as developed by the

197 department in conjunction with the Florida Consumer Fertilizer  
 198 Task Force, the Department of Agriculture and Consumer Services,  
 199 and the University of Florida's Institute of Food and  
 200 Agricultural Sciences, which the department may periodically  
 201 update and adopt by rule, or an equivalent requirement as a  
 202 mechanism for protecting local surface and groundwater quality.

203 (2) Each county and municipal government located within  
 204 the watershed of a water body or water segment that is listed as  
 205 impaired by nutrients pursuant to s. 403.067, must ~~shall~~, at a  
 206 minimum, adopt the most recent version of the department's Model  
 207 Ordinance for Florida-Friendly Fertilizer Use on Urban  
 208 Landscapes. A local government may adopt additional or more  
 209 stringent standards than the model ordinance if, before  
 210 adoption, the following criteria are met:

211 (a) The local government has implemented ~~demonstrated,~~ ~~as~~  
 212 ~~part of~~ a comprehensive program to address nonpoint sources of  
 213 nutrient pollution but ~~which is science-based, and economically~~  
 214 ~~and technically feasible,~~ that additional or more stringent  
 215 standards than the model ordinance are necessary in order to  
 216 adequately address ~~urban fertilizer contributions to~~ nonpoint  
 217 source nutrient loading to a water body. A comprehensive program  
 218 may include:

219 1. Nonpoint source activities adopted as part of a basin  
 220 management plan developed pursuant to s. 403.067(7);

221 2. Adoption of Florida-friendly landscaping requirements,  
 222 as provided in s. 373.185, into the local government's  
 223 development code; or

224 3. The requirement for and enforcement of the

225 implementation of low-impact development practices.

226 (b) The local government has convened a workgroup composed  
 227 of: a representative of the local government appointed by its  
 228 governing body; a representative of the fertilizer applicator  
 229 industry appointed by the Florida Nursery, Growers, and  
 230 Landscape Association, Inc.; a representative of a retail  
 231 business that sells fertilizer appointed by the Florida Retail  
 232 Federation, Inc.; a representative of the Department of  
 233 Environmental Protection; and a representative of the Department  
 234 of Agriculture and Consumer Services, and the committee has  
 235 conducted a review and provided a report that addresses the  
 236 economical and technical feasibility of enforcing the proposed  
 237 additional or more stringent standards.

238 (c)-~~(b)~~ The local government documents in the public record  
 239 the need for more stringent standards, including the  
 240 scientifically documented vulnerability of waters within the  
 241 local government's jurisdiction to nutrient enrichment due to  
 242 landforms, soils, hydrology, climate, or geology, and the local  
 243 government documents that it has requested and considered all  
 244 relevant scientific information, including input from the  
 245 department, ~~the institute,~~ the Department of Agriculture and  
 246 Consumer Services, and the University of Florida's ~~Florida~~  
 247 Institute of Food and Agricultural Sciences, if provided, on the  
 248 need for additional or more stringent provisions to address  
 249 fertilizer use as a contributor to water quality degradation. If  
 250 two or more entities providing such input question the  
 251 scientific basis of the proposed standards, the local government  
 252 shall, before adoption of the standards, address their specific

253 concerns to the maximum extent practicable. All documentation  
 254 must become part of the public record before adoption of the  
 255 additional or more stringent criteria.

256 (3) Any county or municipal government that adopted its  
 257 own fertilizer use ordinance before January 1, 2009, is exempt  
 258 from this section. Ordinances adopted or amended on or after  
 259 January 1, 2009, must substantively conform to the most recent  
 260 version of the model fertilizer ordinance and are subject to  
 261 subsections (1) and (2), as applicable.

262 (4) This section does not apply to the use of fertilizer:

263 (a) On farm operations as defined in s. 823.14; ~~or~~

264 (b) On lands classified as agricultural lands pursuant to  
 265 s. 193.461; or

266 (c) On lands currently used or identified for use as part  
 267 of urban stormwater, water quality, agronomic, or horticultural  
 268 research.

269 Section 3. Subsection (1) of section 493.6102, Florida  
 270 Statutes, is amended to read:

271 493.6102 Inapplicability of this chapter.—This chapter  
 272 shall not apply to:

273 (1) Any individual who is an "officer" as defined in s.  
 274 943.10(14), or is a law enforcement officer of the United States  
 275 Government, while the ~~such~~ local, state, or federal officer is  
 276 engaged in her or his official duties or, if approved by the  
 277 officer's supervisors, when performing off-duty activities as a  
 278 security officer ~~activities approved by her or his superiors.~~

279 Section 4. Section 493.6105, Florida Statutes, is amended  
 280 to read:

281 493.6105 Initial application for license.—

282 (1) Each individual, partner, or principal officer in a  
 283 corporation, shall file with the department a complete  
 284 application accompanied by an application fee not to exceed \$60,  
 285 except that the applicant for a Class "D" or Class "G" license  
 286 is shall not ~~be~~ required to submit an application fee. The  
 287 application fee is shall not ~~be~~ refundable.

288 (a) The application submitted by any individual, partner,  
 289 or corporate officer must shall be approved by the department  
 290 before the ~~prior to that~~ individual, partner, or corporate  
 291 officer assumes assuming his or her duties.

292 (b) Individuals who invest in the ownership of a licensed  
 293 agency, but do not participate in, direct, or control the  
 294 operations of the agency are shall not ~~be~~ required to file an  
 295 application.

296 (2) Each application must shall be signed and verified by  
 297 the individual under oath as provided in s. 92.525 ~~and shall be~~  
 298 ~~notarized~~.

299 (3) The application must shall contain the following  
 300 information concerning the individual signing the application  
 301 ~~same~~:

- 302 (a) Name and any aliases.
- 303 (b) Age and date of birth.
- 304 (c) Place of birth.
- 305 (d) Social security number or alien registration number,  
 306 whichever is applicable.
- 307 (e) Current Present residence address ~~and his or her~~  
 308 ~~residence addresses within the 5 years immediately preceding the~~

309 ~~submission of the application.~~

310 ~~(f) Occupations held presently and within the 5 years~~  
 311 ~~immediately preceding the submission of the application.~~

312 (f)(g) A statement of all criminal convictions, findings  
 313 of guilt, and pleas of guilty or nolo contendere, regardless of  
 314 adjudication of guilt.

315 (g) One passport-type color photograph taken within the 6  
 316 months immediately preceding submission of the application.

317 (h) A statement whether he or she has ever been  
 318 adjudicated incompetent under chapter 744.

319 (i) A statement whether he or she has ever been committed  
 320 to a mental institution under chapter 394.

321 (j) A full set of fingerprints on a card provided by the  
 322 department and a fingerprint fee to be established by rule of  
 323 the department based upon costs determined by state and federal  
 324 agency charges and department processing costs. An applicant who  
 325 has, within the immediately preceding 6 months, submitted a  
 326 fingerprint card and fee for licensing purposes under this  
 327 chapter shall not be required to submit another fingerprint card  
 328 or fee.

329 (k) A personal inquiry waiver which allows the department  
 330 to conduct necessary investigations to satisfy the requirements  
 331 of this chapter.

332 (l) Such further facts as may be required by the  
 333 department to show that the individual signing the application  
 334 is of good moral character and qualified by experience and  
 335 training to satisfy the requirements of this chapter.

336 ~~(4) In addition to the application requirements outlined~~

337 ~~in subsection (3), the applicant for a Class "C," Class "CC,"~~  
 338 ~~Class "E," Class "EE," or Class "G" license shall submit two~~  
 339 ~~color photographs taken within the 6 months immediately~~  
 340 ~~preceding the submission of the application, which meet~~  
 341 ~~specifications prescribed by rule of the department. All other~~  
 342 ~~applicants shall submit one photograph taken within the 6 months~~  
 343 ~~immediately preceding the submission of the application.~~

344 (4)~~(5)~~ In addition to the application requirements  
 345 outlined under subsection (3), the applicant for a Class "C,"  
 346 Class "E," Class "M," Class "MA," Class "MB," or Class "MR"  
 347 license shall include a statement on a form provided by the  
 348 department of the experience which he or she believes will  
 349 qualify him or her for such license.

350 (5)~~(6)~~ In addition to the requirements outlined in  
 351 subsection (3), an applicant for a Class "G" license shall  
 352 satisfy minimum training criteria for firearms established by  
 353 rule of the department, which training criteria shall include,  
 354 but is not limited to, 28 hours of range and classroom training  
 355 taught and administered by a Class "K" licensee; however, no  
 356 more than 8 hours of such training shall consist of range  
 357 training. If the applicant can show proof that he or she is an  
 358 active law enforcement officer currently certified under the  
 359 Criminal Justice Standards and Training Commission or has  
 360 completed the training required for that certification within  
 361 the last 12 months, or if the applicant submits one of the  
 362 certificates specified in paragraph (6)(a) ~~(7)(a)~~, the  
 363 department may waive the foregoing firearms training  
 364 requirement.

365 (6)~~(7)~~ In addition to the requirements under subsection  
 366 (3), an applicant for a Class "K" license shall:

367 (a) Submit one of the following certificates:

368 1. The Florida Criminal Justice Standards and Training  
 369 Commission ~~Firearms~~ Instructor's Certificate and confirmation by  
 370 the commission that the applicant is authorized to provide  
 371 firearms instruction.

372 2. The National Rifle Association Law Enforcement ~~Police~~  
 373 Firearms Instructor's Certificate.

374 ~~3. The National Rifle Association Security Firearms~~  
 375 ~~Instructor's Certificate.~~

376 ~~3.4.~~ A firearms instructor's training certificate issued  
 377 by any branch of the United States Armed Forces, from a federal  
 378 law enforcement academy or agency, state, county, or a law  
 379 enforcement municipal police academy or agency in this state  
 380 recognized as such by the Criminal Justice Standards and  
 381 Training Commission ~~or by the Department of Education.~~

382 (b) Pay the fee for and pass an examination administered  
 383 by the department which shall be based upon, but is not  
 384 necessarily limited to, a firearms instruction manual provided  
 385 by the department.

386 (7)~~(8)~~ In addition to the application requirements for  
 387 individuals, partners, or officers outlined under subsection  
 388 (3), the application for an agency license shall contain the  
 389 following information:

390 (a) The proposed name under which the agency intends to  
 391 operate.

392 (b) The street address, mailing address, and telephone

393 numbers of the principal location at which business is to be  
 394 conducted in this state.

395 (c) The street address, mailing address, and telephone  
 396 numbers of all branch offices within this state.

397 (d) The names and titles of all partners or, in the case  
 398 of a corporation, the names and titles of its principal  
 399 officers.

400 ~~(8)-(9)~~ Upon submission of a complete application, a Class  
 401 "CC," Class "C," Class "D," Class "EE," Class "E," Class "M,"  
 402 Class "MA," Class "MB," or Class "MR" applicant may commence  
 403 employment or appropriate duties for a licensed agency or branch  
 404 office. However, the Class "C" or Class "E" applicant must work  
 405 under the direction and control of a sponsoring licensee while  
 406 his or her application is being processed. If the department  
 407 denies application for licensure, the employment of the  
 408 applicant must be terminated immediately, unless he or she  
 409 performs only unregulated duties.

410 Section 5. Paragraph (f) of subsection (1) and paragraph  
 411 (a) of subsection (2) of section 493.6106, Florida Statutes, are  
 412 amended, and paragraph (g) is added to subsection (1) of that  
 413 section, to read:

414 493.6106 License requirements; posting.—

415 (1) Each individual licensed by the department must:

416 (f) Be a citizen or permanent legal resident alien of the  
 417 United States or have appropriate ~~been granted~~ authorization  
 418 issued to seek employment in this country by the United States  
 419 Bureau of Citizenship and Immigration Services of the United  
 420 States Department of Homeland Security.

421 1. An applicant for a Class "C," Class "CC," Class "D,"  
 422 Class "DI," Class "E," Class "EE," Class "M," Class "MA," Class  
 423 "MB," Class "MR," or Class "RI" license who is not a United  
 424 States citizen must submit proof of current employment  
 425 authorization issued by the United States Bureau of Citizenship  
 426 and Immigration Services or proof that she or he is deemed a  
 427 permanent legal resident alien by the United States Bureau of  
 428 Citizenship and Immigration Services.

429 2. An applicant for a Class "G" or Class "K" license who  
 430 is not a United States citizen must submit proof that she or he  
 431 is deemed a permanent legal resident alien by the United States  
 432 Bureau of Citizenship and Immigration Services, together with  
 433 additional documentation establishing that she or he has resided  
 434 in the state of residence shown on the application for at least  
 435 90 consecutive days before the date that the application is  
 436 submitted.

437 3. An applicant for an agency or school license who is not  
 438 a United States citizen or permanent legal resident alien must  
 439 submit documentation issued by the United States Bureau of  
 440 Citizenship and Immigration Services stating that she or he is  
 441 lawfully in the United States and is authorized to own and  
 442 operate the type of agency or school for which she or he is  
 443 applying. An employment authorization card issued by the United  
 444 States Bureau of Citizenship and Immigration Services is not  
 445 sufficient documentation.

446 (g) Not be prohibited from purchasing or possessing a  
 447 firearm by state or federal law if the individual is applying  
 448 for a Class "G" license or a Class "K" license.

449 (2) Each agency shall have a minimum of one physical  
 450 location within this state from which the normal business of the  
 451 agency is conducted, and this location shall be considered the  
 452 primary office for that agency in this state.

453 (a) If an agency or branch office desires to change the  
 454 physical location of the business, as it appears on the ~~agency~~  
 455 license, the department must be notified within 10 days of the  
 456 change, and, except upon renewal, the fee prescribed in s.  
 457 493.6107 must be submitted for each license requiring revision.  
 458 Each license requiring revision must be returned with such  
 459 notification.

460 Section 6. Subsection (3) of section 493.6107, Florida  
 461 Statutes, is amended to read:

462 493.6107 Fees.—

463 (3) The fees set forth in this section must be paid by  
 464 ~~certified check or money order or, at the discretion of the~~  
 465 ~~department, by agency check~~ at the time the application is  
 466 approved, except that the applicant for a Class "G" or Class "M"  
 467 license must pay the license fee at the time the application is  
 468 made. If a license is revoked or denied or if the application is  
 469 withdrawn, the license fee shall not be refunded.

470 Section 7. Paragraph (a) of subsection (1) and subsection  
 471 (3) of section 493.6108, Florida Statutes, are amended to read:

472 493.6108 Investigation of applicants by Department of  
 473 Agriculture and Consumer Services.—

474 (1) Except as otherwise provided, prior to the issuance of  
 475 a license under this chapter, the department shall make an  
 476 investigation of the applicant for a license. The investigation

477 shall include:

478 (a)1. An examination of fingerprint records and police  
 479 records. When a criminal history analysis of any applicant under  
 480 this chapter is performed by means of fingerprint card  
 481 identification, the time limitations prescribed by s. 120.60(1)  
 482 shall be tolled during the time the applicant's fingerprint card  
 483 is under review by the Department of Law Enforcement or the  
 484 United States Department of Justice, Federal Bureau of  
 485 Investigation.

486 2. If a legible set of fingerprints, as determined by the  
 487 Department of Law Enforcement or the Federal Bureau of  
 488 Investigation, cannot be obtained after two attempts, the  
 489 Department of Agriculture and Consumer Services may determine  
 490 the applicant's eligibility based upon a criminal history record  
 491 check under the applicant's name conducted by the Department of  
 492 Law Enforcement if the ~~and the Federal Bureau of Investigation.~~  
 493 ~~A set of fingerprints~~ are taken by a law enforcement agency or  
 494 the department and the applicant submits a written statement  
 495 signed by the fingerprint technician or a licensed physician  
 496 stating that there is a physical condition that precludes  
 497 obtaining a legible set of fingerprints or that the fingerprints  
 498 taken are the best that can be obtained ~~is sufficient to meet~~  
 499 ~~this requirement.~~

500 (3) The department shall also investigate the mental  
 501 history and current mental and emotional fitness of any Class  
 502 "G" or Class "K" applicant, and may deny a Class "G" or Class  
 503 "K" license to anyone who has a history of mental illness or  
 504 drug or alcohol abuse.

505 Section 8. Subsection (4) of section 493.6111, Florida  
 506 Statutes, is amended to read:

507 493.6111 License; contents; identification card.—

508 (4) Notwithstanding the existence of a valid Florida  
 509 corporate registration, an ~~ne~~ agency or school licensee may not  
 510 conduct activities regulated under this chapter under any  
 511 fictitious name without prior written authorization from the  
 512 department to use that name in the conduct of activities  
 513 regulated under this chapter. The department may not authorize  
 514 the use of a name which is so similar to that of a public  
 515 officer or agency, or of that used by another licensee, that the  
 516 public may be confused or misled thereby. The authorization for  
 517 the use of a fictitious name shall require, as a condition  
 518 precedent to the use of such name, the filing of a certificate  
 519 of engaging in business under a fictitious name under s. 865.09.  
 520 A ~~No~~ licensee may not ~~shall be permitted to~~ conduct business  
 521 under more than one fictitious name except as separately  
 522 licensed nor shall the license be valid to protect any licensee  
 523 who is engaged in ~~the~~ business under any name other than that  
 524 specified in the license. An agency desiring to change its  
 525 licensed name shall notify the department and, except upon  
 526 renewal, pay a fee not to exceed \$30 for each license requiring  
 527 revision including those of all licensed employees except Class  
 528 "D" or Class "G" licensees. Upon the return of such licenses to  
 529 the department, revised licenses shall be provided.

530 Section 9. Subsection (2) and paragraph (a) of subsection  
 531 (3) of section 493.6113, Florida Statutes, are amended to read:

532 493.6113 Renewal application for licensure.—

533           (2) At least ~~No less than~~ 90 days before ~~prior to~~ the  
 534 expiration date of the license, the department shall mail a  
 535 written notice to the last known mailing ~~residence~~ address of  
 536 the licensee ~~for individual licensees and to the last known~~  
 537 ~~agency address for agencies.~~

538           (3) Each licensee shall be responsible for renewing his or  
 539 her license on or before its expiration by filing with the  
 540 department an application for renewal accompanied by payment of  
 541 the prescribed license fee.

542           (a) Each Class "B" ~~Class "A," Class "B," or Class "R"~~  
 543 licensee shall additionally submit on a form prescribed by the  
 544 department a certification of insurance which evidences that the  
 545 licensee maintains coverage as required under s. 493.6110.

546           Section 10. Subsection (8), paragraph (d) of subsection  
 547 (12), and subsection (16) of section 493.6115, Florida Statutes,  
 548 are amended to read:

549           493.6115 Weapons and firearms.—

550           (8) A Class "G" applicant must satisfy the minimum  
 551 training criteria as set forth in s. 493.6105(5) ~~(6)~~ and as  
 552 established by rule of the department.

553           (12) The department may issue a temporary Class "G"  
 554 license, on a case-by-case basis, if:

555           (d) The applicant has received approval from the  
 556 department subsequent to its conduct of a criminal history  
 557 record check as authorized in s. 493.6108(1)(a)1. ~~493.6121(6).~~

558           (16) If the criminal history record check program  
 559 referenced in s. 493.6108(1)(a)1. ~~493.6121(6)~~ is inoperable, the  
 560 department may issue a temporary "G" license on a case-by-case

561 basis, provided that the applicant has met all statutory  
 562 requirements for the issuance of a temporary "G" license as  
 563 specified in subsection (12), excepting the criminal history  
 564 record check stipulated there; provided, that the department  
 565 requires that the licensed employer of the applicant conduct a  
 566 criminal history record check of the applicant pursuant to  
 567 standards set forth in rule by the department, and provide to  
 568 the department an affidavit containing such information and  
 569 statements as required by the department, including a statement  
 570 that the criminal history record check did not indicate the  
 571 existence of any criminal history that would prohibit licensure.  
 572 Failure to properly conduct such a check, or knowingly providing  
 573 incorrect or misleading information or statements in the  
 574 affidavit shall constitute grounds for disciplinary action  
 575 against the licensed agency, including revocation of license.

576 Section 11. Paragraph (u) of subsection (1) of section  
 577 493.6118, Florida Statutes, is redesignated as paragraph (v),  
 578 and a new paragraph (u) is added to that subsection to read:

579 493.6118 Grounds for disciplinary action.—

580 (1) The following constitute grounds for which  
 581 disciplinary action specified in subsection (2) may be taken by  
 582 the department against any licensee, agency, or applicant  
 583 regulated by this chapter, or any unlicensed person engaged in  
 584 activities regulated under this chapter.

585 (u) For a Class "G" or a Class "K" applicant or licensee,  
 586 being prohibited from purchasing or possessing a firearm by  
 587 state or federal law.

588 Section 12. Subsections (7) and (8) of section 493.6121,

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589 Florida Statutes, are renumbered as subsections (6) and (7),  
 590 respectively, and present subsection (6) of that section is  
 591 amended, to read:

592 493.6121 Enforcement; investigation.—

593 ~~(6) The department shall be provided access to the program~~  
 594 ~~that is operated by the Department of Law Enforcement, pursuant~~  
 595 ~~to s. 790.065, for providing criminal history record information~~  
 596 ~~to licensed gun dealers, manufacturers, and exporters. The~~  
 597 ~~department may make inquiries, and shall receive responses in~~  
 598 ~~the same fashion as provided under s. 790.065. The department~~  
 599 ~~shall be responsible for payment to the Department of Law~~  
 600 ~~Enforcement of the same fees as charged to others afforded~~  
 601 ~~access to the program.~~

602 Section 13. Subsection (3) of section 493.6202, Florida  
 603 Statutes, is amended to read:

604 493.6202 Fees.—

605 (3) The fees set forth in this section must be paid by  
 606 ~~certified check or money order or, at the discretion of the~~  
 607 ~~department, by agency check~~ at the time the application is  
 608 approved, except that the applicant for a Class "G," Class "C,"  
 609 Class "CC," Class "M," or Class "MA" license must pay the  
 610 license fee at the time the application is made. If a license is  
 611 revoked or denied or if the application is withdrawn, the  
 612 license fee shall not be refunded.

613 Section 14. Subsections (2), (4), and (6) of section  
 614 493.6203, Florida Statutes, are amended to read:

615 493.6203 License requirements.—In addition to the license  
 616 requirements set forth elsewhere in this chapter, each

617 individual or agency shall comply with the following additional  
 618 requirements:

619 (2) An applicant for a Class "MA" license shall have 2  
 620 years of lawfully gained, verifiable, full-time experience, or  
 621 training in:

622 (a) Private investigative work or related fields of work  
 623 that provided equivalent experience or training;

624 (b) Work as a Class "CC" licensed intern;

625 (c) Any combination of paragraphs (a) and (b);

626 (d) Experience described in paragraph (a) for 1 year and  
 627 experience described in paragraph (e) for 1 year;

628 (e) No more than 1 year using:

629 1. College coursework related to criminal justice,  
 630 criminology, or law enforcement administration; or

631 2. Successfully completed law enforcement-related training  
 632 received from any federal, state, county, or municipal agency;

633 or

634 (f) Experience described in paragraph (a) for 1 year and  
 635 work in a managerial or supervisory capacity for 1 year.

636

637 However, experience in performing bodyguard services is not  
 638 creditable toward the requirements of this subsection.

639 (4) An applicant for a Class "C" license shall have 2  
 640 years of lawfully gained, verifiable, full-time experience, or  
 641 training in one, or a combination of more than one, of the  
 642 following:

643 (a) Private investigative work or related fields of work  
 644 that provided equivalent experience or training.

645 (b) College coursework related to criminal justice,  
 646 criminology, or law enforcement administration, or successful  
 647 completion of any law enforcement-related training received from  
 648 any federal, state, county, or municipal agency, except that no  
 649 more than 1 year may be used from this category.

650 (c) Work as a Class "CC" licensed intern.

651  
 652 However, experience in performing bodyguard services is not  
 653 creditable toward the requirements of this subsection.

654 (6) (a) A Class "CC" licensee shall serve an internship  
 655 under the direction and control of a designated sponsor, who is  
 656 a Class "C," Class "MA," or Class "M" licensee.

657 (b) Effective July 1, 2010 ~~September 1, 2008~~, before  
 658 submission of an application to the department, the an applicant  
 659 for a Class "CC" license must have completed a minimum of 40 at  
 660 least 24 hours of professional training a 40-hour course  
 661 pertaining to general investigative techniques and this chapter,  
 662 which course is offered by a state university or by a school,  
 663 community college, college, or university under the purview of  
 664 the Department of Education, and the applicant must pass an  
 665 examination. The training must be provided in two parts, one 24-  
 666 hour course and one 16-hour course. The certificate evidencing  
 667 satisfactory completion of the 40 ~~at least 24~~ hours of  
 668 professional training a 40-hour course must be submitted with  
 669 the application for a Class "CC" license. ~~The remaining 16 hours~~  
 670 ~~must be completed and an examination passed within 180 days. If~~  
 671 ~~documentation of completion of the required training is not~~  
 672 ~~submitted within the specified timeframe, the individual's~~

673 ~~license is automatically suspended or his or her authority to~~  
 674 ~~work as a Class "CC" pursuant to s. 493.6105(9) is rescinded~~  
 675 ~~until such time as proof of certificate of completion is~~  
 676 ~~provided to the department.~~ The training ~~course~~ specified in  
 677 this paragraph may be provided by face-to-face presentation,  
 678 online technology, or a home study course in accordance with  
 679 rules and procedures of the Department of Education. The  
 680 administrator of the examination must verify the identity of  
 681 each applicant taking the examination.

682 1. Upon an applicant's successful completion of each part  
 683 of the approved training course and passage of any required  
 684 examination, the school, community college, college, or  
 685 university shall issue a certificate of completion to the  
 686 applicant. The certificates must be on a form established by  
 687 rule of the department.

688 2. The department shall establish by rule the general  
 689 content of the professional training course and the examination  
 690 criteria.

691 3. If the license of an applicant for relicensure is ~~has~~  
 692 ~~been~~ invalid for more than 1 year, the applicant must complete  
 693 the required training and pass any required examination.

694 (c) An individual who submits an application for a Class  
 695 "CC" license on or after September 1, 2008, through June 30,  
 696 2010, who has not completed the 16-hour course must submit proof  
 697 of successful completion of the course within 180 days after the  
 698 date the application is submitted. If documentation of  
 699 completion of the required training is not submitted by that  
 700 date, the individual's license is automatically suspended until

701 proof of the required training is submitted to the department.  
 702 An individual licensed on or before August 31, 2008, is not  
 703 required to complete additional training hours in order to renew  
 704 an active license beyond the required total amount of training,  
 705 and within the timeframe, in effect at the time he or she was  
 706 licensed.

707 Section 15. Subsection (3) of section 493.6302, Florida  
 708 Statutes, is amended to read:

709 493.6302 Fees.—

710 (3) The fees set forth in this section must be paid by  
 711 ~~certified check or money order or, at the discretion of the~~  
 712 ~~department, by agency check~~ at the time the application is  
 713 approved, except that the applicant for a Class "D," Class "G,"  
 714 Class "M," or Class "MB" license must pay the license fee at the  
 715 time the application is made. If a license is revoked or denied  
 716 or if the application is withdrawn, the license fee shall not be  
 717 refunded.

718 Section 16. Subsection (4) of section 493.6303, Florida  
 719 Statutes, is amended to read:

720 493.6303 License requirements.—In addition to the license  
 721 requirements set forth elsewhere in this chapter, each  
 722 individual or agency shall comply with the following additional  
 723 requirements:

724 (4) (a) Effective July 1, 2010, an applicant for a Class  
 725 "D" license must submit proof of successful completion of  
 726 ~~complete~~ a minimum of 40 hours of professional training at a  
 727 school or training facility licensed by the department. The  
 728 training must be provided in two parts, one 24-hour course and

729 one 16-hour course. The department shall by rule establish the  
 730 general content and number of hours of each subject area to be  
 731 taught.

732 (b) An individual who submits an application for a Class  
 733 "D" license on or after January 1, 2007, through June 30, 2010,  
 734 who has not completed the 16-hour course must submit proof of  
 735 successful completion of the course within 180 days after the  
 736 date the application is submitted. If documentation of  
 737 completion of the required training is not submitted by that  
 738 date, the individual's license is automatically suspended until  
 739 proof of the required training is submitted to the department.  
 740 This section does not require a person licensed before January  
 741 1, 2007, to complete additional training hours in order to renew  
 742 an active license beyond the required total amount of training  
 743 within the timeframe prescribed by law at the time he or she was  
 744 licensed. An applicant may fulfill the training requirement  
 745 prescribed in paragraph (a) by submitting proof of:

746 1. ~~Successful completion of the total number of required~~  
 747 ~~hours of training before initial application for a Class "D"~~  
 748 ~~license; or~~

749 2. ~~Successful completion of 24 hours of training before~~  
 750 ~~initial application for a Class "D" license and successful~~  
 751 ~~completion of the remaining 16 hours of training within 180 days~~  
 752 ~~after the date that the application is submitted. If~~  
 753 ~~documentation of completion of the required training is not~~  
 754 ~~submitted within the specified timeframe, the individual's~~  
 755 ~~license is automatically suspended until such time as proof of~~  
 756 ~~the required training is provided to the department.~~

757        (c) An individual ~~However, any person~~ whose license is  
 758 suspended or has been revoked, suspended pursuant to paragraph  
 759 (b) subparagraph 2., or is expired for at least 1 year, or  
 760 ~~longer~~ is considered, upon reapplication for a license, an  
 761 initial applicant and must submit proof of successful completion  
 762 of 40 hours of professional training at a school or training  
 763 facility licensed by the department as provided ~~prescribed~~ in  
 764 paragraph (a) before a license is ~~will be~~ issued. ~~Any person~~  
 765 ~~whose license was issued before January 1, 2007, and whose~~  
 766 ~~license has been expired for less than 1 year must, upon~~  
 767 ~~reapplication for a license, submit documentation of completion~~  
 768 ~~of the total number of hours of training prescribed by law at~~  
 769 ~~the time her or his initial license was issued before another~~  
 770 ~~license will be issued. This subsection does not require an~~  
 771 ~~individual licensed before January 1, 2007, to complete~~  
 772 ~~additional training hours in order to renew an active license,~~  
 773 ~~beyond the required total amount of training within the~~  
 774 ~~timeframe prescribed by law at the time she or he was licensed.~~

775        Section 17. Subsection (2) of section 493.6304, Florida  
 776 Statutes, is amended to read:

777        493.6304 Security officer school or training facility.—

778        (2) The application shall be signed and verified by the  
 779 applicant under oath as provided in s. 92.525 ~~notarized~~ and  
 780 shall contain, at a minimum, the following information:

781        (a) The name and address of the school or training  
 782 facility and, if the applicant is an individual, her or his  
 783 name, address, and social security or alien registration number.

784        (b) The street address of the place at which the training

785 is to be conducted.

786 (c) A copy of the training curriculum and final  
787 examination to be administered.

788 Section 18. Subsections (7) and (8) of section 493.6401,  
789 Florida Statutes, are amended to read:

790 493.6401 Classes of licenses.—

791 (7) Any person who operates a recovery agent ~~repossessor~~  
792 school or training facility or who conducts an Internet-based  
793 training course or a correspondence training course must have a  
794 Class "RS" license.

795 (8) Any individual who teaches or instructs at a Class  
796 "RS" recovery agent ~~repossessor~~ school or training facility  
797 shall have a Class "RI" license.

798 Section 19. Paragraphs (f) and (g) of subsection (1) and  
799 subsection (3) of section 493.6402, Florida Statutes, are  
800 amended to read:

801 493.6402 Fees.—

802 (1) The department shall establish by rule biennial  
803 license fees which shall not exceed the following:

804 (f) Class "RS" license recovery agent ~~repossessor~~ school  
805 or training facility: \$60.

806 (g) Class "RI" license recovery agent ~~repossessor~~ school  
807 or training facility instructor: \$60.

808 (3) The fees set forth in this section must be paid by  
809 ~~certified check or money order, or, at the discretion of the~~  
810 ~~department, by agency check~~ at the time the application is  
811 approved, except that the applicant for a Class "E," Class "EE,"  
812 or Class "MR" license must pay the license fee at the time the

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813 application is made. If a license is revoked or denied, or if an  
 814 application is withdrawn, the license fee shall not be refunded.

815 Section 20. Subsections (1) and (2) of section 493.6406,  
 816 Florida Statutes, are amended to read:

817 493.6406 Recovery agent ~~Repossession services~~ school or  
 818 training facility.—

819 (1) Any school, training facility, or instructor who  
 820 offers the training outlined in s. 493.6403(2) for Class "E" or  
 821 Class "EE" applicants shall, before licensure of such school,  
 822 training facility, or instructor, file with the department an  
 823 application accompanied by an application fee in an amount to be  
 824 determined by rule, not to exceed \$60. The fee shall not be  
 825 refundable. This training may be offered as face-to-face  
 826 training, Internet-based training, or correspondence training.

827 (2) The application shall be signed and verified by the  
 828 applicant under oath as provided in s. 92.525 ~~notarized~~ and  
 829 shall contain, at a minimum, the following information:

830 (a) The name and address of the school or training  
 831 facility and, if the applicant is an individual, his or her  
 832 name, address, and social security or alien registration number.

833 (b) The street address of the place at which the training  
 834 is to be conducted or the street address of the Class "RS"  
 835 school offering Internet-based or correspondence training.

836 (c) A copy of the training curriculum and final  
 837 examination to be administered.

838 Section 21. Paragraph (a) of subsection (2) of section  
 839 501.605, Florida Statutes, is amended to read:

840 501.605 Licensure of commercial telephone sellers.—

841 (2) An applicant for a license as a commercial telephone  
 842 seller must submit to the department, in such form as it  
 843 prescribes, a written application for the license. The  
 844 application must set forth the following information:

845 (a) The true name, date of birth, driver's license number,  
 846 ~~social security number~~, and home address of the applicant,  
 847 including each name under which he or she intends to do  
 848 business.

849  
 850 The application shall be accompanied by a copy of any: Script,  
 851 outline, or presentation the applicant will require or suggest a  
 852 salesperson to use when soliciting, or, if no such document is  
 853 used, a statement to that effect; sales information or  
 854 literature to be provided by the applicant to a salesperson; and  
 855 sales information or literature to be provided by the applicant  
 856 to a purchaser in connection with any solicitation.

857 Section 22. Paragraph (a) of subsection (1) of section  
 858 501.607, Florida Statutes, is amended to read:

859 501.607 Licensure of salespersons.—

860 (1) An applicant for a license as a salesperson must  
 861 submit to the department, in such form as it prescribes, a  
 862 written application for a license. The application must set  
 863 forth the following information:

864 (a) The true name, date of birth, driver's license number,  
 865 ~~social security number~~, and home address of the applicant.

866 Section 23. Subsection (2) of section 501.913, Florida  
 867 Statutes, is amended to read:

868 501.913 Registration.—

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- 869 (2) The completed application shall be accompanied by:  
 870 (a) Specimens or facsimiles of the label for each brand of  
 871 antifreeze;  
 872 (b) An application fee of \$200 for each brand; and  
 873 (c) A properly labeled sample of at least 1 gallon, but  
 874 not more than 2 gallons, of each brand of antifreeze.

875 Section 24. Subsection (2) of section 525.01, Florida  
 876 Statutes, is amended to read:

877 525.01 Gasoline and oil to be inspected.—

- 878 (2) All petroleum fuels are ~~shall be~~ subject to inspection  
 879 and analysis by the department. Before selling or offering for  
 880 sale in this state any petroleum fuel, all manufacturers,  
 881 terminal suppliers, wholesalers, and importers as defined in s.  
 882 206.01 ~~jobbers~~ shall file with the department:

883 (a) An affidavit that they desire to do business in this  
 884 state, and the name and address of the manufacturer of the  
 885 petroleum fuel.

886 (b) An affidavit stating that the petroleum fuel is in  
 887 conformity with the standards prescribed by department rule.

888 Section 25. Subsections (1) and (3) of section 525.09,  
 889 Florida Statutes, are amended to read:

890 525.09 Inspection fee.—

- 891 (1) For the purpose of defraying the expenses incident to  
 892 inspecting, testing, and analyzing petroleum fuels in this  
 893 state, there shall be paid to the department a charge of one-  
 894 eighth cent per gallon on all gasoline, alternative fuel  
 895 containing alcohol as defined in s. 525.01(1)(c)1. or 2.,  
 896 kerosene (except when used as aviation turbine fuel), and #1

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897 fuel oil for sale or use in this state. This inspection fee  
 898 shall be imposed in the same manner as the motor fuel tax  
 899 pursuant to s. 206.41. Payment shall be made on or before the  
 900 25th day of each month.

901 (3) All remittances to the department for the inspection  
 902 tax herein provided shall be accompanied by a detailed report  
 903 under oath showing the number of gallons of gasoline,  
 904 alternative fuel containing alcohol as defined in s.  
 905 525.01(1)(c)1. and 2., kerosene, or fuel oil sold and delivered  
 906 in each county.

907 Section 26. Section 526.50, Florida Statutes, is amended  
 908 to read:

909 526.50 Definition of terms.—As used in this part:

910 (1) "Brake fluid" means the fluid intended for use as the  
 911 liquid medium through which force is transmitted in the  
 912 hydraulic brake system of a vehicle operated upon the highways.

913 (2) "Brand" means the product name appearing on the label  
 914 of a container of brake fluid.

915 (3)-(5) "Container" means any receptacle in which brake  
 916 fluid is immediately contained when sold, but does not mean a  
 917 carton or wrapping in which a number of such receptacles are  
 918 shipped or stored or a tank car or truck.

919 (4)-(2) "Department" means the Department of Agriculture  
 920 and Consumer Services.

921 (5) "Formula" means the name of the chemical mixture or  
 922 composition of the brake fluid product.

923 (6)-(4) "Labeling" includes all written, printed or graphic  
 924 representations, in any form whatsoever, imprinted upon or

925 affixed to any container of brake fluid.

926 (7)~~(6)~~ "Permit year" means a period of 12 months  
 927 commencing July 1 and ending on the next succeeding June 30.

928 (8)~~(7)~~ "Registrant" means any manufacturer, packer,  
 929 distributor, seller, or other person who has registered a brake  
 930 fluid with the department.

931 (9)~~(3)~~ "Sell" includes give, distribute, barter, exchange,  
 932 trade, keep for sale, offer for sale or expose for sale, in any  
 933 of their variant forms.

934 Section 27. Section 526.51, Florida Statutes, is amended  
 935 to read:

936 526.51 Registration; ~~renewal and~~ fees; departmental  
 937 expenses; cancellation or refusal to issue or renew.—

938 (1) (a) Application for registration of each brand of brake  
 939 fluid shall be made on forms to be supplied by the department.  
 940 The applicant shall give his or her name and address and the  
 941 brand name of the brake fluid, state that he or she owns the  
 942 brand name and has complete control over the product sold  
 943 thereunder in Florida, and provide the name and address of the  
 944 resident agent in Florida. If the applicant does not own the  
 945 brand name but wishes to register the product with the  
 946 department, a notarized affidavit that gives the applicant full  
 947 authorization to register the brand name and that is signed by  
 948 the owner of the brand name must accompany the application for  
 949 registration. The affidavit must include all affected brand  
 950 names, the owner's company or corporate name and address, the  
 951 applicant's company or corporate name and address, and a  
 952 statement from the owner authorizing the applicant to register

953 the product with the department. The owner of the brand name  
 954 shall maintain complete control over each product sold under  
 955 that brand name in this state. All first-time brand-formula  
 956 combination ~~new-product~~ applications must be accompanied by a  
 957 certified report from an independent testing laboratory, setting  
 958 forth the analysis of the brake fluid which shall show its  
 959 quality to be not less than the specifications established by  
 960 the department for brake fluids. A sample of not less than 24  
 961 fluid ounces of brake fluid shall be submitted, in a container  
 962 or containers, with labels representing exactly how the  
 963 containers of brake fluid will be labeled when sold, and the  
 964 sample and container shall be analyzed and inspected by the  
 965 Division of Standards in order that compliance with the  
 966 department's specifications and labeling requirements may be  
 967 verified. Upon approval of the application, the department shall  
 968 register the brand name of the brake fluid and issue to the  
 969 applicant a permit authorizing the registrant to sell the brake  
 970 fluid in this state during the permit year specified in the  
 971 permit.

972 (b) Each applicant shall pay a fee of \$100 with each  
 973 application. An applicant seeking reregistration of a previously  
 974 registered brand-formula combination must submit a completed  
 975 application and all materials required under this subsection to  
 976 the department before the first day of the permit year. A brand-  
 977 formula combination for which a completed application and all  
 978 materials required under this subsection are not received before  
 979 the first day of the permit year ceases to be registered with  
 980 the department until a completed application and all materials

981 required under this subsection are received and approved. Any  
 982 fee, application, or materials received after the first day of  
 983 the permit year, if the brand-formula combination was previously  
 984 registered with the department, A permit may be renewed by  
 985 application to the department, accompanied by a renewal fee of  
 986 \$50 on or before the last day of the permit year immediately  
 987 preceding the permit year for which application is made for  
 988 renewal of registration. To any fee not paid when due, there  
 989 shall accrue a penalty of \$25, which shall be added to the  
 990 renewal fee. ~~Renewals will be accepted only on brake fluids that~~  
 991 ~~have no change in formula, composition, or brand name.~~ Any  
 992 change in formula, composition, or brand name of any brake fluid  
 993 constitutes a new product that must be registered in accordance  
 994 with this part.

995 (2) All fees collected under the provisions of this  
 996 section shall be credited to the General Inspection Trust Fund  
 997 of the department and all expenses incurred in the enforcement  
 998 of this part shall be paid from said fund.

999 (3) The department may cancel or, ~~refuse to issue or~~  
 1000 ~~refuse to renew~~ any registration and permit after due notice and  
 1001 opportunity to be heard if it finds that the brake fluid is  
 1002 adulterated or misbranded or that the registrant has failed to  
 1003 comply with the provisions of this part or the rules and  
 1004 regulations promulgated thereunder.

1005 Section 28. Paragraph (a) of subsection (3) of section  
 1006 526.52, Florida Statutes, is amended to read:

1007 526.52 Specifications; adulteration and misbranding.—

1008 (3) Brake fluid is deemed to be misbranded:

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1009 (a) If its container does not bear on its side or top a  
 1010 label on which is printed the name and place of business of the  
 1011 registrant of the product, the words "brake fluid," and a  
 1012 statement that the product therein equals or exceeds the minimum  
 1013 specification of the Society of Automotive Engineers for heavy-  
 1014 duty-type brake fluid or equals or exceeds Federal Motor Vehicle  
 1015 Safety Standard No. 116 adopted by the United States Department  
 1016 of Transportation, ~~heavy-duty-type~~. By regulation the department  
 1017 may require that the duty-type classification appear on the  
 1018 label.

1019 Section 29. Subsection (2) of section 526.53, Florida  
 1020 Statutes, is amended to read:

1021 526.53 Enforcement; inspection and analysis, stop-sale and  
 1022 disposition, regulations.-

1023 (2)(a) When any brake fluid is sold in violation of any of  
 1024 the provisions of this part, all such affected brake fluid of  
 1025 the same brand name ~~on the same premises on which the violation~~  
 1026 ~~occurred~~ shall be placed under a stop-sale order by the  
 1027 department by serving the owner of the brand name, distributor,  
 1028 or other entity responsible for selling or distributing the  
 1029 product in the state with the stop-sale order. The department  
 1030 shall withdraw its stop-sale order upon the removal of the  
 1031 violation or upon voluntary destruction of the product, or other  
 1032 disposal approved by the department, under the supervision of  
 1033 the department.

1034 (b) In addition to being subject to the stop-sale  
 1035 procedures above, unregistered brake fluid shall be held by the  
 1036 department or its representative, at a place to be designated in

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1037 the stop-sale order, until properly registered and released in  
 1038 writing by the department or its representative. If application  
 1039 is ~~has~~ not ~~been~~ made for registration of the ~~such~~ product within  
 1040 30 days after issue of the stop-sale order, such product shall  
 1041 be disposed of by the department, or, with the department's  
 1042 consent, by the business, to any tax-supported institution or  
 1043 agency of the state if the brake fluid meets legal  
 1044 specifications or by other disposal authorized by rule of the  
 1045 department if it fails to meet legal specifications.

1046 Section 30. Subsections (1) and (3) and paragraphs (a) and  
 1047 (c) of subsection (5) of section 527.0201, Florida Statutes, are  
 1048 amended to read:

1049 527.0201 Qualifiers; master qualifiers; examinations.—

1050 (1) In addition to the requirements of s. 527.02, any  
 1051 person applying for a license to engage in the activities of a  
 1052 pipeline system operator, category I liquefied petroleum gas  
 1053 dealer, category II liquefied petroleum gas dispenser, category  
 1054 IV liquefied petroleum gas dispenser and recreational vehicle  
 1055 servicer, category V liquefied petroleum gases dealer for  
 1056 industrial uses only, LP gas installer, specialty installer,  
 1057 requalifier ~~requalification~~ of cylinders, or fabricator,  
 1058 repairer, and tester of vehicles and cargo tanks must prove  
 1059 competency by passing a written examination administered by the  
 1060 department or its agent with a grade of at least 75 percent in  
 1061 each area tested ~~or above~~. Each applicant for examination shall  
 1062 submit a \$20 nonrefundable fee. The department shall by rule  
 1063 specify the general areas of competency to be covered by each

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1064 examination and the relative weight to be assigned in grading  
 1065 each area tested.

1066 (3) Qualifier cards issued to category I liquefied  
 1067 petroleum gas dealers and liquefied petroleum gas installers  
 1068 shall expire 3 years after the date of issuance. All category I  
 1069 liquefied petroleum gas dealer qualifiers and liquefied  
 1070 petroleum gas installer qualifiers holding a valid qualifier  
 1071 card upon the effective date of this act shall retain their  
 1072 qualifier status until July 1, 2003, and may sit for the master  
 1073 qualifier examination at any time during that time period. All  
 1074 such category I liquefied petroleum gas dealer qualifiers and  
 1075 liquefied petroleum gas installer qualifiers may renew their  
 1076 qualification on or before July 1, 2003, upon application to the  
 1077 department, payment of a \$20 renewal fee, and documentation of  
 1078 the completion of a minimum of 16 ~~12~~ hours of approved  
 1079 continuing education courses, as defined by department rule,  
 1080 during the previous 3-year period. Applications for renewal must  
 1081 be made 30 calendar days prior to expiration. Persons failing to  
 1082 renew prior to the expiration date must reapply and take a  
 1083 qualifier competency examination in order to reestablish  
 1084 category I liquefied petroleum gas dealer qualifier and  
 1085 liquefied petroleum gas installer qualifier status. If a  
 1086 category I liquefied petroleum gas qualifier or liquefied  
 1087 petroleum gas installer qualifier becomes a master qualifier at  
 1088 any time during the effective date of the qualifier card, the  
 1089 card shall remain in effect until expiration of the master  
 1090 qualifier certification.

1091 (5) In addition to all other licensing requirements, each  
 1092 category I liquefied petroleum gas dealer and liquefied  
 1093 petroleum gas installer must, at the time of application for  
 1094 licensure, identify to the department one master qualifier who  
 1095 is a full-time employee at the licensed location. This person  
 1096 shall be a manager, owner, or otherwise primarily responsible  
 1097 for overseeing the operations of the licensed location and must  
 1098 provide documentation to the department as provided by rule. The  
 1099 master qualifier requirement shall be in addition to the  
 1100 requirements of subsection (1).

1101 (a) In order to apply for certification as a master  
 1102 qualifier, each applicant must be a category I liquefied  
 1103 petroleum gas dealer qualifier or liquefied petroleum gas  
 1104 installer qualifier, must be employed by a licensed category I  
 1105 liquefied petroleum gas dealer, liquefied petroleum gas  
 1106 installer, or applicant for such license, must provide  
 1107 documentation of a minimum of 1 year's work experience in the  
 1108 gas industry, and must pass a master qualifier competency  
 1109 examination. Master qualifier examinations shall be based on  
 1110 Florida's laws, rules, and adopted codes governing liquefied  
 1111 petroleum gas safety, general industry safety standards, and  
 1112 administrative procedures. The examination must be successfully  
 1113 passed ~~completed~~ by the applicant with a grade of at least 75  
 1114 ~~percent or more~~. Each applicant for master qualifier status  
 1115 shall submit to the department a nonrefundable \$30 examination  
 1116 fee prior to the examination.

1117 (c) Master qualifier status shall expire 3 years after the  
 1118 date of issuance of the certificate and may be renewed by

1119 submission to the department of documentation of completion of  
 1120 at least 16 ~~12~~ hours of approved continuing education courses  
 1121 during the 3-year period; proof of employment with a licensed  
 1122 category I liquefied petroleum gas dealer, liquefied petroleum  
 1123 gas installer, or applicant; and a \$30 certificate renewal fee.  
 1124 The department shall define, by rule, approved courses of  
 1125 continuing education.

1126 Section 31. Section 527.12, Florida Statutes, is amended  
 1127 to read:

1128 527.12 Cease and desist orders; stop-use orders; stop-  
 1129 operation orders; stop-sale orders; administrative fines.-

1130 (1) Whenever the department has ~~shall have~~ reason to  
 1131 believe that any person is violating or has violated ~~been~~  
 1132 ~~violating provisions of~~ this chapter or any rules adopted under  
 1133 this chapter pursuant thereto, the department ~~it~~ may issue a  
 1134 cease and desist order, ~~or~~ impose a civil penalty, or do both  
 1135 ~~may issue such cease and desist order and impose a civil~~  
 1136 ~~penalty.~~

1137 (2) Whenever a person or liquefied petroleum gas system or  
 1138 storage facility, or any part or component thereof, fails to  
 1139 comply with this chapter or any rules adopted under this  
 1140 chapter, the department may issue a stop-use order, stop-  
 1141 operation order, or stop-sale order.

1142 Section 32. Subsection (1) of section 559.805, Florida  
 1143 Statutes, is amended to read:

1144 559.805 Filings with the department; disclosure of  
 1145 advertisement identification number.-

1146 (1) Every seller of a business opportunity shall annually

1147 file with the department a copy of the disclosure statement  
 1148 required by s. 559.803 before ~~prior to~~ placing an advertisement  
 1149 or making any other representation designed to offer to, sell  
 1150 to, or solicit an offer to buy a business opportunity from a  
 1151 prospective purchaser in this state and shall update this filing  
 1152 by reporting any material change in the required information  
 1153 within 30 days after the material change occurs. An  
 1154 advertisement is not placed in the state merely because the  
 1155 publisher circulates, or there is circulated on his or her  
 1156 behalf in the state, any bona fide newspaper or other  
 1157 publication of general, regular, and paid circulation which has  
 1158 had more than two-thirds of its circulation during the past 12  
 1159 months outside the state or because a radio or television  
 1160 program originating outside the state is received in the state.  
 1161 If the seller is required by s. 559.807 to provide a bond or  
 1162 establish a trust account or guaranteed letter of credit, he or  
 1163 she shall contemporaneously file with the department a copy of  
 1164 the bond, a copy of the formal notification by the depository  
 1165 that the trust account is established, or a copy of the  
 1166 guaranteed letter of credit. Every seller of a business  
 1167 opportunity shall file with the department a list of independent  
 1168 agents who will engage in the offer or sale of business  
 1169 opportunities on behalf of the seller in this state. This list  
 1170 must be kept current and shall include the following  
 1171 information: name, home and business address, telephone number,  
 1172 present employer, ~~social security number,~~ and birth date. A No  
 1173 person may not ~~shall be allowed to~~ offer or sell business  
 1174 opportunities unless the required information is ~~has been~~

1175 provided to the department.

1176 Section 33. Subsection (3) of section 559.928, Florida  
 1177 Statutes, is amended to read:

1178 559.928 Registration.—

1179 (3) Each independent agent shall annually file an  
 1180 affidavit with the department before ~~prior to~~ engaging in  
 1181 business in this state. This affidavit must include the  
 1182 independent agent's full name, legal business or trade name,  
 1183 mailing address, business address, telephone number, ~~social~~  
 1184 ~~security number,~~ and the name or names and addresses of each  
 1185 seller of travel represented by the independent agent. A letter  
 1186 evidencing proof of filing must be issued by the department and  
 1187 must be prominently displayed in the independent agent's primary  
 1188 place of business. Each independent agent must also submit an  
 1189 annual registration fee of \$50. All moneys collected pursuant to  
 1190 the imposition of the fee shall be deposited by the Chief  
 1191 Financial Officer into the General Inspection Trust Fund of the  
 1192 Department of Agriculture and Consumer Services for the sole  
 1193 purpose of administrating this part. As used in this subsection,  
 1194 the term "independent agent" means a person who represents a  
 1195 seller of travel by soliciting persons on its behalf; who has a  
 1196 written contract with a seller of travel which is operating in  
 1197 compliance with this part and any rules adopted thereunder; who  
 1198 does not receive a fee, commission, or other valuable  
 1199 consideration directly from the purchaser for the seller of  
 1200 travel; who does not at any time have any unissued ticket stock  
 1201 or travel documents in his or her possession; and who does not  
 1202 have the ability to issue tickets, vacation certificates, or any

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1203 other travel document. The term "independent agent" does not  
 1204 include an affiliate of the seller of travel, as that term is  
 1205 used in s. 559.935(3), or the employees of the seller of travel  
 1206 or of such affiliates.

1207 Section 34. Subsection (7) of section 570.0725, Florida  
 1208 Statutes, is amended to read:

1209 570.0725 Food recovery; legislative intent; department  
 1210 functions.—

1211 (7) For public information purposes, the department may  
 1212 ~~shall~~ develop and provide a public information brochure  
 1213 detailing the need for food banks and similar ~~of~~ food recovery  
 1214 programs, the benefit of such ~~food recovery~~ programs, the manner  
 1215 in which ~~such~~ organizations may become involved in such ~~food~~  
 1216 ~~recovery~~ programs, and the protection afforded to such programs  
 1217 under s. 768.136, ~~and the food recovery entities or food banks~~  
 1218 ~~that exist in the state. This brochure must be updated annually.~~  
 1219 A food bank or similar food recovery organization seeking to be  
 1220 included on a list of such organizations must notify the  
 1221 department and provide the information required by rule of the  
 1222 department. Such organizations are responsible for updating the  
 1223 information and providing the updated information to the  
 1224 department. The department may adopt rules to implement this  
 1225 section.

1226 Section 35. Paragraph (e) of subsection (6) of section  
 1227 570.53, Florida Statutes, is amended to read:

1228 570.53 Division of Marketing and Development; powers and  
 1229 duties.—The powers and duties of the Division of Marketing and  
 1230 Development include, but are not limited to:

1231 (6)

1232 (e) Extending in every practicable way the distribution

1233 and sale of Florida agricultural products throughout the markets

1234 of the world as required of the department by s. ss. 570.07(7),

1235 (8), (10), and (11) ~~and 570.071~~ and chapters 571, 573, and 574.

1236 Section 36. Subsection (2) of section 570.54, Florida

1237 Statutes, is amended to read:

1238 570.54 Director; duties.—

1239 (2) It shall be the duty of the director of this division

1240 to supervise, direct, and coordinate the activities authorized

1241 by ss. 570.07(4), (7), (8), (10), (11), (12), (17), (18), and

1242 (20), ~~570.071~~, 570.21, 534.47-534.53, and 604.15-604.34 and

1243 chapters 504, 571, 573, and 574 and to exercise other powers and

1244 authority as authorized by the department.

1245 Section 37. Subsection (4) of section 570.55, Florida

1246 Statutes, is amended to read:

1247 570.55 Identification of sellers or handlers of tropical

1248 or subtropical fruit and vegetables; containers specified;

1249 penalties.—

1250 (4) IDENTIFICATION OF HANDLER.—At the time of each

1251 transaction involving the handling or sale of 55 pounds or more

1252 of tropical or subtropical fruit or vegetables in the primary

1253 channel of trade, the buyer or receiver of the tropical or

1254 subtropical fruit or vegetables shall demand a bill of sale,

1255 invoice, sales memorandum, or other document listing the date of

1256 the transaction, the quantity of the tropical or subtropical

1257 fruit or vegetables involved in the transaction, and the

1258 identification of the seller or handler as it appears on the

1259 driver's license of the seller or handler, including the  
 1260 driver's license number. If the seller or handler does not  
 1261 possess a driver's license, the buyer or receiver shall use any  
 1262 other acceptable means of identification, which may include, but  
 1263 is not limited to, i.e., voter's registration card and number,  
 1264 draft card, ~~social security card,~~ or other identification.  
 1265 However, no less than two identification documents shall be  
 1266 used. The identification of the seller or handler shall be  
 1267 recorded on the bill of sale, sales memorandum, invoice, or  
 1268 voucher, which shall be retained by the buyer or receiver for a  
 1269 period of not less than 1 year from the date of the transaction.

1270 Section 38. Subsection (3) of section 570.902, Florida  
 1271 Statutes, is amended to read:

1272 570.902 Definitions; ss. 570.902 and 570.903.—For the  
 1273 purpose of ss. 570.902 and 570.903:

1274 ~~(3) "Museum" means the Florida Agricultural Museum which~~  
 1275 ~~is designated as the museum for agriculture and rural history of~~  
 1276 ~~the State of Florida.~~

1277 Section 39. Section 570.903, Florida Statutes, is amended  
 1278 to read:

1279 570.903 Direct-support organization.—

1280 (1) When the Legislature authorizes the establishment of a  
 1281 direct-support organization to provide assistance for ~~the~~  
 1282 ~~museums,~~ the Florida Agriculture in the Classroom Program, ~~the~~  
 1283 ~~Florida State Collection of Arthropods,~~ the Friends of the  
 1284 Florida State Forests Program of the Division of Forestry, and  
 1285 the Forestry Arson Alert Program, and other programs of the  
 1286 department, the following provisions shall govern the creation,

1287 use, powers, and duties of the direct-support organization.

1288 (a) The department shall enter into a memorandum or letter  
 1289 of agreement with the direct-support organization, which shall  
 1290 specify the approval of the department, the powers and duties of  
 1291 the direct-support organization, and rules with which the  
 1292 direct-support organization shall comply.

1293 (b) The department may permit, without charge, appropriate  
 1294 use of property, facilities, and personnel of the department by  
 1295 a direct-support organization, subject to the provisions of ss.  
 1296 570.902 and 570.903. The use shall be directly in keeping with  
 1297 the approved purposes of the direct-support organization and  
 1298 shall not be made at times or places that would unreasonably  
 1299 interfere with opportunities for the general public to use  
 1300 department facilities for established purposes.

1301 (c) The department shall prescribe by contract or by rule  
 1302 conditions with which a direct-support organization shall comply  
 1303 in order to use property, facilities, or personnel of the  
 1304 department ~~or museum~~. Such rules shall provide for budget and  
 1305 audit review and oversight by the department.

1306 (d) The department shall not permit the use of property,  
 1307 facilities, or personnel of the ~~museum~~, department, or  
 1308 designated program by a direct-support organization which does  
 1309 not provide equal employment opportunities to all persons  
 1310 regardless of race, color, religion, sex, age, or national  
 1311 origin.

1312 (2)(a) The direct-support organization shall be empowered  
 1313 to conduct programs and activities; raise funds; request and  
 1314 receive grants, gifts, and bequests of money; acquire, receive,

1315 hold, invest, and administer, in its own name, securities,  
 1316 funds, objects of value, or other property, real or personal;  
 1317 and make expenditures to or for the direct or indirect benefit  
 1318 of the ~~museum or~~ designated program.

1319 (b) Notwithstanding the provisions of s. 287.057, the  
 1320 direct-support organization may enter into contracts or  
 1321 agreements with or without competitive bidding for the  
 1322 ~~restoration of objects, historical buildings, and other~~  
 1323 ~~historical materials or for the purchase of objects, historical~~  
 1324 ~~buildings, and other historical materials which are to be added~~  
 1325 ~~to the collections of the museum, or~~ benefit of the designated  
 1326 program. However, before the direct-support organization may  
 1327 enter into a contract or agreement without competitive bidding,  
 1328 the direct-support organization shall file a certification of  
 1329 conditions and circumstances with the internal auditor of the  
 1330 department justifying each contract or agreement.

1331 (c) Notwithstanding the provisions of s. 287.025(1)(e),  
 1332 the direct-support organization may enter into contracts to  
 1333 insure property of the ~~museum or~~ designated programs ~~and may~~  
 1334 ~~insure objects or collections on loan from others in satisfying~~  
 1335 ~~security terms of the lender.~~

1336 (3) The direct-support organization shall provide for an  
 1337 annual financial audit in accordance with s. 215.981.

1338 (4) Neither a designated program ~~or a museum,~~ nor a  
 1339 nonprofit corporation trustee or employee may:

1340 (a) Receive a commission, fee, or financial benefit in  
 1341 connection with the sale or exchange of property ~~historical~~  
 1342 ~~objects or properties~~ to the direct-support organization, ~~the~~

1343 ~~museum,~~ or the designated program; or

1344 (b) Be a business associate of any individual, firm, or  
 1345 organization involved in the sale or exchange of property to the  
 1346 direct-support organization, ~~the museum,~~ or the designated  
 1347 program.

1348 (5) All moneys received by the direct-support organization  
 1349 shall be deposited into an account of the direct-support  
 1350 organization and shall be used by the organization in a manner  
 1351 consistent with the goals of the ~~museum or~~ designated program.

1352 (6) The identity of a donor or prospective donor who  
 1353 desires to remain anonymous and all information identifying such  
 1354 donor or prospective donor are confidential and exempt from the  
 1355 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 1356 Constitution.

1357 (7) The Commissioner of Agriculture, or the commissioner's  
 1358 designee, may serve on the board of trustees and the executive  
 1359 committee of any direct-support organization established to  
 1360 benefit ~~the museum or~~ any designated program.

1361 ~~(8) The department shall establish by rule archival~~  
 1362 ~~procedures relating to museum artifacts and records. The rules~~  
 1363 ~~shall provide procedures which protect the museum's artifacts~~  
 1364 ~~and records equivalent to those procedures which have been~~  
 1365 ~~established by the Department of State under chapters 257 and~~  
 1366 ~~267.~~

1367 Section 40. Subsection (4) of section 573.118, Florida  
 1368 Statutes, is amended to read:

1369 573.118 Assessment; funds; audit; loans.—

1370 (4) In the event of levying and collecting of assessments,

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1371 for each fiscal year in which assessment funds are received by  
 1372 the department, the department shall maintain records of  
 1373 collections and expenditures for each marketing order separately  
 1374 within the state's accounting system. If requested by an  
 1375 advisory council, department staff shall cause to be made a  
 1376 thorough ~~annual~~ audit of the ~~books and accounts by a certified~~  
 1377 ~~public accountant,~~ such audit to be completed within 60 days  
 1378 after the request is received ~~end of the fiscal year.~~ The  
 1379 advisory council ~~department and all producers and handlers~~  
 1380 ~~covered by the marketing order~~ shall be provided a copy of the  
 1381 ~~properly advised of the details of the annual official~~ audit of  
 1382 the accounts ~~as shown by the certified public accountant~~ within  
 1383 30 days after completion of the audit.

1384 Section 41. Subsections (18) through (30) of section  
 1385 581.011, Florida Statutes, are renumbered as subsections (17)  
 1386 through (29), respectively, and present subsections (17) and  
 1387 (20) of that section are amended to read:

1388 581.011 Definitions.—As used in this chapter:

1389 ~~(17) "Museum" means the Florida State Collection of~~  
 1390 ~~Arthropods.~~

1391 ~~(19)-(20)~~ "Nursery" means any grounds or premises on or in  
 1392 which nursery stock is grown, propagated, or held for sale or  
 1393 distribution, including ~~except where~~ aquatic plant species ~~are~~  
 1394 tended for harvest in the natural environment.

1395 Section 42. Paragraph (a) of subsection (3) of section  
 1396 581.211, Florida Statutes, is amended to read:

1397 581.211 Penalties for violations.—

1398 (3) (a) 1. In addition to any other provision of law, the

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1399 department may, after notice and hearing, impose an  
 1400 administrative fine not exceeding \$10,000 ~~\$5,000~~ for each  
 1401 violation of this chapter, upon any person, nurseryman, stock  
 1402 dealer, agent or plant broker. The fine, when paid, shall be  
 1403 deposited in the Plant Industry Trust Fund. In addition, the  
 1404 department may place the violator on probation for up to 1 year,  
 1405 with conditions.

1406 2. The imposition of a fine or probation pursuant to this  
 1407 subsection may be in addition to or in lieu of the suspension or  
 1408 revocation of a certificate of registration or certificate of  
 1409 inspection.

1410 Section 43. Section 583.13, Florida Statutes, is amended  
 1411 to read:

1412 583.13 Labeling and advertising requirements for dressed  
 1413 poultry; unlawful acts.—

1414 (1) It is unlawful for any dealer or broker to sell, offer  
 1415 for sale, or hold for the purpose of sale in the state any  
 1416 dressed or ready-to-cook poultry in bulk unless the ~~such~~ poultry  
 1417 is packed in a container clearly bearing a label, not less than  
 1418 3 inches by 5 inches, on which shall be plainly and legibly  
 1419 printed, in letters of not less than 1/4 inch high ~~in height~~,  
 1420 ~~the grade and the part name or whole-bird statement of such~~  
 1421 ~~poultry. The grade may be expressed in the term "premium,"~~  
 1422 ~~"good," or "standard," or as the grade of another state or~~  
 1423 ~~federal agency the standards of quality of which, by law, are~~  
 1424 ~~equal to the standards of quality provided by this law and rules~~  
 1425 ~~promulgated hereunder.~~

1426 (2) It is unlawful to sell unpackaged dressed or ready-to-

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1427 cook poultry at retail unless such poultry is labeled by a  
 1428 placard immediately adjacent to the poultry or unless each bird  
 1429 is individually labeled to show ~~the grade and~~ the part name or  
 1430 whole-bird statement. The placard shall be no smaller than 7  
 1431 inches by 7 inches in size, and the required labeling  
 1432 information shall be legibly and plainly printed on the placard  
 1433 in letters not smaller than 1 inch in height.

1434 (3) It is unlawful to sell packaged dressed or ready-to-  
 1435 cook poultry at retail unless such poultry is labeled to show  
 1436 ~~the grade,~~ the part name or whole-bird statement, the net weight  
 1437 of the poultry, and the name and address of the dealer. The size  
 1438 of the type on the label must be one-eighth inch or larger. A  
 1439 placard immediately adjacent to such poultry may be used to  
 1440 indicate ~~the grade and~~ the part name or whole-bird statement,  
 1441 but not the net weight of the poultry or the name and address of  
 1442 the dealer.

1443 (4) It is unlawful to use dressed or ready-to-cook poultry  
 1444 in bulk in the preparation of food served to the public, or to  
 1445 hold such poultry for the purpose of such use, unless the  
 1446 poultry when received was packed in a container clearly bearing  
 1447 a label, not less than 3 inches by 5 inches, on which was  
 1448 plainly and legibly printed, in letters not less than 1/4 ~~one-~~  
 1449 ~~fourth~~ inch high in height, ~~the grade and~~ the part name or  
 1450 whole-bird statement of such poultry. ~~The grade may be expressed~~  
 1451 ~~in the term "premium," "good," or "standard," or as the grade of~~  
 1452 ~~another state or federal agency the standards of quality of~~  
 1453 ~~which, by law, are equal to the standards of quality provided by~~  
 1454 ~~this law and rules promulgated hereunder.~~

1455 (5) It is unlawful to offer dressed or ready-to-cook  
 1456 poultry for sale in any advertisement in a newspaper or  
 1457 circular, on radio or television, or in any other form of  
 1458 advertising without plainly designating in such advertisement  
 1459 ~~the grade and the part name or whole-bird statement of such~~  
 1460 poultry.

1461 Section 44. Subsections (4) and (5) of section 590.125,  
 1462 Florida Statutes, are renumbered as subsections (5) and (6),  
 1463 respectively, subsection (1), paragraph (b) of subsection (3),  
 1464 and paragraph (c) of present subsection (4) are amended, and new  
 1465 subsections (4) and (7) are added to that section, to read:

1466 590.125 Open burning authorized by the division.—

1467 (1) DEFINITIONS.—As used in this section, the term:

1468 (a) "Certified pile burner" means an individual who  
 1469 successfully completes the division's pile burning certification  
 1470 program and possesses a valid pile burner certification number.

1471 (b) "Certified prescribed burn manager" means an  
 1472 individual who successfully completes the certified prescribed  
 1473 burning ~~certification~~ program of the division and possesses a  
 1474 valid certification number.

1475 (c) ~~(d)~~ "Extinguished" means:

1476 1. that no spreading flame For wild land burning or  
 1477 certified prescribed burning, that no spreading flames exist.

1478 2. and no visible flame, smoke, or emissions For  
 1479 vegetative land-clearing debris burning or pile burning, that no  
 1480 visible flames exist.

1481 3. For vegetative land-clearing debris burning or pile  
 1482 burning in an area designated as smoke sensitive by the

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1483 division, that no visible flames, smoke, or emissions exist.

1484 (d) "Land-clearing operation" means the uprooting or  
 1485 clearing of vegetation in connection with the construction of  
 1486 buildings and rights-of-way, land development, and mineral  
 1487 operations. The term does not include the clearing of yard  
 1488 trash.

1489 (e) "Pile burning" means the burning of silvicultural,  
 1490 agricultural, or land-clearing and tree-cutting debris  
 1491 originating onsite, which is stacked together in a round or  
 1492 linear fashion, including, but not limited to, a windrow.

1493 (f)-~~(a)~~ "Prescribed burning" means the controlled  
 1494 application of fire in accordance with a written prescription  
 1495 for vegetative fuels under specified environmental conditions  
 1496 while following appropriate precautionary measures that ensure  
 1497 that the fire is confined to a predetermined area to accomplish  
 1498 the planned fire or land-management objectives.

1499 (g)-~~(e)~~ "Prescription" means a written plan establishing  
 1500 the criteria necessary for starting, controlling, and  
 1501 extinguishing a prescribed burn.

1502 (h) "Yard trash" means vegetative matter resulting from  
 1503 landscaping and yard maintenance operations and other such  
 1504 routine property cleanup activities. The term includes materials  
 1505 such as leaves, shrub trimmings, grass clippings, brush, and  
 1506 palm fronds.

1507 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND  
 1508 PURPOSE.—

1509 (b) Certified prescribed burning pertains only to  
 1510 broadcast burning for purposes of silviculture, wildlife

1511 management, ecological maintenance and restoration, and range  
 1512 and pasture management. It must be conducted in accordance with  
 1513 this subsection and:

1514 1. May be accomplished only when a certified prescribed  
 1515 burn manager is present on site with a copy of the prescription  
 1516 from ignition of the burn to its completion.

1517 2. Requires that a written prescription be prepared before  
 1518 receiving authorization to burn from the division.

1519 3. Requires that the specific consent of the landowner or  
 1520 his or her designee be obtained before requesting an  
 1521 authorization.

1522 4. Requires that an authorization to burn be obtained from  
 1523 the division before igniting the burn.

1524 5. Requires that there be adequate firebreaks at the burn  
 1525 site and sufficient personnel and firefighting equipment for the  
 1526 control of the fire.

1527 6. Is considered to be in the public interest and does not  
 1528 constitute a public or private nuisance when conducted under  
 1529 applicable state air pollution statutes and rules.

1530 7. Is considered to be a property right of the property  
 1531 owner if vegetative fuels are burned as required in this  
 1532 subsection.

1533 (4) CERTIFIED PILE BURNING; LEGISLATIVE FINDINGS AND  
 1534 PURPOSE.—

1535 (a) Pile burning is a tool that benefits current and  
 1536 future generations in Florida by disposing of naturally  
 1537 occurring vegetative debris through burning rather than  
 1538 disposing of the debris in landfills.

1539 (b) Certified pile burning pertains to the disposal of  
 1540 piled, naturally occurring debris from an agricultural,  
 1541 silvicultural, or temporary land-clearing operation. A land-  
 1542 clearing operation is temporary if it operates for 6 months or  
 1543 less. Certified pile burning must be conducted in accordance  
 1544 with this subsection, and:

1545 1. A certified pile burner must ensure, before ignition,  
 1546 that the piles are properly placed and that the content of the  
 1547 piles is conducive to efficient burning.

1548 2. A certified pile burner must ensure that the piles are  
 1549 properly extinguished no later than 1 hour after sunset. If the  
 1550 burn is conducted in an area designated by the division as smoke  
 1551 sensitive, a certified pile burner must ensure that the piles  
 1552 are properly extinguished at least 1 hour before sunset.

1553 3. A written pile burn plan must be prepared before  
 1554 receiving authorization from the division to burn.

1555 4. The specific consent of the landowner or his or her  
 1556 agent must be obtained before requesting authorization to burn.

1557 5. An authorization to burn must be obtained from the  
 1558 division or its designated agent before igniting the burn.

1559 6. There must be adequate firebreaks and sufficient  
 1560 personnel and firefighting equipment at the burn site to control  
 1561 the fire.

1562 (c) If a burn is conducted in accordance with this  
 1563 subsection, the property owner and his or her agent are not  
 1564 liable under s. 590.13 for damage or injury caused by the fire  
 1565 or resulting smoke, and are not in violation of subsection (2),  
 1566 unless gross negligence is proven.

1567 | (d) A certified pile burner who violates this section  
1568 | commits a misdemeanor of the second degree, punishable as  
1569 | provided in s. 775.082 or s. 775.083.

1570 | (e) The division shall adopt rules regulating certified  
1571 | pile burning. The rules shall include procedures and criteria  
1572 | for certifying and decertifying certified pile burn managers  
1573 | based on past experience, training, and record of compliance  
1574 | with this section.

1575 | (5)-(4) WILDFIRE HAZARD REDUCTION TREATMENT BY THE  
1576 | DIVISION.-The division may conduct fuel reduction initiatives,  
1577 | including, but not limited to, burning and mechanical and  
1578 | chemical treatment, on any area of wild land within the state  
1579 | which is reasonably determined to be in danger of wildfire in  
1580 | accordance with the following procedures:

1581 | (c) Prepare, and send the county tax collector shall  
1582 | include with the annual tax statement, a notice to be sent to  
1583 | all landowners in each area township designated by the division  
1584 | as a wildfire hazard area. The notice must describe particularly  
1585 | the area to be treated and the tentative date or dates of the  
1586 | treatment and must list the reasons for and the expected  
1587 | benefits from the wildfire hazard reduction.

1588 | (7) DIVISION APPROVAL OF LOCAL GOVERNMENT OPEN BURNING  
1589 | AUTHORIZATION PROGRAMS.-

1590 | (a) A county or municipality may exercise the division's  
1591 | authority, if delegated by the division under this subsection,  
1592 | to issue authorizations for the burning of yard trash or debris  
1593 | from land-clearing operations. A county's or municipality's  
1594 | existing or proposed open burning authorization program must:

1595 1. Be approved by the division. The division shall not  
 1596 approve a program if it fails to meet the requirements of  
 1597 subsections (2) and (4) and any rules adopted under those  
 1598 subsections.

1599 2. Provide by ordinance or local law the requirements for  
 1600 obtaining and performing a burn authorization that comply with  
 1601 subsections (2) and (4) and any rules adopted under those  
 1602 subsections.

1603 3. Provide for the enforcement of the program's  
 1604 requirements.

1605 4. Provide financial, personnel, and other resources  
 1606 needed to carry out the program.

1607 (b) If the division determines that a county's or  
 1608 municipality's open burning authorization program does not  
 1609 comply with subsections (2) and (4) and any rules adopted under  
 1610 those subsections, the division shall require the county or  
 1611 municipality to take necessary corrective actions within a  
 1612 reasonable period, not to exceed 90 days.

1613 1. If the county or municipality fails to take the  
 1614 necessary corrective actions within the required period, the  
 1615 division shall resume administration of the open burning  
 1616 authorization program in the county or municipality and the  
 1617 county or municipality shall cease administration of its  
 1618 program.

1619 2. Each county and municipality administering an open  
 1620 burning authorization program must cooperate with and assist the  
 1621 division in carrying out the division's powers, duties, and  
 1622 functions.

1623 3. A person who violates the requirements of a county's or  
 1624 municipality's open burning authorization program, as provided  
 1625 by ordinance or local law enacted pursuant to this section,  
 1626 commits a violation of this chapter, punishable as provided in  
 1627 s. 590.14.

1628 Section 45. Section 590.14, Florida Statutes, is amended  
 1629 to read:

1630 590.14 Notice of violation; penalties.—

1631 (1) If a division employee determines that a person has  
 1632 violated chapter 589, ~~or~~ this chapter, or any rule adopted by  
 1633 the division to administer provisions of law conferring duties  
 1634 upon the division, the division employee ~~he or she~~ may issue a  
 1635 notice of violation indicating the statute violated. This notice  
 1636 will be filed with the division and a copy forwarded to the  
 1637 appropriate law enforcement entity for further action if  
 1638 necessary.

1639 (2) In addition to any penalties provided by law, any  
 1640 person who causes a wildfire or permits any authorized fire to  
 1641 escape the boundaries of the authorization or to burn past the  
 1642 time of the authorization is liable for the payment of all  
 1643 reasonable costs and expenses incurred in suppressing the fire  
 1644 or \$150, whichever is greater. All costs and expenses incurred  
 1645 by the division shall be payable to the division. When such  
 1646 costs and expenses are not paid within 30 days after demand, the  
 1647 division may take proper legal proceedings for the collection of  
 1648 the costs and expenses. Those costs incurred by an agency acting  
 1649 at the division's direction are recoverable by that agency.

1650 (3) The department may also impose an administrative fine,

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1651 not to exceed \$1,000 per violation of any section of chapter 589  
 1652 or this chapter or violation of any rule adopted by the division  
 1653 to administer provisions of law conferring duties upon the  
 1654 division. The fine shall be based upon the degree of damage, the  
 1655 prior violation record of the person, and whether the person  
 1656 knowingly provided false information to obtain an authorization.  
 1657 The fines shall be deposited in the Incidental Trust Fund of the  
 1658 division.

1659 (4) A person may not:

1660 (a) Fail to comply with any rule or order adopted by the  
 1661 division to administer provisions of law conferring duties upon  
 1662 the division; or

1663 (b) Knowingly make any false statement or representation  
 1664 in any application, record, plan, or other document required by  
 1665 this chapter or any rules adopted under this chapter.

1666 (5) A person who violates paragraph (4) (a) or paragraph  
 1667 (4) (b) commits a misdemeanor of the second degree, punishable as  
 1668 provided in s. 775.082 or s. 775.083.

1669 (6) It is the intent of the Legislature that a penalty  
 1670 imposed by a court under subsection (5) be of a severity that  
 1671 ensures immediate and continued compliance with this section.

1672 (7) (4) The penalties provided in this section shall extend  
 1673 to both the actual violator and the person or persons, firm, or  
 1674 corporation causing, directing, or permitting the violation.

1675 Section 46. Paragraph (a) of subsection (1) of section  
 1676 599.004, Florida Statutes, is amended to read:

1677 599.004 Florida Farm Winery Program; registration; logo;  
 1678 fees.—

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1679 (1) The Florida Farm Winery Program is established within  
 1680 the Department of Agriculture and Consumer Services. Under this  
 1681 program, a winery may qualify as a tourist attraction only if it  
 1682 is registered with and certified by the department as a Florida  
 1683 Farm Winery. A winery may not claim to be certified unless it  
 1684 has received written approval from the department.

1685 (a) To qualify as a certified Florida Farm Winery, a  
 1686 winery shall meet the following standards:

1687 1. Produce or sell less than 250,000 gallons of wine  
 1688 annually.

1689 2. Maintain a minimum of 10 acres of owned or managed land  
 1690 ~~vineyards~~ in Florida which produces commodities used in the  
 1691 production of wine.

1692 3. Be open to the public for tours, tastings, and sales at  
 1693 least 30 hours each week.

1694 4. Make annual application to the department for  
 1695 recognition as a Florida Farm Winery, on forms provided by the  
 1696 department.

1697 5. Pay an annual application and registration fee of \$100.

1698 Section 47. Subsection (1) of section 604.15, Florida  
 1699 Statutes, is amended, and subsection (11) is added to that  
 1700 section, to read:

1701 604.15 Dealers in agricultural products; definitions.—For  
 1702 the purpose of ss. 604.15-604.34, the following words and terms,  
 1703 when used, shall be construed to mean:

1704 (1) "Agricultural products" means the natural products of  
 1705 the farm, nursery, grove, orchard, vineyard, garden, and apiary  
 1706 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;

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1707 livestock; milk and milk products; poultry and poultry products;  
 1708 the fruit of the saw palmetto (meaning the fruit of the Serenoa  
 1709 repens); limes (meaning the fruit Citrus aurantifolia, variety  
 1710 Persian, Tahiti, Bearss, or Florida Key limes); and any other  
 1711 nonexempt agricultural products produced in the state, except  
 1712 tobacco, sugarcane, tropical foliage, timber and timber  
 1713 byproducts, forest products as defined in s. 591.17, and citrus  
 1714 other than limes.

1715 (11) "Responsible position" means a position within the  
 1716 business of a dealer in agricultural products that has the  
 1717 authority to negotiate or make the purchase of agricultural  
 1718 products on behalf of the dealer's business or has principal  
 1719 active management authority over the business decisions,  
 1720 actions, and activities of the dealer's business in this state.

1721 Section 48. Section 604.19, Florida Statutes, is amended  
 1722 to read:

1723 604.19 License; fee; bond; certificate of deposit;  
 1724 penalty.—Unless the department refuses the application on one or  
 1725 more of the grounds provided in this section, it shall issue to  
 1726 an applicant, upon the payment of required fees and the  
 1727 execution and delivery of a bond or certificate of deposit as  
 1728 provided in this section, a state license entitling the  
 1729 applicant to conduct business as a dealer in agricultural  
 1730 products for a 1-year period to coincide with the effective  
 1731 period of the bond or certificate of deposit furnished by the  
 1732 applicant. During the 1-year period covered by a license, if the  
 1733 supporting surety bond or certificate of deposit is canceled for  
 1734 any reason, the license shall automatically expire on the date

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1735 the surety bond or certificate of deposit terminates, unless an  
 1736 acceptable replacement is in effect before the date of  
 1737 termination so that continual coverage occurs for the remaining  
 1738 period of the license. A surety company shall give the  
 1739 department a 30-day written notice of cancellation by certified  
 1740 mail in order to cancel a bond. Cancellation of a bond or  
 1741 certificate of deposit does ~~shall~~ not relieve a surety company  
 1742 or financial institution of liability for purchases or sales  
 1743 occurring while the bond or certificate of deposit was in  
 1744 effect. The license fee, which must be paid for the principal  
 1745 place of business for a dealer in agricultural products, shall  
 1746 be based upon the amount of the dealer's surety bond or  
 1747 certificate of deposit furnished by each dealer under the  
 1748 provisions of s. 604.20 and may not exceed \$500. For each  
 1749 additional place in which the applicant desires to conduct  
 1750 business and which the applicant names in the application, the  
 1751 additional license fee must be paid but may not exceed \$100  
 1752 annually. If a ~~Should any~~ dealer in agricultural products fails,  
 1753 refuses, or neglects ~~fail, refuse, or neglect~~ to apply and  
 1754 qualify for the renewal of a license on or before its ~~the~~ date  
 1755 ~~of expiration~~ date ~~thereof~~, a penalty not to exceed \$100 shall  
 1756 apply to and be added to the ~~original~~ license fee for the  
 1757 principal place of business and to the license fee for each  
 1758 additional place of business named in the application and shall  
 1759 be paid by the applicant before the renewal license may be  
 1760 issued. The department by rule shall prescribe fee amounts  
 1761 sufficient to fund ss. 604.15-604.34.

1762 Section 49. Subsections (1) and (4) of section 604.20,

1763 Florida Statutes, are amended to read:  
 1764       604.20 Bond or certificate of deposit prerequisite;  
 1765 amount; form.—  
 1766       (1) Before any license is issued, the applicant therefor  
 1767 shall make and deliver to the department a surety bond or  
 1768 certificate of deposit in the amount of at least \$5,000 or in  
 1769 such greater amount as the department may determine. No bond or  
 1770 certificate of deposit may be in an amount less than \$5,000. The  
 1771 penal sum of the bond or certificate of deposit to be furnished  
 1772 to the department by an applicant for license as a dealer in  
 1773 agricultural products shall be in an amount equal to twice the  
 1774 average of the monthly dollar amounts ~~amount~~ of agricultural  
 1775 products handled for a Florida producer or a producer's agent or  
 1776 representative, by purchase or otherwise, ~~during the month of~~  
 1777 ~~maximum transaction in such products~~ during the preceding 12-  
 1778 month period. Only those months in which the applicant handled,  
 1779 by purchase or otherwise, amounts equal to or greater than  
 1780 \$1,000 shall be used to calculate the penal sum of the required  
 1781 bond or certificate of deposit. An applicant for license who has  
 1782 not handled agricultural products for a Florida producer or a  
 1783 producer's agent or representative, by purchase or otherwise,  
 1784 during the preceding 12-month period shall furnish a bond or  
 1785 certificate of deposit in an amount equal to twice the estimated  
 1786 average of the monthly dollar amounts ~~amount~~ of such  
 1787 agricultural products to be handled, by purchase or otherwise,  
 1788 ~~during the month of maximum transaction~~ during the next  
 1789 immediate 12 months. Only those months in which the applicant  
 1790 anticipates handling, by purchase or otherwise, amounts equal to

1791 or greater than \$1,000 shall be used to calculate the penal sum  
 1792 of the required bond or certificate of deposit. Such bond or  
 1793 certificate of deposit shall be provided or assigned in the  
 1794 exact name in which the dealer will conduct business subject to  
 1795 the provisions of ss. 604.15-604.34. Such bond must be executed  
 1796 by a surety company authorized to transact business in the  
 1797 state. For the purposes of ss. 604.19-604.21, the term  
 1798 "certificate of deposit" means a certificate of deposit at any  
 1799 recognized financial institution doing business in the United  
 1800 States. No certificate of deposit may be accepted in connection  
 1801 with an application for a dealer's license unless the issuing  
 1802 institution is properly insured by either the Federal Deposit  
 1803 Insurance Corporation or the Federal Savings and Loan Insurance  
 1804 Corporation. Such bond or any certificate of deposit assignment  
 1805 or agreement shall be upon a form prescribed or approved by the  
 1806 department and shall be conditioned to secure the faithful  
 1807 accounting for and payment, in the manner prescribed by s.  
 1808 604.21(9), to producers or their agents or representatives of  
 1809 the proceeds of all agricultural products handled or purchased  
 1810 by such dealer, ~~and~~ to secure payment to dealers who sell  
 1811 agricultural products to such dealer, and to pay any claims or  
 1812 costs ordered under s. 604.21 as the result of a complaint. Such  
 1813 bond or certificate of deposit assignment or agreement shall  
 1814 include terms binding the instrument to the Commissioner of  
 1815 Agriculture. A certificate of deposit shall be presented with an  
 1816 assignment of applicant's rights in the certificate in favor of  
 1817 the Commissioner of Agriculture on a form prescribed by the  
 1818 department and with a letter from the issuing institution

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1819 | acknowledging that the assignment has been properly recorded on  
 1820 | the books of the issuing institution and will be honored by the  
 1821 | issuing institution. Such assignment shall be irrevocable while  
 1822 | the dealer's license is in effect and for an additional period  
 1823 | of 6 months after the termination or expiration of the dealer's  
 1824 | license, provided no complaint is pending against the licensee.  
 1825 | If a complaint is pending, the assignment shall remain in effect  
 1826 | until all actions on the complaint have been finalized. The  
 1827 | certificate of deposit may be released by the assignee of the  
 1828 | financial institution to the licensee or the licensee's  
 1829 | successors, assignee, or heirs if no claims are pending against  
 1830 | the licensee before the department at the conclusion of 6 months  
 1831 | after the last effective date of the license. No certificate of  
 1832 | deposit shall be accepted that contains any provision that would  
 1833 | give the issuing institution any prior rights or claim on the  
 1834 | proceeds or principal of such certificate of deposit. The  
 1835 | department shall determine by rule the maximum amount of bond or  
 1836 | certificate of deposit required of a dealer and whether an  
 1837 | annual bond or certificate of deposit will be required.

1838 |       (4) The department may issue a conditional license to an  
 1839 | applicant who is unable to provide a single bond or certificate  
 1840 | of deposit in the full amount required by the calculation in  
 1841 | subsection (1). The conditional license shall remain in effect  
 1842 | for a 1-year period to coincide with the effective period of the  
 1843 | bond or certificate of deposit furnished by the applicant. The  
 1844 | applicant must provide at least the minimum \$5,000 bond or  
 1845 | certificate of deposit as provided in subsection (1) together  
 1846 | with documentation from each of three separate bonding companies

1847 denying the applicant's request for a surety bond in the full  
 1848 amount required in subsection (1) and one of the following:

1849 (a) A notarized affidavit limiting the handling of  
 1850 agricultural products, by purchase or otherwise, during their  
 1851 largest month to a minimum of one-half the amount of the bond or  
 1852 certificate of deposit provided by the applicant;

1853 (b) A notarized affidavit stating that any subject  
 1854 agricultural products, handled by purchase or otherwise,  
 1855 exceeding one-half of the amount of the bond or certificate of  
 1856 deposit will be handled under the exemption provisions set forth  
 1857 in s. 604.16(2); or

1858 (c) A second bond or certificate of deposit in such an  
 1859 amount that, when the penal sum of the second bond or  
 1860 certificate of deposit is added to the penal sum of the first  
 1861 bond or certificate of deposit, the combined penal sum will  
 1862 equal twice the dollar amount of agricultural products handled  
 1863 for a Florida producer or a producer's agent or representative,  
 1864 by purchase or otherwise, during the month of maximum  
 1865 transaction in such products during the preceding 12-month  
 1866 period.

1867  
 1868 The department or its agents may require from any licensee who  
 1869 is issued a conditional license verified statements of the  
 1870 volume of the licensee's business or may review the licensee's  
 1871 records at the licensee's place of business during normal  
 1872 business hours to determine the licensee's adherence to the  
 1873 conditions of the license. The failure of a licensee to furnish  
 1874 such statement or to make such records available shall be cause

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1875 for suspension of the licensee's conditional license. If the  
 1876 department finds such failure to be willful, the conditional  
 1877 license may be revoked.

1878 Section 50. Section 604.25, Florida Statutes, is amended  
 1879 to read:

1880 604.25 Denial of, refusal to renew ~~grant~~, or suspension or  
 1881 revocation of ~~r~~ license.—

1882 ~~(1)~~ The department may deny, refuse to renew, decline to  
 1883 ~~grant a license~~ or may suspend or revoke a license already  
 1884 ~~granted~~ if the applicant or licensee has:

1885 (1)(a) Suffered a monetary judgment entered against the  
 1886 applicant or licensee ~~upon which is execution has been returned~~  
 1887 unsatisfied;

1888 (2)(b) Made false charges for handling or services  
 1889 rendered;

1890 (3)(e) Failed to account promptly and properly or to make  
 1891 settlements with any producer;

1892 (4)(d) Made any false statement or statements as to  
 1893 condition, quality, or quantity of goods received or held for  
 1894 sale when the true condition, quality, or quantity could have  
 1895 been ascertained by reasonable inspection;

1896 (5)(e) Made any false or misleading statement or  
 1897 statements as to market conditions or service rendered;

1898 (6)(f) Been guilty of a fraud in the attempt to procure,  
 1899 or the procurement of, a license;

1900 (7)(g) Directly or indirectly sold agricultural products  
 1901 received on consignment or on a net return basis for her or his  
 1902 own account, without prior authority from the producer

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1903 consigning the same, or without notifying such producer;  
 1904 (8)-(h) Failed to prevent a person from holding a position  
 1905 as the applicant's or licensee's owner, officer, director,  
 1906 general or managing partner, or employee ~~Employed~~ in a  
 1907 responsible position ~~a person~~, or holding any other similarly  
 1908 situated position, if the person holds or has held a similar  
 1909 position with any entity that ~~an officer of a corporation, who~~  
 1910 has failed to fully comply with an order of the department, has  
 1911 not satisfied a civil judgment held by the department, has  
 1912 pending any administrative or civil enforcement action by the  
 1913 department, or has pending any criminal charges pursuant to s.  
 1914 604.30 at any time within 1 year after issuance;

1915 (9)-(i) Violated any statute or rule relating to the  
 1916 purchase or sale of any agricultural product, whether or not  
 1917 such transaction is subject to the provisions of this chapter;  
 1918 ~~or~~

1919 (10)-(j) Failed to submit to the department an application,  
 1920 appropriate license fees, and an acceptable surety bond or  
 1921 certificate of deposit; or-

1922 (11)-(2) Failed ~~If a licensee fails or refused~~ refuses to  
 1923 comply in full with an order of the department or failed to  
 1924 satisfy a civil judgment owed to the department, ~~her or his~~  
 1925 ~~license may be suspended or revoked, in which case she or he~~  
 1926 ~~shall not be eligible for license for a period of 1 year or~~  
 1927 ~~until she or he has fully complied with the order of the~~  
 1928 ~~department.~~

1929 ~~(3) No person, or officer of a corporation, whose license~~  
 1930 ~~has been suspended or revoked for failure to comply with an~~

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1931 ~~order of the department may hold a responsible position with a~~  
 1932 ~~licensee for a period of 1 year or until the order of the~~  
 1933 ~~department has been fully complied with.~~

1934 Section 51. Subsection (4) of section 686.201, Florida  
 1935 Statutes, is amended to read:

1936 686.201 Sales representative contracts involving  
 1937 commissions; requirements; termination of agreement; civil  
 1938 remedies.—

1939 (4) This section does not apply to:

1940 (a) Persons licensed pursuant to chapter 475 who are  
 1941 performing services within the scope of their license.

1942 (b) Contracts to which a seller of travel as defined in s.  
 1943 559.927 is a party.

1944 Section 52. Paragraph (c) of subsection (5) of section  
 1945 790.06, Florida Statutes, is amended to read:

1946 790.06 License to carry concealed weapon or firearm.—

1947 (5) The applicant shall submit to the Department of  
 1948 Agriculture and Consumer Services:

1949 (c) A full set of fingerprints of the applicant  
 1950 administered by a law enforcement agency or the Division of  
 1951 Licensing of the Department of Agriculture and Consumer  
 1952 Services.

1953 Section 53. Sections 570.071 and 570.901, Florida  
 1954 Statutes, are repealed.

1955 Section 54. This act shall take effect July 1, 2010.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1445 (2010)

Amendment No.

COUNCIL/COMMITTEE 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 Council/Committee hearing bill: Agriculture & Natural Resources  
2 Policy Committee  
3 Representative Nelson offered the following:

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

6       Remove lines 1762-1877 and insert:

7       Section 49. Subsections (18) and (19) of section 616.242,  
8 Florida Statutes, are renumbered as subsections (19) and (20),  
9 respectively, and a new subsection (18) is added to that section  
10 to read:

11       616.242 Safety standards for amusement rides.—

12       (18) STOP-OPERATION ORDERS.—If an owner or amusement ride  
13 fails to comply with this chapter or any rule adopted under this  
14 chapter, the department may issue a stop-operation order.

15  
16 -----  
17           **T I T L E   A M E N D M E N T**

18       Remove lines 152-157 and insert:

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1445 (2010)

Amendment No.

19 | applications; amending s. 616.242, F.S.; authorizing the  
20 | issuance of stop-operation orders for amusement rides  
21 | under certain circumstances;

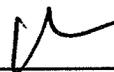


**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB ANR 10-09 Consumptive Use Permits

**SPONSOR(S):** Agriculture & Natural Resources Policy Committee

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee		Kliner 	Reese 
1)				
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The bill amends specific sections of Part II of Chapter 373, F.S., relating to consumptive use permits (CUPs). Specifically, the bill:

- Provides that when the Department of Environmental Protection (DEP) or the water management district (WMD) board is evaluating an application for a CUP, and an applicant proposes the implementation of "significant demand management activities" or the use of an alternative water supply project, and provides certain assurances, the permitting agency shall presume that the consumptive use of water is consistent with the public interest.
- Directs the DEP or the WMD board to address a CUP applicant's reduced need for a permitted water allocation by increasing the permit's duration, rather than reducing the allocation, provided the reduced need is due to "significant demand management activities" or an alternative water supply project. The DEP or WMD board is required to approve permits for the implementation of "significant demand management activities" for a term for at least 20 years.
- Provides that an applicant will not be subject to a permit revocation by the DEP or the WMD board for nonuse of the resource provided the applicant proves that a reduction in water use is the result of "significant demand management activities" or the development of alternative water supply projects that exceed the requirement of the permit.

The bill appears to have no fiscal impact on local governments. At the state government level, there may be costs associated with rulemaking by the DEP.

The bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Consumptive Use Permits

A consumptive use permit (CUP), also called a water use permit, constitutes authorization to withdraw a specified amount of water for a specified time either from the ground or from a surface water body. CUPs are generally issued by the water management districts (WMDs) under Part II of Chapter 373, F.S., specifically s. 373.223, F.S. State law allows the DEP to issue CUPs where an applicant proposes an "inter-district transfer" of water (i.e. from a source within one WMD to a user in another WMD).

The water permitted to be withdrawn under a CUP is most often used for agricultural and other types of irrigation, for drinking water for public consumption, and in the manufacturing processes of various products. CUPs were created as the key mechanism by which the WMDs and the state can regulate the consumption of water for the most beneficial uses and in the best interest of the public.

People or entities wishing to utilize a water supply – whether an aquifer, a river or lake, or an "alternative supply" such as stormwater or seawater – must obtain a CUP if certain thresholds are exceeded. For example, persons who propose withdrawing water through a well whose diameter exceeds 6 inches, or who would withdraw more than 100,000 gallons a day, or who are supplying more than their domestic needs, must obtain a CUP. Each WMD's list of thresholds is slightly different, as are the penalties for failure to obtain a CUP prior to withdrawing water.

A CUP may be issued only if the applicant can establish that the proposed use of the water meets the "three prong test" specified in ss. 373.223(1), F.S.; that is, the proposed use of water: (1) is a reasonable-beneficial use (meaning it is both an economic and efficient utilization of water for a purpose and in a manner which is both reasonable and consistent with the public interest); (2) will not interfere with any presently existing legal use of water; and (3) is consistent with the public interest.

## Effect of Proposed Changes

### Conditions for a permit

Currently, subsection (5) of s. 373.223, F.S., provides that an alternative water supply development project identified by a WMD is presumed to be in the public interest, which meets one of the requirements of the "three-prong" test required for the issuance of a consumptive use permit.

The bill provides that if the applicant for a CUP proposes either an alternative water supply project or "significant demand management activities", and provides assurances of the applicant's capability to implement the demand management strategies or to design, construct, operate, and maintain the alternative water supply project, the *consumptive use of water* will be presumed to be in the public interest, satisfying one of the requirements of the "three-prong" test required for the issuance of a consumptive use permit. Applicants will be required to comply with the remaining two conditions for a consumptive use permit: demonstrate that the project will have a reasonable beneficial use and does not interfere with any existing legal users.

### Duration of a CUP and Reporting Requirements

The duration of a CUP may vary, and permits may range from five years to twenty years or more, depending upon the circumstances. For instance, s. 373.236, F.S., provides for a 20-year duration for permits approved for the development of alternative water supplies. If the permittee issues bonds for the construction of the project, the permit may be extended, at the request of the permittee, to cover the time required to retire the bonds, provided the WMD board determines that the use will continue to meet the conditions for issuance of the permit. This section authorizes the governing board of a WMD to require a permittee holding a 20-year CUP to file a compliance report every five years during the term of the permit. The report must provide reasonable assurance to the board that the initial conditions for the issuance of the permit are met. A permit that is modified under this section is not subject to review of competing consumptive use applications, provided there is no increase in the permitted allocation, permit duration, and no change in the water source (unless the change is requested by the WMD).

The bill provides direction for the DEP or the WMD board in the event the permittee's need for the initial water allocation amount decreases due to the use of demand management activities or by the development of an alternative water supply project. Provided the initial conditions for the permit can still be met, the DEP or the WMD board is required to address the decreased need by increasing the duration of the permit, rather than reducing the quantity of water initially permitted. A permit that is modified under this section will not be subject to competing uses provided the increase in permit duration was due to demand management activities or the development of a water supply project that exceeded the requirement of the permit.

The bill provides for a 20-year duration for permits approved for significant demand management activities, and also provides for a permit extension at the request of the permittee to cover the time required to retire bonds that are issued for the construction of a demand management project.

### Revocation of a CUP for Non-use

Currently, s. 373.243, F.S., authorizes the DEP or the WMD boards to revoke a CUP for the nonuse of the water supply allowed by the permit for a period of 2 years or more, unless the user can prove that his or her nonuse was due to extreme hardship caused by factors beyond the user's control.<sup>1</sup>

The bill provides an exception for a determination of non-use of the resource resulting in a revocation of the permit if the non-use was due to the implementation of demand management activities or due to the development of an alternative water supply project that exceeds the requirement of the permit.

---

<sup>1</sup> Other actions that may result in a revocation include: any material false statement in documentation required under the permit or statute, a willful violation of the conditions of the permit, or a violation of any provision of Chapter 273, F.S.

**B. SECTION DIRECTORY:**

Section 1. Amends subsection (5) of s. 373.223, F.S., directing the DEP or a WMD board, when evaluating an application for a CUP, where an applicant proposes the implementation of "significant demand management activities" or the use of an alternative water supply project, and provides certain assurances, to presume the consumptive use of water is consistent with the public interest.

Section 2. Amends subsections (4) and (5) of s. 373.236, F.S., directing the DEP or the WMD board to address a CUP applicant's reduced need for a permitted water allocation by increasing the permit's duration, rather than reducing the allocation, provided the reduced need is due to "significant demand management activities" or an alternative water supply project, provided the DEP or WMD does not determine the increased duration will not meet the initial conditions of the permit. The DEP or WMD boards are required to approve permits for the implementation of "significant demand management activities" for a term for at least 20 years.

Section 3. Amends subsection (4) of s. 373.243, F.S., providing that an applicant who proves that a reduction in water use that is the result of "significant demand management activities" or the development of an alternative water supply project that exceeds the requirement of the permit will not be subject to a permit revocation by the DEP or the WMD board for nonuse of the resource.

Section 4. Provides an effective date of July 1, 2010.

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

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

1. Revenues:

None.

2. Expenditures:

The DEP and WMDs may need to implement rulemaking to develop definitions, examples of "significant demand management activities" and standards for such practices.

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

1. Revenues:

Local government public water supply utilities may benefit from the implementation of demand management practices in the same manner as private utilities. See, Part II, C., below.

2. Expenditures:

None.

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

The implementation of demand management activities may inure to the benefit of utilities that provide public water resources and that implement demand management practices. In theory, demand management activities will "flatten" the demand curve for the subject resource. In practice, one of the activities that might be used is "cost-reflective pricing" in which the cost of water is increased to incentivize conservation. A utility that increases its prices to reduce demand for water may be able to sell to a greater number of customers who will use less but pay more per gallon.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None noted.

#### B. RULE-MAKING AUTHORITY:

No rulemaking authority is provided.

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

Staff recommends the following amendments to the bill as drafted:

- Provide specific rulemaking authority to the DEP to develop definitions, examples, and standards for the implementation of demand management activities when evaluating CUP applications.
- Amend line 30 of the bill to provide that the alternative water supply or the significant demand management activities is consistent with the public interest test.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled  
 2 An act relating to consumptive use permits; amending s.  
 3 373.223, F.S.; providing for the evaluation of permit  
 4 applications for consumptive use of water for the  
 5 implementation of significant demand management  
 6 activities; providing that such use is consistent with the  
 7 public interest; amending s. 373.236, F.S.; providing for  
 8 the modification and extension of consumptive use permits  
 9 for significant demand management activities and  
 10 alternative water supply projects under specified  
 11 conditions; amending s. 373.243, F.S.; providing for an  
 12 exception to certain revocation of consumptive use permits  
 13 for significant demand management activities and  
 14 alternative water supply projects; providing an effective  
 15 date.

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

18  
 19 Section 1. Subsection (5) of section 373.223, Florida  
 20 Statutes, is amended to read:

21 373.223 Conditions for a permit.—

22 (5) In evaluating an application for consumptive use of  
 23 water which proposes the implementation of significant demand  
 24 management activities or the use of an alternative water supply  
 25 project as described in the regional water supply plan and  
 26 provides reasonable assurances of the applicant's capability to  
 27 implement the significant demand management activities or to  
 28 design, construct, operate, and maintain the alternative water

29 supply project, the governing board or department shall presume  
 30 that the consumptive ~~alternative water supply~~ use of water is  
 31 consistent with the public interest under paragraph (1)(c).  
 32 However, where the governing board identifies the need for a  
 33 multijurisdictional water supply entity or regional water supply  
 34 authority to develop the alternative water supply project  
 35 pursuant to s. 373.0361(2)(a)2., the presumption shall be  
 36 accorded only to that use proposed by such entity or authority.  
 37 This subsection does not effect evaluation of the use pursuant  
 38 to the provisions of paragraphs (1)(a) and (b), subsections (2)  
 39 and (3), and ss. 373.2295 and 373.233.

40 Section 2. Subsections (4) and (5) of section 373.236,  
 41 Florida Statutes, are amended to read:

42 373.236 Duration of permits; compliance reports.—

43 (4) Where necessary to maintain reasonable assurance that  
 44 the conditions for issuance of a 20-year permit can continue to  
 45 be met, the governing board or department, in addition to any  
 46 conditions required pursuant to s. 373.219, may require a  
 47 compliance report by the permittee every 5 years during the term  
 48 of a permit. This report shall contain sufficient data to  
 49 maintain reasonable assurance that the initial conditions for  
 50 permit issuance are met. Following review of this report, the  
 51 governing board or the department may modify the permit to  
 52 ensure that the use meets the conditions for issuance. Any  
 53 decrease in the permittee's need for the permitted allocation  
 54 due to the implementation of significant demand management  
 55 activities or the development of alternative water supply  
 56 projects that exceed the requirements of the permit, such as

57 implementation of a functioning reuse system pursuant to s.  
 58 403.086(9), shall be addressed by the governing board or  
 59 department through an increase of the permit duration rather  
 60 than a reduction of the permitted allocation, unless the  
 61 governing board or department determines that the increased  
 62 duration will not meet the initial conditions for issuance.  
 63 Permit modifications pursuant to this subsection shall not be  
 64 subject to competing applications, provided there is no increase  
 65 in the permitted allocation or permit duration, and no change in  
 66 source, except for changes in source requested by the district  
 67 or increases in permit duration due to the implementation of  
 68 significant demand management activities or the development of  
 69 alternative water supply projects that exceed the requirements  
 70 of the permit. This subsection shall not be construed to limit  
 71 the existing authority of the department or the governing board  
 72 to modify or revoke a consumptive use permit.

73 (5) Permits approved for the implementation of significant  
 74 demand management activities or the development of alternative  
 75 water supply projects ~~supplies~~ shall be granted for a term of at  
 76 least 20 years. However, if the permittee issues bonds for the  
 77 construction of significant demand management activities or an  
 78 alternative water supply ~~the~~ project, upon request of the  
 79 permittee prior to the expiration of the permit, that permit  
 80 shall be extended for such additional time as is required for  
 81 the retirement of bonds, not including any refunding or  
 82 refinancing of such bonds, provided that the governing board  
 83 determines that the use will continue to meet the conditions for  
 84 the issuance of the permit. Such a permit is subject to

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85 compliance reports under subsection (4).

86 Section 3. Subsection (4) of section 373.243, Florida  
87 Statutes, is amended to read:

88 373.243 Revocation of permits.—The governing board or the  
89 department may revoke a permit as follows:

90 (4) For nonuse of the water supply allowed by the permit  
91 for a period of 2 years or more, the governing board or the  
92 department may revoke the permit permanently and in whole unless  
93 the user can prove that his or her nonuse was due to extreme  
94 ~~hardship caused by~~ factors beyond the user's control or due to  
95 reductions in water use caused by the implementation of  
96 significant demand management activities or the development of  
97 alternative water supply projects that exceed the requirements  
98 of the permit. For a permit issued pursuant to s. 373.236(7),  
99 the governing board or the department may revoke the permit only  
100 if the nonuse of the water supply allowed by the permit is for a  
101 period of 4 years or more.

102 Section 4. This act shall take effect July 1, 2010.

Amendment No.

COUNCIL/COMMITTEE 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 Council/Committee hearing PCB: Agriculture & Natural Resources  
2 Policy Committee  
3 Representative(s) Williams offered the following:  
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (4) of section 373.236, Florida  
8 Statutes, is amended to read:

9 373.236 Duration of permits; compliance reports.-

10 (4) Where necessary to maintain reasonable assurance that  
11 the conditions for issuance of a 20-year permit can continue to  
12 be met, the governing board or department, in addition to any  
13 conditions required pursuant to s. 373.219, may require a  
14 compliance report by the permittee every ~~5~~ 10 years during the  
15 term of a permit. This report shall contain sufficient data to  
16 maintain reasonable assurance that the initial conditions for  
17 permit issuance are met. Following review of this report, the  
18 governing board or the department may modify the permit to  
19 ensure that the use meets the conditions for issuance. Decreases

Amendment No.

20 in a permittee's demand for the permitted allocation due to  
21 conservation activities shall not result in a modification that  
22 decreases the maximum allocation during the term of the permit.  
23 An agricultural water use permit that requires implementation of  
24 the most efficient irrigation system that is economically  
25 feasible and available at the time of permit issuance shall not  
26 be modified to decrease the maximum allocation during the term  
27 of the permit if the permittee has implemented the required  
28 irrigation system. Permit modifications pursuant to this  
29 subsection shall not be subject to competing applications,  
30 provided there is no increase in the permitted allocation or  
31 permit duration, and no change in source, except for changes in  
32 source requested by the district. This subsection shall not be  
33 construed to limit the existing authority of the department or  
34 the governing board to modify or revoke a consumptive use  
35 permit.

36  
37 Section 2: This act shall take effect July 1, 2010.

38  
39  
40  
41 -----

**T I T L E   A M E N D M E N T**

42 Remove lines 3-14 and insert:  
43  
44 373.236, F.S., revising the duration for a permittee's compliance  
45 report; providing that decreases in a permittee's need for a  
46 permitted allocation due to conservation activities shall not  
47 result in a modification that decreases the maximum allocation

COUNCIL/COMMITTEE AMENDMENT

PCB Name: PCB ANR 10-09 (2010)

Amendment No.

48 during the term of the permit; providing for a similar effect  
49 for an agricultural water use permit; requiring district  
50 approval of a plan that meets the requirements of the section;  
51 providing an effective





## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Following an exceptionally severe drought in 1999-2001, the Department of Environmental Protection (DEP), along with the state's five water management districts, water providers, water users, and other stakeholders, participated in the Florida Water Conservation Initiative, a collaborative effort to address water conservation measures. In the final report of the Initiative, published in April 2002, the participants collectively recommended further pursuit of a wide range of water conservation tools, including agriculture and landscape irrigation techniques, indoor water use, the use of reclaimed water, and measures for industrial, commercial, and institutional water use.<sup>1</sup> The report recognized public water supply as the second largest water use sector in Florida, and acknowledged conservation as an important management tool for public water supply utilities. The DEP, the water management districts, the Florida Public Service Commission, the Utility Council of the American Water Works Association (Florida Section), the Utility Council of the Florida Water Environment Association, and the Florida Rural Water Association signed a Joint Statement of Commitment to cooperatively develop a comprehensive water conservation program.<sup>2</sup>

During the 2004 Regular Session, the Florida Legislature enacted HB 293, which codified many of the findings presented in the final report of the initiative. HB 293 created, among other things, a new section 373.227, F.S., encouraging the use of efficient, effective, and affordable water conservation measures, and providing that a goal-based, accountable, tailored water conservation program should be emphasized for public water supply utilities. The section states that the overall water conservation goal of the state is "to prevent and reduce wasteful, uneconomical, impractical, or unreasonable use of water resources." To achieve these conservation objectives, the legislation emphasizes "goal-based, accountable, tailored, and measurable water conservation programs for public water supply." The section directs the DEP, in cooperation with the water management districts and the other stakeholders, to develop a statewide water conservation program for public water supply utilities, and to create a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities which provides an integrated statewide database for information on public water supply conservation programs and practices and their effectiveness.<sup>3</sup>

<sup>1</sup> [http://www.dep.state.fl.us/water/waterpolicy/docs/WCI\\_2002\\_Final\\_Report.pdf](http://www.dep.state.fl.us/water/waterpolicy/docs/WCI_2002_Final_Report.pdf)

<sup>2</sup> [http://www.dep.state.fl.us/water/waterpolicy/docs/JSOC--new\\_small.pdf](http://www.dep.state.fl.us/water/waterpolicy/docs/JSOC--new_small.pdf)

<sup>3</sup> In addition, the program must include cost and benefit data on individual water conservation practices, standardized public water supply conservation definitions, and standardized quantitative and qualitative performance measures.

Pursuant to s. 373.227, F.S., water management districts must give public water supply utilities wide latitude in selecting a rate structure when utilities use water conservation or drought rate structures as a conservation practice. The district may not revise or fix rates, and their rate review is limited to whether the utility has provided reasonable assurance that the rate structure contains a schedule of rates designed to promote efficient use of water by providing economic incentives.

As part of an application for a consumptive use permit (CUP), the water conservation requirements that are imposed as a condition of obtaining a CUP shall be deemed satisfied if the utility provides reasonable assurance that a proposed goal-based water conservation plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the district.<sup>4</sup> If the plan fails to meet the water conservation goal(s) by the timeframes specified in the permit, the utility is required to revise the plan to address the deficiency or employ the water conservation requirements that would otherwise apply in the absence of an approved goal-based plan.

The DEP and the other stakeholders developed common definitions and performance measures for evaluating water conservation programs and practices. The definitions and measures have been incorporated into a water conservation planning and reporting guide that is available online. The Guide is an interactive web-based application (software and database) to aid utilities in developing utility-specific conservation goals, selecting best management practices to meet those goals, measuring and reporting results, and adjusting their conservation programs as needed to better meet conservation goals.<sup>5</sup>

### Effect of Proposed Changes

The bill codifies the name of the currently existing state-wide water conservation program and the attendant guide, the Conserve Florida Clearinghouse, and the Conserve Florida Clearinghouse Guide (the Guide), respectively. The bill provides that the Guide is an appropriate tool to assist public water supply utilities in developing plans in order to meet conservation requirements for obtaining consumptive use permits (CUPs). Water management districts and public water supply utilities are encouraged to use the Guide to develop conservation plans, report conservation practices and measures used in CUPs, evaluate proposals for cost sharing of conservation activities, and assessing the effectiveness of conservation projects.

Use of the Guide is encouraged, but not mandatory, for a public water supply utility to develop a goal-based water conservation plan, however, any plan must include a means to measure the utility's progress toward its conservation goal or goals. A proposed plan may serve as a partial or as an entire alternative to water conservation requirements adopted by the district.

Current law provides that water conservation requirements that are imposed as a condition of obtaining a CUP shall be deemed satisfied if, by comparison, the utility provides reasonable assurance that its plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the water management district. The bill removes the comparison between the utility's plan and the water management districts' adopted water conservation requirements. In its place the bill requires the utility to provide reasonable assurances that the goal-based water conservation plan will provide cost-effective water conservation to achieve a reasonable demand for water considering the customers, service area, and other individual circumstances of the utility. If such assurances are met, the water management district must approve the utility's plan and the water conservation requirements for a CUP are presumed satisfied.

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<sup>4</sup> A consumptive use permit, also called a water use permit, constitutes authorization to withdraw a specified amount of water for a specified time either from the ground or from a surface water body. CUPs are generally issued by the water management districts under Part II of Chapter 373, specifically Section 373.223, F.S. State law allows the Department of Environmental Protection to issue CUPs where an applicant proposes an "inter-district transfer" of water (i.e. from a source within one water management district to a user in another water management district). A CUP may be issued only if the applicant can establish that the proposed use of the water meets the "three prong test" specified in ss. 373. 223(1), F.S.; that is, the proposed use of water: (1) is a reasonable-beneficial use (meaning it is both an economic and efficient utilization of water for a purpose and in a manner which is both reasonable and consistent with the public interest); (2) will not interfere with any presently existing legal use of water; and (3) is consistent with the public interest.

<sup>5</sup> <http://www.conservefloridawater.org/default.asp>

The bill also deletes an obsolete statutory provision requiring the DEP to submit a progress report on water conservation efforts by December 1, 2005.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 373.227, F.S., providing a name for the currently existing state-wide water conservation program and program guide to assist public water supply utilities in developing water conservation plans. While use of the guide is not mandatory, this section encourages utilities to use the guide, and requires that any water conservation plan must include means with which to measure a utility's progress toward its goals. The section further revises the standard a water conservation plan must meet to satisfy the water conservation requirements imposed as a condition of obtaining a CUP.

Section 2. Provides an effective date of July 1, 2010.

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

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

1. Revenues:

None.

2. Expenditures:

Rulemaking by the DEP may be necessary to address the standard by which a utility meets the water conservation requirements that are imposed as a condition for receiving a CUP by the utility's use of a water conservation plan.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

**B. RULE-MAKING AUTHORITY:**

None is provided. Existing law grants broad rulemaking authority to the DEP for the amended subsections in s. 373.227, F.S.

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

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to the comprehensive statewide water  
 3           conservation program; amending s. 373.227, F.S.; revising  
 4           provisions of the program to provide for a Conserve  
 5           Florida Clearinghouse and a Conserve Florida Clearinghouse  
 6           Guide to assist public water supply utilities in  
 7           developing goal-based water conservation plans to meet  
 8           water conservation requirements for obtaining consumptive  
 9           use permits; encouraging water management districts and  
 10          public water supply utilities to use the guide for water  
 11          conservation plans, reports, and assessments; revising  
 12          provisions for goal-based water conservation plans  
 13          submitted by public water supply utilities as part of  
 14          consumptive use permit applications; revising provisions  
 15          requiring water management districts to approve such  
 16          plans; deleting an obsolete provision requiring the  
 17          Department of Environmental Protection to submit a report  
 18          on the program to the Governor, the Legislature, and  
 19          substantive legislative committees by a specified date;  
 20          providing an effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1. Section 373.227, Florida Statutes, is amended  
 25   to read:

26           373.227 Water conservation; legislative findings;  
 27   legislative intent; objectives; comprehensive statewide water  
 28   conservation program requirements.—

29 (1) The Legislature recognizes that the proper  
 30 conservation of water is an important means of achieving the  
 31 economical and efficient utilization of water necessary, in  
 32 part, to constitute a reasonable-beneficial use. The overall  
 33 water conservation goal of the state is to prevent and reduce  
 34 wasteful, uneconomical, impractical, or unreasonable use of  
 35 water resources. The Legislature finds that the social,  
 36 economic, and cultural conditions of the state relating to the  
 37 use of public water supply vary by service area and that public  
 38 water supply utilities must have the flexibility to tailor water  
 39 conservation measures to best suit their individual  
 40 circumstances. The Legislature encourages the use of efficient,  
 41 effective, and affordable water conservation measures. Where  
 42 water is provided by a public water supply utility, the  
 43 Legislature intends that a variety of conservation measures be  
 44 made available and used to encourage efficient water use. To  
 45 achieve these conservation objectives, the state should  
 46 emphasize goal-based, accountable, tailored, and measurable  
 47 water conservation programs for public water supply. For  
 48 purposes of this section, the term "public water supply utility"  
 49 includes both publicly owned and privately owned public water  
 50 supply utilities that sell potable water on a retail basis to  
 51 end users.

52 (2) To implement the findings in subsection (1), the  
 53 department, in cooperation with the water management districts  
 54 and other stakeholders, shall develop a comprehensive statewide  
 55 water conservation program for public water supply. The program  
 56 should:

57 (a) Encourage utilities to implement water conservation  
 58 programs that are economically efficient, effective, affordable,  
 59 and appropriate;

60 (b) Allow no reduction in, and increase where possible,  
 61 utility-specific water conservation effectiveness over current  
 62 programs;

63 (c) Be goal-based, accountable, measurable, and  
 64 implemented collaboratively with water suppliers, water users,  
 65 and water management agencies;

66 (d) Include cost and benefit data on individual water  
 67 conservation practices to assist in tailoring practices to be  
 68 effective for the unique characteristics of particular utility  
 69 service areas, focusing upon cost-effective measures;

70 (e) Use standardized public water supply conservation  
 71 definitions and standardized quantitative and qualitative  
 72 performance measures for an overall system of assessing and  
 73 benchmarking the effectiveness of water conservation programs  
 74 and practices;

75 (f) Create a Conserve Florida Clearinghouse ~~or inventory~~  
 76 for water conservation programs and practices available to  
 77 public water supply utilities which will provide an integrated  
 78 statewide database for the collection, evaluation, and  
 79 dissemination of quantitative and qualitative information on  
 80 public water supply conservation programs and practices and  
 81 their effectiveness. The clearinghouse ~~or inventory~~ should have  
 82 technical assistance capabilities to aid in the design,  
 83 refinement, and implementation of water conservation programs  
 84 and practices. The clearinghouse ~~or inventory~~ shall also provide

85 for continual assessment of the effectiveness of water  
 86 conservation programs and practices;

87 (g) Develop a standardized water conservation planning  
 88 process for utilities; and

89 (h) Develop and maintain a Florida-specific Conserve  
 90 Florida Clearinghouse Guide ~~water conservation guidance document~~  
 91 containing a menu of affordable and effective water conservation  
 92 practices to assist public water supply utilities in the design  
 93 and implementation of goal-based, utility-specific water  
 94 conservation plans tailored for their individual service areas  
 95 as provided in subsection (5) ~~(4)~~.

96 (3) The Conserve Florida Clearinghouse Guide is recognized  
 97 as an appropriate tool to assist public water supply utilities  
 98 in developing goal-based water conservation plans to meet the  
 99 water conservation requirements for obtaining consumptive use  
 100 permits. Water management districts and public water supply  
 101 utilities are encouraged to use the guide in developing water  
 102 conservation plans, reporting on the implementation of water  
 103 conservation practices and measures included in consumptive use  
 104 permits, evaluating proposals for financial cost sharing of  
 105 water conservation activities, and assessing the effectiveness  
 106 of water conservation projects.

107 ~~(4)(3)~~ Regarding the use of water conservation or drought  
 108 rate structures as a conservation practice, a water management  
 109 district shall afford a public water supply utility wide  
 110 latitude in selecting a rate structure and shall limit its  
 111 review to whether the utility has provided reasonable assurance  
 112 that the rate structure contains a schedule of rates designed to

113 promote efficient use of water by providing economic incentives.  
 114 A water management district shall not fix or revise rates.

115 ~~(5)(4)~~ As part of an application for a consumptive use  
 116 permit, a public water supply utility may propose a goal-based  
 117 water conservation plan that is tailored to its individual  
 118 circumstances as a partial or entire alternative to the water  
 119 conservation requirements adopted by the appropriate water  
 120 management district. The public water supply utility is  
 121 encouraged, but not required, to use the Conserve Florida  
 122 Clearinghouse Guide in developing its goal-based water  
 123 conservation plan. The plan may include a schedule for  
 124 implementing the utility's water conservation goal or goals. The  
 125 plan must include a means for measuring progress towards the  
 126 water conservation goal or goals ~~must be measurable.~~

127 (6) If a public water supply utility elects to develop a  
 128 goal-based water conservation plan, the utility shall submit the  
 129 plan to the appropriate water management district. The water  
 130 management district shall approve the plan if the utility  
 131 provides reasonable assurance that the plan will provide cost-  
 132 effective ~~achieve effective~~ water conservation to achieve a  
 133 reasonable demand for water considering the customers, service  
 134 area, and other individual circumstances of the utility. An  
 135 approved goal-based ~~at least as well as the water conservation~~  
 136 ~~requirements adopted by the appropriate water management~~  
 137 ~~district and is otherwise consistent with s. 373.223, the~~  
 138 ~~district must approve the plan which shall satisfy water~~  
 139 conservation requirements ~~for imposed as a condition of~~  
 140 obtaining a consumptive use permit. The conservation measures

141 ~~included in an approved goal-based water conservation plan may~~  
 142 ~~be reviewed periodically and updated as needed to ensure~~  
 143 ~~efficient water use for the duration of the permit.~~ If the plan  
 144 fails to meet the water conservation goal or goals by the  
 145 timeframes specified in the permit, the public water supply  
 146 utility shall revise the plan to address the deficiency or, at  
 147 the utility's option, employ the water conservation requirements  
 148 that would otherwise apply in the absence of an approved goal-  
 149 based plan.

150 ~~(5) By December 1, 2005, the department shall submit a~~  
 151 ~~written report to the President of the Senate, the Speaker of~~  
 152 ~~the House of Representatives, and the appropriate substantive~~  
 153 ~~committees of the Senate and the House of Representatives on the~~  
 154 ~~progress made in implementing the comprehensive statewide water~~  
 155 ~~conservation program for public water supply required by this~~  
 156 ~~section. The report must include any statutory changes and~~  
 157 ~~funding requests necessary for the continued development and~~  
 158 ~~implementation of the program.~~

159 (7)~~(6)~~ The department or a water management district may  
 160 adopt rules pursuant to ss. 120.536(1) and 120.54 to carry out  
 161 the purposes of this section.

162 Section 2. This act shall take effect July 1, 2010.

Amendment No.

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing PCB: Agriculture & Natural Resources  
2 Policy Committee  
3 Representative(s) Williams offered the following:  
4

5 **Amendment 1(with title amendment)**

6 Remove lines 115-149 and insert:

7 (5)-(4) As part of an application for a consumptive use  
8 permit, a public water supply utility may propose a goal-based  
9 water conservation plan that is tailored to its individual  
10 circumstances as a partial or entire alternative to the water  
11 conservation requirements adopted by the appropriate water  
12 management district. The public water supply utility is  
13 encouraged, but not required, to use the Conserve Florida  
14 Clearinghouse Guide in developing its goal-based water  
15 conservation plan. The plan shall include a schedule for  
16 implementing the water conservation goal or goals. The plan must  
17 include a means for measuring progress towards the water  
18 conservation goal or goals ~~must be measurable.~~

Amendment No.

19        (6) If a public water supply utility elects to develop a  
20 goal-based water conservation plan, the utility shall submit the  
21 plan to the appropriate water management district. The plan  
22 must be designed to achieve the water conservation goal or goals  
23 in a cost effective manner, considering the utility's customers,  
24 service area, and other individual circumstances of the utility.  
25 ~~If the utility provides reasonable assurance that the plan will~~  
26 ~~achieve effective water conservation at least as well as the~~  
27 ~~water conservation requirements adopted by the appropriate water~~  
28 ~~management district and is otherwise consistent with s. 373.223,~~  
29 ~~the district must approve the plan which shall satisfy water~~  
30 ~~conservation requirements imposed as a condition of obtaining a~~  
31 ~~consumptive use permit. The conservation measures included in an~~  
32 ~~approved goal-based water conservation plan may be reviewed~~  
33 ~~periodically and updated as needed to ensure efficient water use~~  
34 ~~for the duration of the permit. If the plan fails to meet the~~  
35 ~~water conservation goal or goals by the timeframes specified in~~  
36 ~~the permit, the public water supply utility shall revise the~~  
37 ~~plan to address the deficiency or employ the water conservation~~  
38 ~~requirements that would otherwise apply in the absence of an~~  
39 ~~approved goal-based plan.~~

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**T I T L E   A M E N D M E N T**

Remove lines 14-16 and insert:  
consumptive use permit applications; deleting an obsolete  
provision requiring the



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB ANR 10-11 Stormwater  
**SPONSOR(S):** Agriculture & Natural Resources Policy Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee		Lowrance	Reese <i>RR</i>
1)				
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The Federal Clean Water Act (CWA) and the Florida Statutes authorize the Department of Environmental Protection (DEP) to: classify surface waters for current and future use, develop water quality criteria, identify Impaired Waters, develop Total Maximum Daily Loads (TMDLs), develop Basin Management Action Plans (BMAPs), and regulate Point and Non-Point Pollution Sources. Currently, the DEP is engaged in three separate rulemaking processes that address water quality criteria: surface water use classification, numeric criteria for nutrients, and a statewide stormwater rule.

In 1982, to manage urban stormwater and minimize impacts to natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for all new development. In 1990, in response to legislation, the DEP developed and implemented the State Water Resource Implementation Rule. In 1999, the Florida Watershed Restoration Act, was enacted leading to the implementation of Florida's water body restoration program and the establishment of Total Maximum Daily Loads (TMDLs). Levels of nutrient pollution have not significantly improved since 1980 despite strong efforts to control nutrient pollution.

The bill creates s. 373.4131 F.S. and requires the DEP, in coordination with the Water Management Districts (WMDs), to develop a uniform statewide stormwater quality treatment rule providing for exemptions for specified stormwater management systems and permitted activities. The bill specifies that the rule is to provide requirements for developing, adopting, implementing and amending the rule.

The bill requires the DEP to adopt the rule by July 1, 2011, and provides for an exemption from the rulemaking provisions of ch. 120, F.S., for implementation of the rule by WMDs and delegated local programs.

The bill provides authorization for the DEP and WMDs to adopt, amend, and retain specified rules and provides an exemption from the dispute resolution provisions of ch. 70, F.S., for agency action taken pursuant to the rule. Furthermore, the bill specifies applicability, effect, and repeal of pre-existing rules.

The bill specifies that this act will become effective upon becoming law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The federal Clean Water Act (CWA)<sup>1</sup> provides the legal authority for Florida to set water quality standards and regulate its surface waters.<sup>2</sup> Pursuant to the CWA, the federal Environmental Protection Agency (EPA) must authorize and approve all of Florida's water quality standards and is required to impose corrective measures if it believes that Florida's standards are inadequate.<sup>3</sup> Water quality standards are the basis for protecting and regulating the quality of surface waters. The CWA, and Florida Statutes, authorize the DEP to:

- **Classify surface waters for current and future use** – The DEP determines which water bodies will be used for industrial purposes, shellfish harvesting, fishing and swimming, potable water, etc.<sup>4</sup>
- **Develop water quality criteria** – The DEP determines the concentration of pollutants (e.g., lead, arsenic, nutrients, etc.) that threatens a water body's designated use.<sup>5</sup>
- **Identify Impaired Waters** – The DEP identifies water bodies that do not meet applicable water quality standards. These waters are placed on an "impaired waters" list, which is shared with the EPA. Water bodies on the list require development of a Total Maximum Daily Load (TMDL).<sup>6</sup>
- **Develop Total Maximum Daily Loads (TMDLs)** – The DEP determines a "target" amount of a pollutant that a specific surface water body can absorb and still maintain its designated use (e.g. drinking, fishing, swimming, shellfish harvesting, etc); a water quality restoration target. One water body may have several TMDLs, one for each pollutant that exceeds the water body's capacity to absorb it safely.<sup>7</sup>
- **Develop Basin Management Action Plans (BMAPs)** – The DEP, through a water management district (WMD), identifies various pollutant "loaders" to a water body and, with the

<sup>1</sup> The principal body of law currently in effect is based on the Federal Water Pollution Control Amendments of 1972 (Pub.L. 92-500, October 18, 1972). Major amendments were enacted in the Clean Water Act of 1977 enacted by the 95th United States Congress (Pub.L. 95-217, December 27, 1977) and the Water Quality Act of 1987 enacted by the 100th United States Congress (Pub.L. 100-4, February 4, 1987).

<sup>2</sup> CWA §510, 33 U.S.C. 1370.

<sup>3</sup> 48 FR 51405, Nov. 8, 1983, as amended at 56 FR 64894, Dec. 12, 1991; 60 FR 15387, Mar. 23, 1995]

<sup>4</sup> 62-302.400 F.A.C.

<sup>5</sup> 62-302.500 and 62-302.530 F.A.C.

<sup>6</sup> 62-303 F.A.C.

<sup>7</sup> Florida's Water Shed Restoration Act of 1999 (s. 403.067, F.S.).

WMDs cooperation, develops a comprehensive set of strategies to reduce pollutant loading, including permit limits on wastewater facilities, urban and agricultural best management practices, conservation programs, and financial assistance. These activities are designed to achieve the pollutant reductions established by the TMDL.<sup>8</sup>

- **Regulate Point and Non-Point Pollution Sources.** The DEP's approach to regulating water quality, including stormwater runoff, is multi-faceted:<sup>9</sup>
  - National Pollutant Discharge Elimination System (NPDES) - The Florida NPDES program controls water pollution by regulating point sources that discharge pollutants into waters of Florida. Point sources are discrete conveyances such as pipes or man-made ditches.
  - Nonpoint Source Management – Nonpoint Source Management is responsible for the implementation of the State of Florida's nonpoint source management programs. These programs are implemented cooperatively by the DEP, Florida's WMDs, other state agencies (i.e., Department of Agriculture and Consumer Services, Department of Health), local governments, and by the public.<sup>10</sup>
  - Environmental Resource Permit Program (ERP) – The DEP and the WMDs amended their stormwater rules in 1995 to combine wetland resource permitting, stormwater quality permitting, and stormwater quantity permitting into a single permit known as the Environmental Resource Permit (ERP).

Currently, the DEP is engaged in three separate rulemaking processes that address water quality criteria: surface water use classification, numeric criteria for nutrients, and a statewide stormwater rule.

Unmanaged urban stormwater creates a wide variety of effects on Florida's surface and ground waters. Urbanization leads to the compaction of soil; the addition of impervious surfaces such as roads and parking lots; alteration of natural landscape features such as natural depressional areas which hold water, floodplains and wetlands; construction of highly efficient drainage systems; and the addition of pollutants from everyday human activities. These alterations within a watershed decrease the amount of rainwater that can seep into the soil to recharge aquifers, maintain water levels in lakes and wetlands, and maintain spring and stream flows. Consequently, the increased volume, speed, and pollutant loading in stormwater that runs off developed areas is leading to flooding, water quality problems, and loss of habitat.<sup>11</sup>

In 1982, to manage urban stormwater and minimize impacts to our natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for all new development. The rule included a performance standard for the minimum level of treatment; design criteria for best management practices (BMPs) that will achieve the performance standard; and a rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will meet water quality standards. The performance standard was to reduce post-development stormwater pollutant loading of Total Suspended Solids (TSS)<sup>12</sup> by 80%, or by 95% for Outstanding Florida Waters.<sup>13</sup>

In 1990, in response to legislation, the DEP developed and implemented the State Water Resource Implementation Rule (originally known as the State Water Policy rule).<sup>14</sup> This rule sets forth the broad

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<sup>8</sup> 403.067(7) F.S.

<sup>9</sup> Stormwater runoff is generated when precipitation from rain and snowmelt events flows over land or impervious surfaces and does not seep into the ground. As the runoff flows over the land or impervious surfaces (paved streets, parking lots, and building rooftops), it accumulates debris, chemicals, sediment or other pollutants that could adversely affect water quality if the runoff is discharged untreated.

<sup>10</sup> Nonpoint source pollution comes from many diffuse sources rather than from a distinct source. Stormwater runoff (see footnote 9) is a type of nonpoint source pollution.

<sup>11</sup> NRDC 1999 Report "Stormwater Strategies." <http://www.nrdc.org/water/pollution/storm/stoinx.asp>

<sup>12</sup> Total Suspended Solid (TSS) is listed as a conventional pollutant under sec. 304(a)(4) of the Clean Water Act. A conventional pollutant is a water pollutant that is amenable to treatment by a municipal sewage treatment plant.

<sup>13</sup> An Outstanding Florida Water, (OFW), is a water designated worthy of special protection because of its natural attributes. This special designation is applied to certain waters, and is intended to protect existing good water quality. 62-302.700 F.A.C.

guidelines for the implementation of Florida's stormwater program and describes the roles of DEP, the water management districts, and local governments. The rule provides that one of the primary goals of the program is to maintain, to the degree possible, during and after construction and development, the predevelopment stormwater characteristics of a site. The rule also provides a specific minimum performance standard for stormwater treatment systems: to remove 80% of the post-development stormwater pollutant loading of pollutants "that cause or contribute to violations of water quality standards." This performance standard is significantly different than the one used in the DEP and Water Management District (WMP) stormwater treatment rules of the 1980's.

In 1999, the Florida Watershed Restoration Act,<sup>15</sup> was enacted leading to the implementation of Florida's water body restoration program and the establishment of Total Maximum Daily Loads (TMDLs). Since the program began over 2000 impairments have been verified in Florida's surface waters with nutrients identified as the major cause of impairments. An analysis of United States Geological Survey (USGS) monitoring data for nutrients in certain locations in Florida shows that levels of nutrient pollution have not significantly improved since 1980 despite strong efforts to control nutrient pollution.<sup>16</sup>

### Effect of the Bill

#### **General:**

The bill provides definitions for nutrient, redevelopment, and stormwater quality treatment requirements.

The bill requires that the DEP, in conjunction with the WMDs, must develop a rule for stormwater management systems, excluding systems that serve agriculture and silviculture. The bill specifies that the DEP must adopt the rule by July 1, 2011, and the WMDs shall implement the rule without having to adopt it pursuant to s. 120.54 F.S.

The bill provides that this adopted rule does not diminish the jurisdiction or authority granted to the WMDs or the DEP before the effective date of this section. The provisions of this bill are to be supplemental to the existing jurisdiction and authority.

#### **Requirements:**

The bill provides that the rule:

1. Must establish the minimum level of stormwater quality treatment that is necessary to prevent or mitigate water quality violations;
2. Must include for discharges to non-Outstanding Florida Waters, an 85% average annual decrease in postdevelopment nutrient load or treatment so that postdevelopment loads are less than or equal to the estimated nutrient loads from the natural vegetative community type associated with the site's natural soils, whichever is less stringent;
3. Must include treatment for discharges to waters not meeting state water quality standards, including impaired waters and Outstanding Florida Waters so that postdevelopment nutrient loads are less than or equal to the estimated nutrient loads from the natural vegetative community type associated with the site's natural soils;
4. Must include any additional requirements that are necessary to ensure that discharges of pollutants, other than nutrients, from stormwater systems meet the applicable water quality standards in the receiving water body.
5. Must provide design criteria for the construction, operation, and maintenance of stormwater systems necessary to meet the established level of stormwater quality treatment. Compliance with the design criteria creates a presumption that stormwater that is discharged from the system will not cause or contribute to violations in water quality standards in receiving waters.

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<sup>14</sup> 62-40 F.A.C.

<sup>15</sup> Section 403.067, F.S.

<sup>16</sup> USEPA. 2000. STORET Legacy Data Center. <http://www.epa.gov/storet/dbtop.html>

6. May establish requirements that ensure financial responsibility of construction, operation, and long-term management of the system.
7. May establish alternative stormwater quality treatment requirements for the redevelopment of sites totaling 2 acres or less and the retrofitting of existing systems if such treatment results in the net reduction of nutrient discharge and pollutants. The alternative requirements for redevelopment of sites totaling 2 acres or less must be based on a feasibility assessment of stormwater best management practices that consider size, availability of regional stormwater treatment systems, and physical characteristics.

Within 2 years after the adoption of any numeric nutrient water quality criteria pursuant to ch. 403, the DEP and the WMDs must develop and adopt any amendments to the rule that are necessary to ensure that water quality standards are maintained.

**Exceptions:**

The bill exempts agency action taken in accordance with the rule from chapter 70.

The bill provides that the DEP and WMDs may adopt, amend, or retain:

- Rules establishing more stringent requirements in order to address further differences in physical or natural characteristics, including legacy pollutants from past activities;
- Rules designed to implement a basin management action plan for TMDL;
- Rules established pursuant to s. 373.4592, s. 373.4595, s. 373.461, or s. 403.067, F.S.;
- Rules designed to protect Class I, Class II, or shellfish harvesting waters.

Following the adoption of the rule, the following circumstances continue to be governed by the stormwater quality treatment rules adopted by DEP, the WMDs, and any delegated local program in effect before the effective date of the rule adopted, unless the applicant elects to have an application reviewed in accordance with the rule adopted pursuant to this section:

- The operation and maintenance of stormwater management systems legally in existence before the effective date of the rule adopted and the terms and conditions of the permit, exemption, or other authorization for such system continue to be met.
- The activities approved in a permit issued pursuant to this part and the review of activities proposed in applications received and completed before the effective date of the rule adopted. This 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 as well as modifications that lessen or do not increase stormwater quality impacts. This does not apply to a modification that would extend the permitted time limit for construction beyond 2 additional years or to any modification that is reasonably expected to lead to additional or substantially different stormwater quality impacts.

Except as otherwise provided, the rule adopted is to supersede any rule of the DEP, a WMD, or a delegated local program that establishes less stringent stormwater quality treatment requirements. Any existing rule that is superseded by the newly adopted rule 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 then filing a list of the repealed rules with the Department of State. Until the new rule is adopted, the bill provides that existing stormwater quality treatment rules are to remain in full force and effect.

**B. SECTION DIRECTORY:**

**Section 1:** Creates 373.4131, F.S., to provide stormwater quality treatment requirements.

**Section 2:** Provides that the bill will take effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the DEP, there will be no costs associated with adopting the rule itself. The DEP anticipates that the rulemaking process can be accomplished with existing staff resources; a technical advisory committee and staff have been working on a rule draft since March 2008.<sup>17</sup> Subsequent to rule adoption there will be some indeterminate increased cost to state agencies constructing stormwater management systems. However, the DEP finds that these costs will be more than offset by reducing the need to use funds to retroactively fix water quality problems caused by inadequate stormwater quality treatment.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Subsequent to rule adoption there will be some indeterminate increased cost to local agencies constructing stormwater management systems. However, the DEP finds that these costs will be more than offset by reducing the need to use funds to retroactively fix water quality problems caused by inadequate stormwater quality treatment.

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

The DEP states that subsequent to rule adoption there will be some indeterminate cost increase to private entities constructing stormwater management systems. However, those costs will be more than offset by reducing the need to use taxpayer funds to retroactively fix water quality problems caused by inadequate stormwater quality treatment.

### D. FISCAL COMMENTS:

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

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<sup>17</sup> See Statewide Stormwater Rule Development at <http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/index.htm> for details on this process.

**B. RULE-MAKING AUTHORITY:**

Extensive rulemaking will be required by the Florida Department of Environmental Protection, working in collaboration with the Water Management Districts, as authorized by section 1, subparagraph 3 of the bill.

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

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to stormwater management systems; creating  
 3           s. 373.4131, F.S.; providing legislative findings;  
 4           providing definitions; requiring the Department of  
 5           Environmental Protection, in coordination with the water  
 6           management districts, to develop a uniform statewide  
 7           stormwater quality treatment rule; providing exemptions  
 8           for specified stormwater management systems and permitted  
 9           activities; requiring the department to adopt the rule by  
 10          a specified date; providing an exemption from the  
 11          rulemaking provisions of ch. 120 for implementation of the  
 12          rule by water management districts and delegated local  
 13          programs; providing requirements for developing, adopting,  
 14          implementing, and amending the rule; authorizing the  
 15          department and the water management districts to adopt,  
 16          amend, and retain specified rules; providing an exemption  
 17          from the dispute resolution provisions of ch. 70 for  
 18          agency action taken pursuant to the rule; providing for  
 19          applicability, effect, and repeal of specified rules;  
 20          providing for construction; providing an effective date.

21  
 22 Be It Enacted by the Legislature of the State of Florida:  
 23

24           Section 1. Section 373.4131, Florida Statutes, is created  
 25 to read:

26           373.4131 Stormwater quality treatment requirements.-  
 27           (1) The Legislature finds that high nutrient levels are a  
 28           major cause of water quality impairment in the state's waters

29 and that revisions to existing rules regarding stormwater  
 30 quality treatment requirements are necessary to prevent further  
 31 degradation of the state's waters.

32 (2) As used in this section, the term:

33 (a) "Nutrient" means total nitrogen and total phosphorus.

34 (b) "Redevelopment" means construction of a surface water  
 35 management system on sites having existing commercial,  
 36 industrial, institutional, or multifamily land uses where the  
 37 existing impervious surface will be removed as part of the  
 38 proposed activity.

39 (c) "Stormwater quality treatment requirements" means the  
 40 minimum level of stormwater treatment and design criteria for  
 41 the construction, operation, and maintenance of stormwater  
 42 management systems.

43 (3) The department, in coordination with the water  
 44 management districts, shall develop a uniform statewide  
 45 stormwater quality treatment rule for stormwater management  
 46 systems other than those systems serving agriculture and  
 47 silviculture. The rule must provide for geographic differences  
 48 in physical and natural characteristics, such as rainfall  
 49 patterns, topography, soil type, and vegetation. The department  
 50 shall adopt the rule by July 1, 2011. The water management  
 51 districts and any delegated local program under this part shall  
 52 implement the rule without having to adopt it pursuant to s.  
 53 120.54. However, the department and water management districts  
 54 may adopt, amend, or retain rules establishing more stringent  
 55 stormwater quality treatment requirements for special basins in  
 56 order to address further differences in physical or natural

57 characteristics, including legacy pollutants from past  
 58 activities; rules designed to implement a basin management  
 59 action plan for a total maximum daily load; rules established  
 60 pursuant to s. 373.4592, s. 373.4595, s. 373.461, or s. 403.067;  
 61 or rules designed to protect Class I, Class II, or shellfish  
 62 harvesting waters.

63 (a) Except as otherwise provided in this section, the rule  
 64 adopted pursuant to this section supersedes any rule of the  
 65 department, a water management district, or a delegated local  
 66 program under this part establishing less stringent stormwater  
 67 quality treatment requirements for stormwater management  
 68 systems, other than those systems serving agriculture and  
 69 silviculture.

70 (b) Existing stormwater quality treatment rules that are  
 71 superseded by the rule adopted pursuant to this section may be  
 72 repealed without further rulemaking pursuant to s. 120.54 by  
 73 publication of a notice of repeal in the Florida Administrative  
 74 Weekly and subsequent filing of a list of the rules repealed  
 75 with the Department of State.

76 (c) Until the rule adopted pursuant to this section  
 77 becomes effective, existing stormwater quality treatment rules  
 78 adopted pursuant to this part are deemed authorized under this  
 79 part and remain in full force and effect.

80 (d) Agency action taken in accordance with the rule  
 81 adopted pursuant to this section is exempt from chapter 70.

82 (4) The rule must establish the minimum level of  
 83 stormwater quality treatment necessary in order to not cause or  
 84 contribute to water quality violations and must include:

85 (a) For discharges to non-Outstanding Florida Waters, an  
 86 85 percent average annual reduction of postdevelopment nutrient  
 87 load or treatment such that postdevelopment nutrient loads are  
 88 less than or equal to the estimated nutrient loads from the  
 89 natural vegetative community type associated with the site's  
 90 natural soils, whichever is less stringent;

91 (b) For discharges to waters not meeting state water  
 92 quality standards, including waters designated on the  
 93 department's list of verified impaired waters established under  
 94 s. 403.067 and discharges to Outstanding Florida Waters,  
 95 treatment such that the postdevelopment nutrient loads are less  
 96 than or equal to the estimated nutrient loads from the natural  
 97 vegetative community type associated with the site's natural  
 98 soils; and

99 (c) Such additional requirements as necessary to ensure  
 100 that discharges of pollutants, other than nutrients, from  
 101 stormwater systems meet the applicable water quality standards  
 102 in the receiving water body.

103 (5) The rule must provide design criteria for the  
 104 construction, operation, and maintenance of stormwater systems  
 105 necessary to meet the level of stormwater quality treatment  
 106 established under subsection (4). Compliance with the design  
 107 criteria creates a presumption that stormwater discharged from  
 108 the system will not cause or contribute to violations of water  
 109 quality standards in receiving waters.

110 (6) Notwithstanding subsection (4), the rule may establish  
 111 alternative stormwater quality treatment requirements for the  
 112 redevelopment of sites totaling 2 acres or less and the

113 retrofitting of existing stormwater management systems if such  
 114 treatment results in a net reduction in the discharge of  
 115 nutrients and other pollutants to the receiving waters. The  
 116 alternative treatment requirements for redevelopment of sites  
 117 totaling 2 acres or less must be based upon a feasibility  
 118 assessment of stormwater best management practices that  
 119 considers factors such as site size, availability of regional  
 120 stormwater treatment systems, and physical site characteristics.

121 (7) The rule may establish requirements that ensure  
 122 financial responsibility for the construction, operation, and  
 123 long-term management of the stormwater management system.

124 (8) Notwithstanding the stormwater quality treatment  
 125 requirements under subsection (4), within 2 years after the  
 126 adoption of any numeric nutrient water quality criteria pursuant  
 127 to chapter 403, the department, in coordination with the water  
 128 management districts, shall develop and adopt such amendments to  
 129 the rule as are necessary to ensure that water quality standards  
 130 are maintained.

131 (9) Subsequent to the adoption of the rule pursuant to  
 132 this section, the following circumstances continue to be  
 133 governed by the stormwater quality treatment rules adopted by  
 134 the department, the water management districts, and any  
 135 delegated local program under this part in effect before the  
 136 effective date of the rule adopted pursuant to this section,  
 137 unless the applicant elects to have an application reviewed in  
 138 accordance with the rule adopted pursuant to this section:

139 (a) The operation and maintenance of stormwater management  
 140 systems legally in existence before the effective date of the

141 rule adopted pursuant to this section if the terms and  
 142 conditions of the permit, exemption, or other authorization for  
 143 such systems continue to be met.

144 (b) The activities approved in a permit issued pursuant to  
 145 this part and the review of activities proposed in applications  
 146 received and completed before the effective date of the rule  
 147 adopted pursuant to this section. This paragraph also applies to  
 148 any modification of the plans, terms, and conditions of the  
 149 permit, including new activities, within the geographical area  
 150 to which the permit applies. However, this paragraph does not  
 151 apply to a modification that would extend the permitted time  
 152 limit for construction beyond 2 additional years or to any  
 153 modification that is reasonably expected to lead to additional  
 154 or substantially different stormwater quality impacts. This  
 155 paragraph also applies to modifications that lessen or do not  
 156 increase stormwater quality impacts.

157 (10) This section does not diminish the jurisdiction or  
 158 authority granted to the water management districts or the  
 159 department under this part before the effective date of this  
 160 section. The provisions of this section are supplemental to the  
 161 existing jurisdiction and authority under this part.

162 Section 2. This act shall take effect upon becoming a law.



# Economic Contributions of Florida Agriculture, Natural Resources, Food & Kindred Product Manufacturing, Distribution and Service Industries: 2008 Update

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Alan W. Hodges and Mohammad Rahmani  
University of Florida  
Food & Resource Economics Department  
Gainesville, Florida

Study report available at [edis.ifas.ufl.edu/FE829](http://edis.ifas.ufl.edu/FE829)



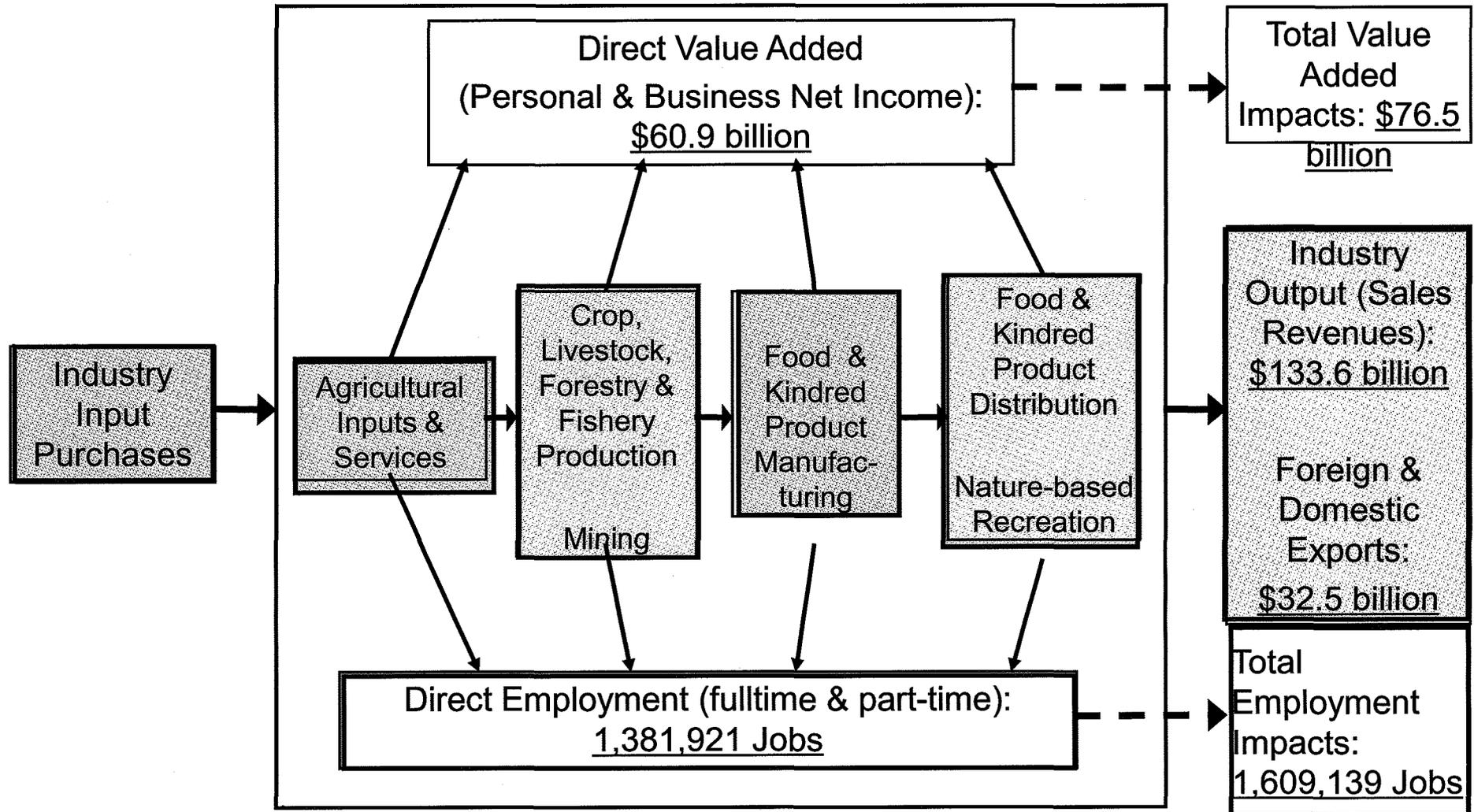
# Output

## Agriculture and Related Industries

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- \$134 billion in direct sales.
- \$29 billion in revenue for other sectors.
- \$163 billion in total output (revenue) impacts.
- \$33 billion in exports.

## Structure of Florida Agriculture, Natural Resources and Related Industries in 2008



Values in millions dollars (2008)

Source: *Implan* (MIG, Inc.)

Regional multiplier effects

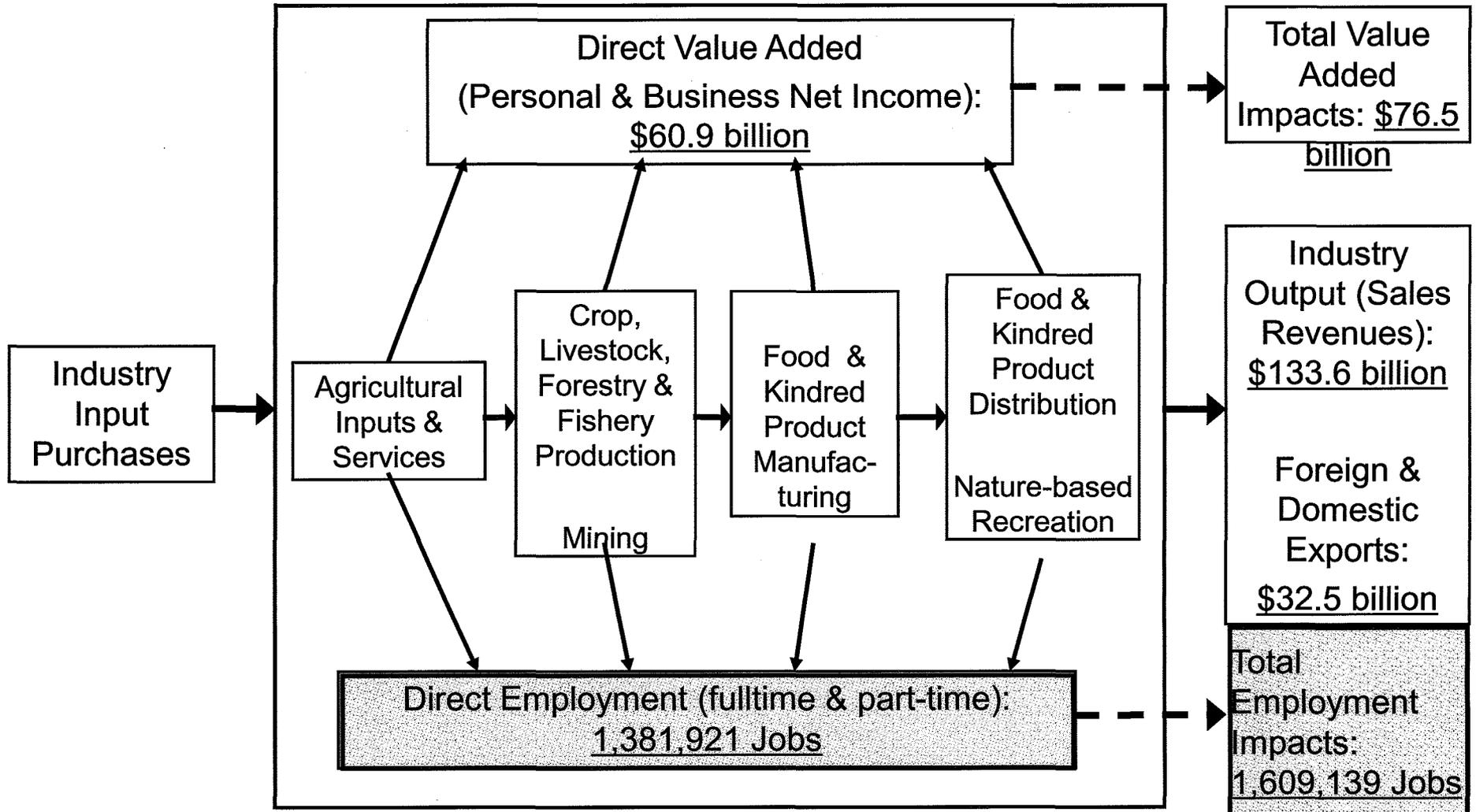


# Employment Agriculture and Related Industries

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- 1.38 million full-time and part-time jobs, ranking second among major industry groups.
- 13.7% of all jobs in Florida.
- 1.61 million jobs in total statewide employment impacts (adds agriculture influence on other sectors).

## Structure of Florida Agriculture, Natural Resources and Related Industries in 2008



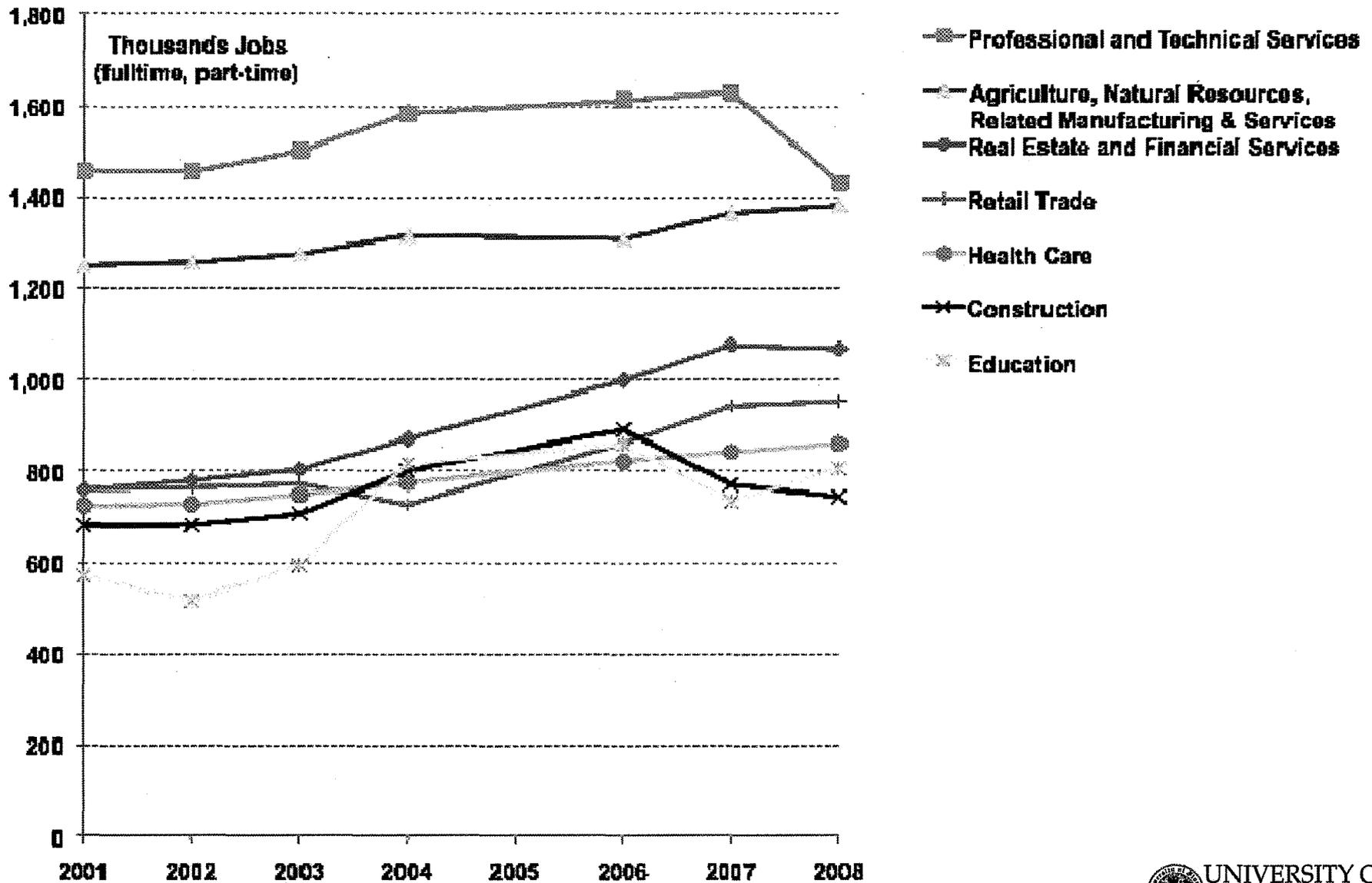
Values in millions dollars (2008)

Source: *Implan* (MIG, Inc.)

Regional multiplier effects



## Trends in Employment in Major Florida Industries, 2001-08



Note: no data available for 2005. Estimates do not include multiplier effects.  
 Source: *Implan* (MIG, Inc).

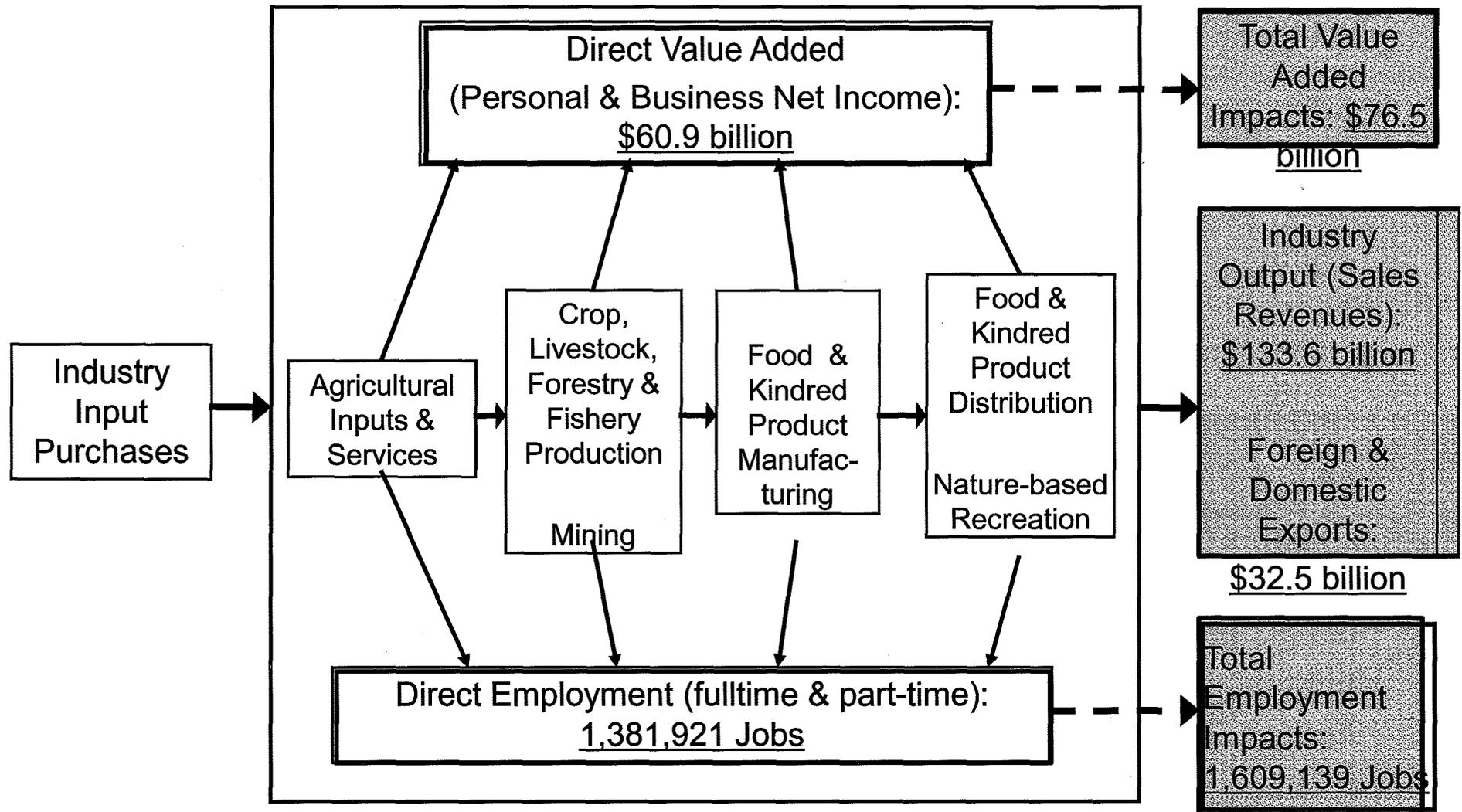
# Net Income

## Agriculture and Related Industries

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- \$61 billion in personal and business net income.
- \$77 billion net income with multipliers.
- \$9.3 billion in indirect business taxes paid to local, state, and federal governments.

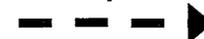
## Structure of Florida Agriculture, Natural Resources and Related Industries in 2008



Values in millions dollars (2008)

Source: *Implan* (MIG, Inc.)

Regional multiplier effects



# Issues

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- Reduce Regulations on Small Business
- Preserve Greenbelt
- Consistent, Predictable Business Climate
- Support UF/IFAS against disproportionate cuts
- Adequate funding for FDACS