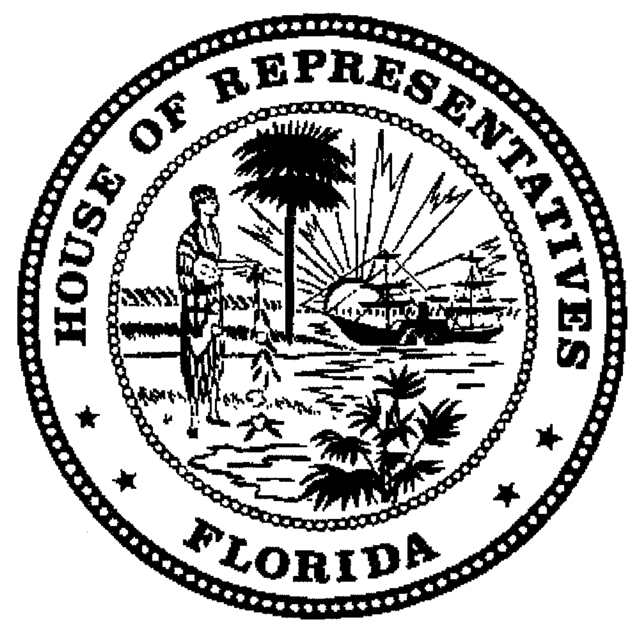

Agriculture and Natural Resources Policy Committee

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	Reese
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.[1] 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, permitees 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.[2] The act declared that the use of the property as a marine science center was

[1] 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.

[2] 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[3] 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[4] 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.[5] 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.

[3] Chapter 11050, L.O.F., 1925

[4] As described in Chapter 11050, L.O.F., 1925

[5] http://www.municode.com/resources/gateway.asp?pid=10148&sid=9.

Working Waterfronts

CS/CS/SB 542[6] 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.

[6] 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 [x] No []

IF YES, WHEN?

January 15, 2010

WHERE?

Gulf Coast Business Review

Clearwater, Pinellas County, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] 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,

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.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HB 1221

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1221 Animal Control or Cruelty Ordinances
SPONSOR(S): Randolph
TIED BILLS: **IDEN./SIM. BILLS:** SB 2372

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee		Thompson JT	Reese AR
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.[1]

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.[2] 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.[3]

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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[1] The Humane Society of the United States ; humanesociety.org

[2] *Id.*

[3] 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

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

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.

HB 1225

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	Reese
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

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.

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	____	

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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.

HB 1385

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.[1]

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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[1] DEP's Petroleum Contamination Cleanup and Discharge Prevention Programs, December 2009. http://www.dep.state.fl.us/waste/quick_topics/publications/pss/pcp/geninfo/2009ProgramBriefingFINAL120209.pdf

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)[2]. 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[3].

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[4]. 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;

[2] 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

[3] DEP analysis (on file)

[4] 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[5].

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

[5] DEP analysis (on file)

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~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

2.~~3.~~ Once free product removal and other source removal identified in this paragraph are completed at a site, and notwithstanding the order established by the priority ranking system under paragraph (a) for site cleanup activities, the department may reevaluate the site to determine the degree of active cleanup needed to continue site rehabilitation. Further, the department shall determine if the reevaluated site qualifies for natural attenuation monitoring, long-term natural attenuation monitoring, or no further action. If additional site rehabilitation is necessary to reach no further action status, the site rehabilitation shall be conducted in the order established by the priority ranking system under paragraph (a). ~~and~~ The department shall ~~is encouraged to~~ utilize natural attenuation ~~and~~ monitoring strategies and, when cost-effective, transition sites eligible for restoration funding assistance to long-term natural attenuation monitoring where 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

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.~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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 ______

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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

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.
43
44
45
46
47

Amendment No. 1

48 ---

49 **T I T L E A M E N D M E N T**

50 Remove line 3 and insert:

51 amending s. 376.303, F.S.; requiring the department to develop
52 and implement a training, testing and certification program to
53 address emergencies presented by a spill or release at a
54 facility that has underground petroleum storage systems;
55 amending s. 376.3071, F.S.; revising provisions relating

56 Remove line 22 and insert:

57 nonreimbursable voluntary cleanup; amending s. 376.3077, F.S.;
58 relating to unlawful deposit of motor fuel in tanks required to
59 be registered, without proof of registration display; providing
60 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)	Agriculture & Natural Resources Policy Committee		Kaiser	Reese
2)	Natural Resources Appropriations Committee			
3)	General Government Policy Council			
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.

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[1] 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[2] 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[3] 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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[1] 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.

[2] Section 493.6105, F.S.

[3] 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[4] 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[5] 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[6] 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[7], 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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[4] Section 525.09, F.S.
[5] To issue an immediate final order, the department must find an immediate serious danger to public health, safety and welfare.
[6] Section 570.0725, F.S.
[7] 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[8] 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[9] 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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[8] Section 583.13(1), F.S.
[9] 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[10] 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) [11] 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

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[10] Section 590.13, F.S.

[11] 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[12] 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.

[12] 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

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 <u>(2009) as developed by the</u>

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

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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 <u>(6)</u>~~(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 <u>and confirmation by</u>
370 <u>the commission that the applicant is authorized to provide</u>
371 <u>firearms instruction</u>.
372 2. The National Rifle Association <u>Law Enforcement</u> ~~Police~~
373 Firearms Instructor's Certificate.
374 ~~3. The National Rifle Association Security Firearms~~
375 ~~Instructor's Certificate.~~
376 <u>3.</u>~~4.~~ A firearms instructor's <u>training</u> certificate <u>issued</u>
377 <u>by any branch of the United States Armed Forces,</u> ~~from~~ a federal
378 <u>law enforcement academy or agency</u>, ~~state, county,~~ or <u>a law</u>
379 <u>enforcement</u> ~~municipal police~~ academy <u>or agency</u> 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 <u>(7)</u>~~(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 <u>(8)</u> ~~(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 <u>permanent</u> legal resident alien of the
417 United States or have <u>appropriate</u> ~~been granted~~ authorization
418 <u>issued</u> ~~to seek employment in this country~~ by the ~~United States~~
419 Bureau of Citizenship and Immigration Services <u>of the United</u>
420 <u>States Department of Homeland Security</u>.

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.

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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 <u>or branch office</u> 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 ~~no~~ 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,

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

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.—

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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.—

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 <u>first-time brand-formula</u>
956 <u>combination</u> ~~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. <u>An applicant seeking reregistration of a previously</u>
974 <u>registered brand-formula combination must submit a completed</u>
975 <u>application and all materials required under this subsection to</u>
976 <u>the department before the first day of the permit year. A brand-</u>
977 <u>formula combination for which a completed application and all</u>
978 <u>materials required under this subsection are not received before</u>
979 <u>the first day of the permit year ceases to be registered with</u>
980 <u>the department until a completed application and all materials</u>

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:

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

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

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

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 <u>s.</u> ~~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,

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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,

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

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

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) ~~(c)~~ "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

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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.

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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:

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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.—

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;

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

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,

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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

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 <u>documentation from each of three separate bonding companies</u>

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

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~~,~~ 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)~~(c)~~ 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

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.

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 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:

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

PCB ANR 10-09

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.

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

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 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 permitee 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.[1]

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.

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[1] 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

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	____	

Council/Committee hearing PCB: Agriculture & Natural Resources Policy Committee

Representative(s) Williams offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

373.236 Duration of permits; compliance reports.—

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

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 ---
42 **T I T L E A M E N D M E N T**
43 Remove lines 3-14 and insert:
44 373.236, F.S., revising the duration for a permitee'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

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 OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 10-10 Water Conservation
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 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 imposed as a condition of obtaining a CUP shall be deemed satisfied if a 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.

The bill also deletes an obsolete statutory provision requiring the DEP to submit a progress report on water conservation efforts by December 1, 2005.

The bill has an effective date of July 1, 2010, and does not appear to have a significant fiscal impact to state or local government.

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.[1] 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.[2]

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.[3]

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[1] http://www.dep.state.fl.us/water/waterpolicy/docs/WCI_2002_Final_Report.pdf
[2] http://www.dep.state.fl.us/water/waterpolicy/docs/JSOC--new_small.pdf
[3] 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.[4] 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.[5]

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.

[4] 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.

[5] 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

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

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	____	

Council/Committee hearing PCB: Agriculture & Natural Resources Policy Committee

Representative(s) Williams offered the following:

Amendment 1(with title amendment)

Remove lines 115-149 and insert:

(5) ~~(4)~~ As part of an application for a consumptive use permit, a public water supply utility may propose a goal-based water conservation plan that is tailored to its individual circumstances as a partial or entire alternative to the water conservation requirements adopted by the appropriate water management district. The public water supply utility is encouraged, but not required, to use the Conserve Florida Clearinghouse Guide in developing its goal-based water conservation plan. The plan shall include a schedule for implementing the water conservation goal or goals. The plan must include a means for measuring progress towards the water conservation goal or goals ~~must be measurable~~.

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.
40
41
42 ---
43 **T I T L E A M E N D M E N T**
44 Remove lines 14-16 and insert:
45 consumptive use permit applications; deleting an obsolete
46 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
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)[1] provides the legal authority for Florida to set water quality standards and regulate its surface waters.[2] 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.[3] 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.[4]
- **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.[5]
- **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).[6]
- **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 safety.[7]
- **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

[1] 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).
[2] CWA §510, 33 U.S.C. 1370.
[3] 48 FR 51405, Nov. 8, 1983, as amended at 56 FR 64894, Dec. 12, 1991; 60 FR 15387, Mar. 23, 1995]
[4] 62-302.400 F.A.C.
[5] 62-302.500 and 62-302.530 F.A.C.
[6] 62-303 F.A.C.
[7] 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.[8]

- **Regulate Point and Non-Point Pollution Sources**. The DEP's approach to regulating water quality, including stormwater runoff, is multi-faceted:[9]
  - 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.[10]
  - 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.[11]

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)[12] by 80%, or by 95% for Outstanding Florida Waters.[13]

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).[14] This rule sets forth the broad

[8] 403.067(7) F.S.
[9] 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.
[10] 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.
[11] NRDC 1999 Report "*Stormwater Strategies.*" http://www.nrdc.org/water/pollution/storm/stoinx.asp
[12] 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.
[13] 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,[15] 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.[16]

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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[14] 62-40 F.A.C.

[15] Section 403.067, F.S.

[16] 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.[17] 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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[17] 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.

PowerPoint

Economic Contributions of Florida Agriculture, Natural Resources, Food & Kindred Product Manufacturing, Distribution and Service Industries: 2008 Update

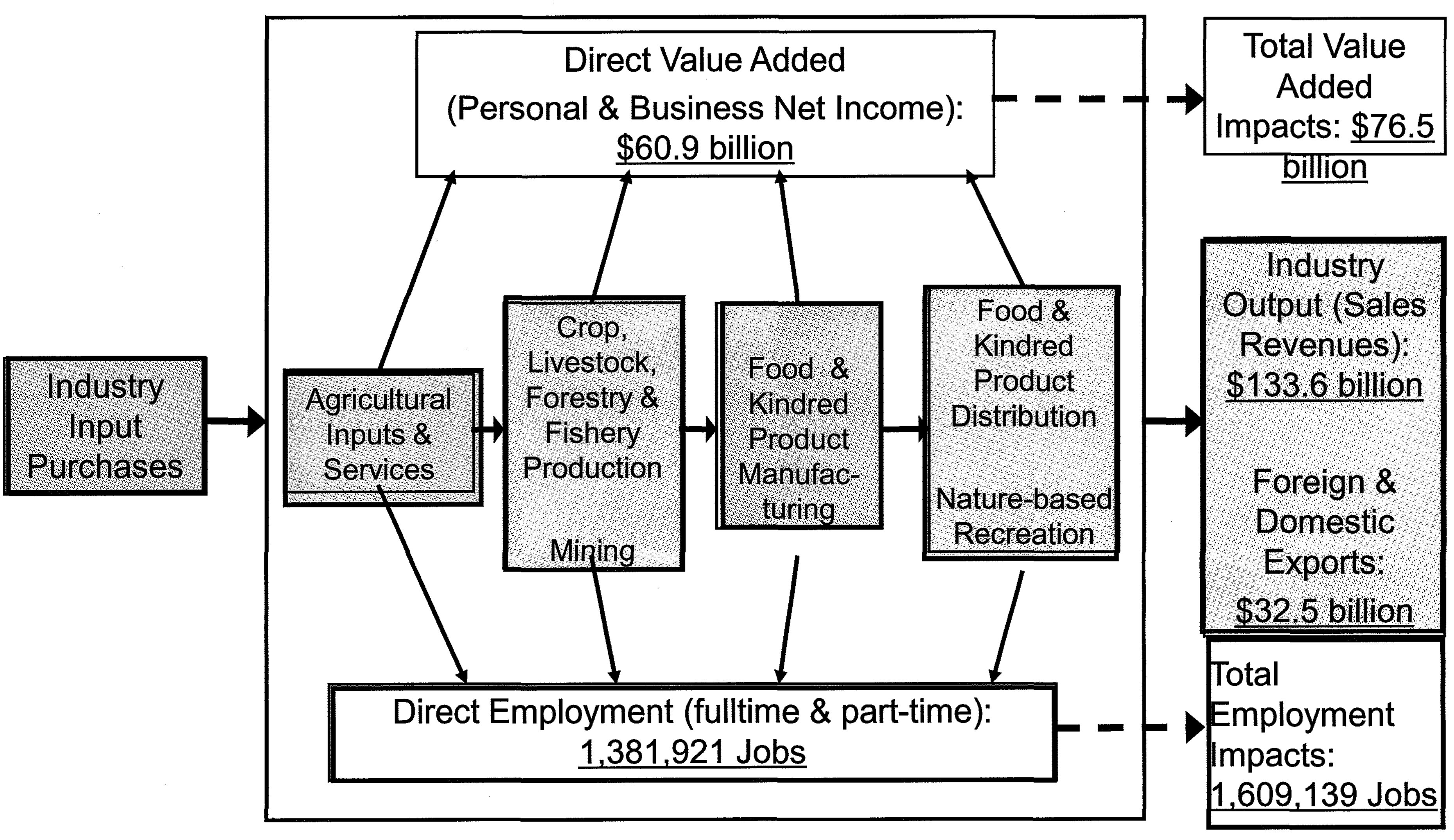
Alan W. Hodges and Mohammad Rahmani
University of Florida
Food & Resource Economics Department
Gainesville, Florida

Study report available at edis.ifas.ufl.edu/FE829

Output
Agriculture and Related Industries

- $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)

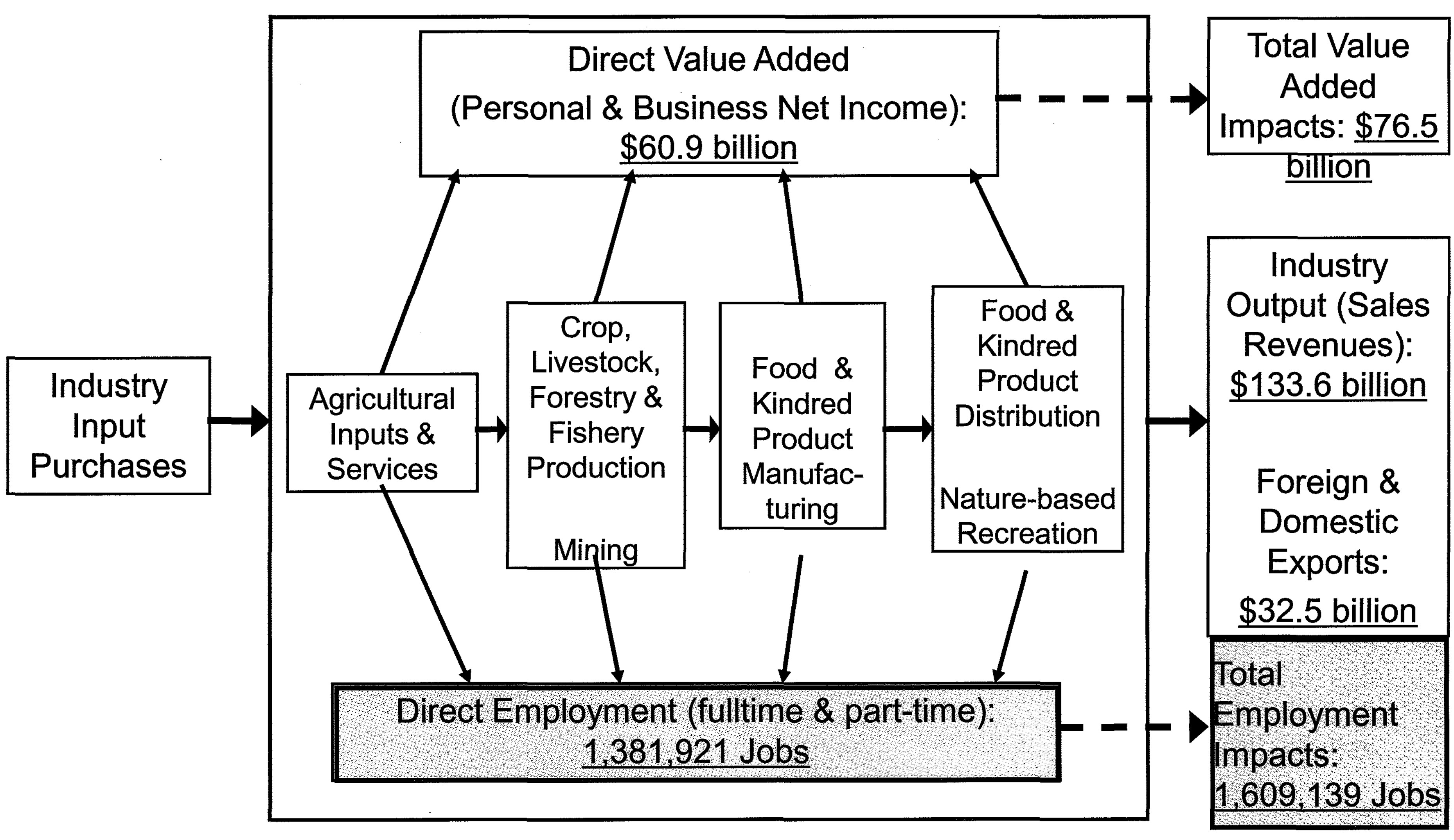
Source: ***Implan*** **(MIG, Inc.)**

Regional multiplier effects

Employment
Agriculture and Related Industries

- 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.)

Trends in Employment in Major Florida Industries, 2001-08

Thousands Jobs
(fulltime, part-time)

1,800
1,600
1,400
1,200
1,000
800
600
400
200
0

2001 2002 2003 2004 2005 2006 2007 2008

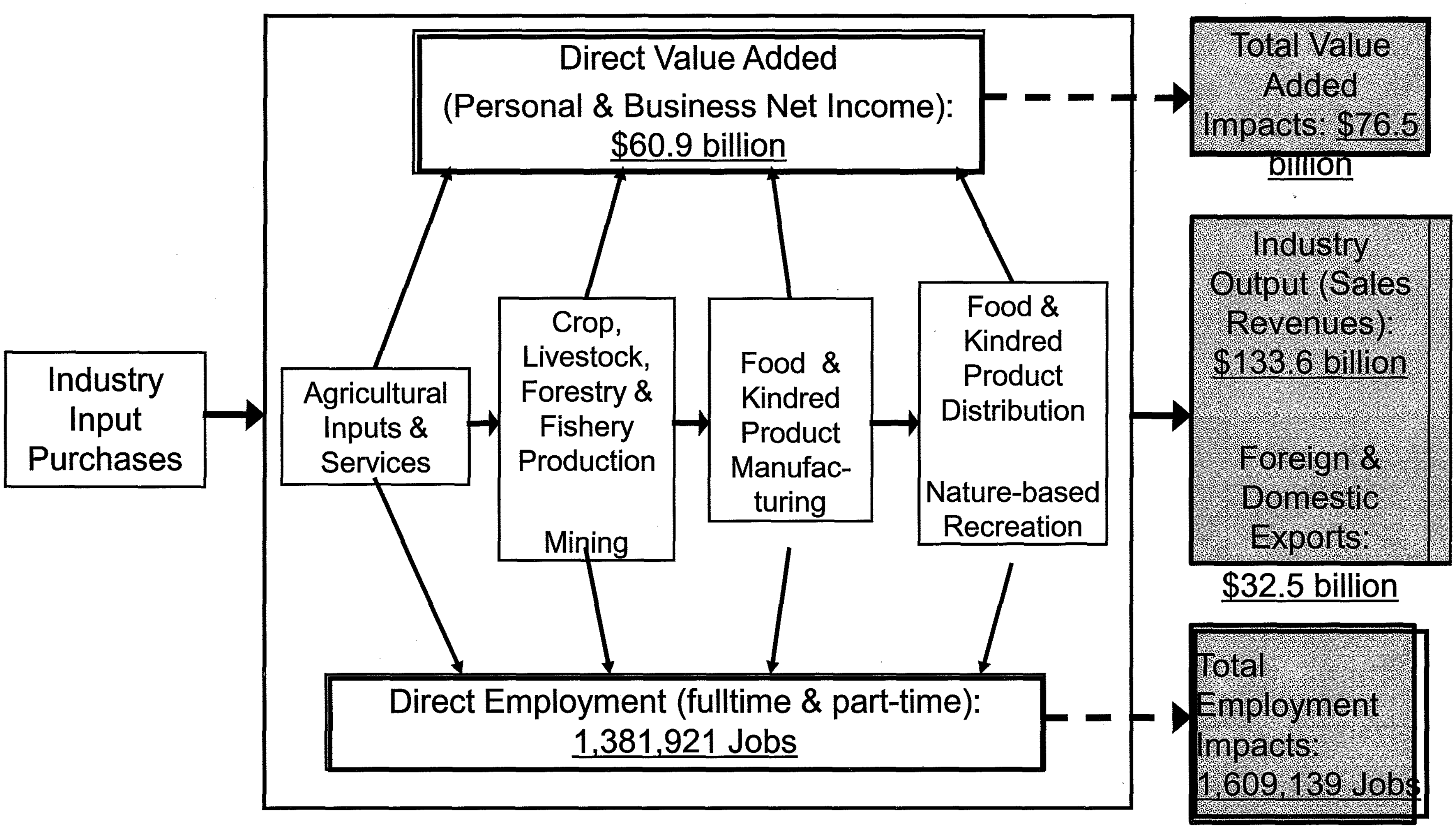
- Professional and Technical Services
- Agriculture, Natural Resources, Related Manufacturing & Services
- Real Estate and Financial Services
- Retail Trade
- Health Care
- Construction
- Education

Note: no data available for 2005. Estimates do <u>not</u> include multiplier effects.
Source: *Implan* (MIG, Inc).

Net Income
Agriculture and Related Industries

- $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.)**

Issues

- Reduce Regulations on Small Business
- Preserve Greenbelt
- Consistent, Predictable Business Climate
- Support UF/IFAS against disproportionate cuts
- Adequate funding for FDACS

Agriculture and Natural Resources Policy Committee

Addendum A

March 11, 2010
2:15 pm - 5:00 pm
102 Reed Hall

Larry Cretul
Speaker

Trudi Williams
Chair

The following amendment was inadvertently placed in the meeting packet and has been removed.

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.
43
44
45
46
47

48 ---

49 **T I T L E A M E N D M E N T**

50 Remove line 3 and insert:
51 amending s. 376.303, F.S.; requiring the department to develop
52 and implement a training, testing and certification program to
53 address emergencies presented by a spill or release at a
54 facility that has underground petroleum storage systems;
55 amending s. 376.3071, F.S.; revising provisions relating
56 Remove line 22 and insert:
57 nonreimbursable voluntary cleanup; amending s. 376.3077, F.S.;
58 relating to unlawful deposit of motor fuel in tanks required to
59 be registered, without proof of registration display; providing
60 an effective