



Agriculture & Natural Resources Subcommittee

MEETING PACKET

Tuesday, March 22, 2011

12:00 PM

Reed Hall (102 HOB)

**Dean Cannon
Speaker**

**Steve Crisafulli
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Natural Resources Subcommittee

Start Date and Time: Tuesday, March 22, 2011 12:00 pm

End Date and Time: Tuesday, March 22, 2011 03:00 pm

Location: Reed Hall (102 HOB)

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 293 Vessels by Harrell

HB 1311 Walton County by Coley

Consideration of the following proposed committee bill(s):

PCB ANRS 11-01 -- Department of Agriculture and Consumer Services

NOTICE FINALIZED on 03/18/2011 16:24 by Love.John

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 293 Vessels
SPONSOR(S): Harrell
TIED BILLS: IDEN./SIM. BILLS: SB 512

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Deslatta JD	Blalock AFB
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Currently, any person who violates navigational rules that results in a boating accident, but whose violation did not constitute reckless operation of a vessel, is guilty of a second degree misdemeanor.

The bill amends current statute by removing the criminal penalty for individuals who violate a navigational rule that results in an accident and makes these noncriminal infractions, so long as they do not constitute reckless operation of a vessel.

The bill increases the fine for all violations of navigational rules that do not constitute reckless operation of a vessel to the following:

- For the first offense, up to a maximum of \$500.
- For the second offense, up to a maximum of \$750.
- For a third or subsequent offense, up to a maximum of \$1,000.

Lastly, the bill deletes a duplicative provision, makes technical changes, and reenacts s. 327.731(1), F.S., to incorporate changes for mandatory education requirements for violators.

According to the FWCC analysis, the bill appears to have a positive fiscal impact on FWCC revenues because of the increase in fines that will be collected for certain violations of navigational rules and deposited into the Marine Resources Conservation Trust Fund, to be used for boating education purposes. However, the exact fiscal impact is unknown.

The bill has an effective date of October 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Currently, any person who violates navigational rules that results in a boating accident, but whose violation did not constitute reckless operation of a vessel, is guilty of a second degree misdemeanor, punishable by a fine of up to \$500 and/or imprisoned for up to 60 days¹. In addition, a judge can order restitution to a victim for damage or loss related to the defendant's criminal act.

Any person who violates navigational rules that does not result in a boating accident and does not constitute reckless operation of a vessel, is guilty of a noncriminal violation.² Section 775.08, F.S., defines a noncriminal violation as 'any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense.'

Section 327.73, F.S., provides that any person charged with a noncriminal infraction will be cited and must appear before a county court or pay the civil penalty, which is \$50. If a person chooses to appear in court, he/she has waived the limitations of the civil penalty. If the court determines the person guilty, a civil penalty of up to \$500 may be imposed. Any person failing to appear for the boating citation will also be charged with failing to respond and, if convicted, will be guilty of a second degree misdemeanor.

Any person convicted of a criminal violation, a non-criminal infraction that resulted in a reportable boating accident, or two non-criminal infractions in a 12-month period is required to enroll in a boating safety course that meets minimum standards established by the Florida Fish and Wildlife Conservation Commission (FWCC).³

According to the FWCC analysis, from 2007-2010, there were 452 individuals cited for second degree misdemeanor violations of navigational rules that resulted in a boating accident. During that same period, there were 303 individuals cited for noncriminal infractions for navigational rule violations that did not result in a boating accident.

Effect of Proposed Changes

The bill amends current statute by removing the criminal penalty for individuals who violate a navigational rule that results in an accident and makes these noncriminal infractions, so long as they do not constitute reckless operation of a vessel.

The bill increases the fine for all violations of navigational rules that do not constitute reckless operation of a vessel to the following:

- For the first offense, up to a maximum of \$500.
- For the second offense, up to a maximum of \$750.
- For a third or subsequent offense, up to a maximum of \$1,000.

Lastly, the bill deletes a duplicative provision, makes technical changes, and reenacts s. 327.731(1), F.S., to incorporate changes for mandatory education requirements for violators.

¹ Section 775.082 or s. 775.083, F.S.

²² For a complete list of noncriminal infractions relating to vessel laws, see s. 327.33, F.S.

³ Rule 68D-36.106, Florida Administrative Code (F.A.C.)

B. SECTION DIRECTORY:

Section 1. Amends s. 327.33, F.S., revising penalty provisions for violation of navigation rules; providing that such violations that do not constitute reckless operation of a vessel are noncriminal violations.

Section 2. Amends s. 327.73, F.S., providing for increased penalties for certain noncriminal violations; deleting a duplicate provision.

Section 3. Amends s. 327.70, F.S., conforming a cross-reference to changes made by the act.

Section 4. Reenacts and amends s. 327.72, F.S., relating to penalties, to incorporate changes made by the act in references thereto.

Section 5. Reenacts s. 327.731(1), F.S., relating to mandatory education for violators, to incorporate changes made by the act in references thereto.

Section 6. Provides an effective date of October 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments Section

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

By removing the criminal penalty for individuals who violate navigational rules that result in an accident and making them noncriminal infractions, there could be a reduction in court costs and/or county jail costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

According to the FWCC analysis, the bill appears to have a positive fiscal impact on the FWCC revenues because of the increase in fines that will be collected for certain violations of navigational rules, which are deposited into the Marine Resources Conservation Trust Fund, to be used for boating education purposes. However, the exact fiscal impact is unknown.

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:

The bill does not provide additional rule making authority and none is required.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to vessels; amending s. 327.33, F.S.;
 3 revising penalty provisions for violation of navigation
 4 rules; providing that such violations that do not
 5 constitute reckless operation of a vessel are noncriminal
 6 violations; amending s. 327.73, F.S.; providing for
 7 increased penalties for certain noncriminal violations;
 8 deleting a duplicate provision; amending s. 327.70, F.S.;
 9 conforming a cross-reference to changes made by the act;
 10 reenacting and amending s. 327.72, F.S., relating to
 11 penalties, to incorporate changes made by the act in
 12 references thereto; reenacting s. 327.731(1), F.S.,
 13 relating to mandatory education for violators, to
 14 incorporate changes made by the act in references thereto;
 15 providing an effective date.

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

18
 19 Section 1. Subsection (3) of section 327.33, Florida
 20 Statutes, is amended to read:

21 327.33 Reckless or careless operation of vessel.—

22 (3) Each person operating a vessel upon the waters of this
 23 state shall comply with the navigation rules.

24 ~~(a) A person whose violation of the navigation rules~~
 25 ~~results in a boating accident, but whose violation did not~~
 26 ~~constitute reckless operation of a vessel, is guilty of a~~
 27 ~~misdemeanor of the second degree, punishable as provided in s.~~
 28 ~~775.082 or s. 775.083.~~

29 (a) ~~(b)~~ A person who violates ~~whose violation of the~~
 30 navigation rules and the violation ~~does not result in a boating~~
 31 ~~accident and~~ does not constitute reckless operation of a vessel
 32 commits ~~is guilty of~~ a noncriminal violation as defined in s.
 33 775.08, punishable as provided in s. 327.73.

34 (b) ~~(e)~~ Law enforcement vessels may deviate from the
 35 navigational rules when such diversion is necessary to the
 36 performance of their duties and when such deviation may be
 37 safely accomplished.

38 Section 2. Subsections (1) and (5) of section 327.73,
 39 Florida Statutes, are amended to read:

40 327.73 Noncriminal infractions.—

41 (1) Violations of the following provisions of the vessel
 42 laws of this state are noncriminal infractions:

43 (a) Section 328.46, relating to operation of unregistered
 44 and unnumbered vessels.

45 (b) Section 328.48(4), relating to display of number and
 46 possession of registration certificate.

47 (c) Section 328.48(5), relating to display of decal.

48 (d) Section 328.52(2), relating to display of number.

49 (e) Section 328.54, relating to spacing of digits and
 50 letters of identification number.

51 (f) Section 328.60, relating to military personnel and
 52 registration of vessels.

53 (g) Section 328.72(13), relating to operation with an
 54 expired registration.

55 (h) Section 327.33(2), relating to careless operation.

56 (i) Section 327.37, relating to water skiing, aquaplaning,

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57 parasailing, and similar activities.

58 (j) Section 327.44, relating to interference with
59 navigation.

60 (k) Violations relating to boating-restricted areas and
61 speed limits:

62 1. Established by the commission or by local governmental
63 authorities pursuant to s. 327.46.

64 2. Speed limits established pursuant to s. 379.2431(2).

65 (l) Section 327.48, relating to regattas and races.

66 (m) Section 327.50(1) and (2), relating to required safety
67 equipment, lights, and shapes.

68 (n) Section 327.65, relating to muffling devices.

69 (o) Section 327.33(3)~~(b)~~, relating to navigation rules,
70 for which the penalty is:

71 1. For a first offense, up to a maximum of \$500.

72 2. For a second offense, up to a maximum of \$750.

73 3. For a third or subsequent offense, up to a maximum of
74 \$1,000.

75 (p) Section 327.39(1), (2), (3), and (5), relating to
76 personal watercraft.

77 (q) Section 327.53(1), (2), and (3), relating to marine
78 sanitation.

79 (r) Section 327.53(4), (5), and (7), relating to marine
80 sanitation, for which the civil penalty is \$250.

81 (s) Section 327.395, relating to boater safety education.

82 (t) Section 327.52(3), relating to operation of overloaded
83 or overpowered vessels.

84 (u) Section 327.331, relating to divers-down flags, except

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85 | for violations meeting the requirements of s. 327.33.

86 | (v) Section 327.391(1), relating to the requirement for an
87 | adequate muffler on an airboat.

88 | (w) Section 327.391(3), relating to the display of a flag
89 | on an airboat.

90 | (x) Section 253.04(3)(a), relating to carelessly causing
91 | seagrass scarring, for which the civil penalty upon conviction
92 | is:

93 | 1. For a first offense, \$50.

94 | 2. For a second offense occurring within 12 months after a
95 | prior conviction, \$250.

96 | 3. For a third offense occurring within 36 months after a
97 | prior conviction, \$500.

98 | 4. For a fourth or subsequent offense occurring within 72
99 | months after a prior conviction, \$1,000.

100 |

101 | Any person cited for a violation of any such provision shall be
102 | deemed to be charged with a noncriminal infraction, shall be
103 | cited for such an infraction, and shall be cited to appear
104 | before the county court. The civil penalty for any such
105 | infraction is \$50, except as otherwise provided in this section.

106 | Any person who fails to appear or otherwise properly respond to
107 | a uniform boating citation shall, in addition to the charge
108 | relating to the violation of the boating laws of this state, be
109 | charged with the offense of failing to respond to such citation
110 | and, upon conviction, be guilty of a misdemeanor of the second
111 | degree, punishable as provided in s. 775.082 or s. 775.083. A
112 | written warning to this effect shall be provided at the time

113 such uniform boating citation is issued.

114

115 ~~Any person cited for a violation of any such provision shall be~~
 116 ~~deemed to be charged with a noncriminal infraction, shall be~~
 117 ~~cited for such an infraction, and shall be cited to appear~~
 118 ~~before the county court. The civil penalty for any such~~
 119 ~~infraction is \$50, except as otherwise provided in this section.~~
 120 ~~Any person who fails to appear or otherwise properly respond to~~
 121 ~~a uniform boating citation shall, in addition to the charge~~
 122 ~~relating to the violation of the boating laws of this state, be~~
 123 ~~charged with the offense of failing to respond to such citation~~
 124 ~~and, upon conviction, be guilty of a misdemeanor of the second~~
 125 ~~degree, punishable as provided in s. 775.082 or s. 775.083. A~~
 126 ~~written warning to this effect shall be provided at the time~~
 127 ~~such uniform boating citation is issued.~~

128 (5) Any person electing to appear before the county court
 129 or who is required so to appear shall be deemed to have waived
 130 the limitations on the civil penalty specified in subsection
 131 (1). The court, after a hearing, shall make a determination as
 132 to whether an infraction has been committed. If the commission
 133 of an infraction has been proven, the court may impose a civil
 134 penalty not to exceed \$500 or a higher amount specified in
 135 subsection (1).

136 Section 3. Subsection (2) of section 327.70, Florida
 137 Statutes, is amended to read:

138 327.70 Enforcement of this chapter and chapter 328.—

139 (2) (a) Noncriminal violations of the following statutes
 140 may be enforced by a uniform boating citation mailed to the

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141 registered owner of an unattended vessel anchored, aground, or
 142 moored on the waters of this state:

143 1. Section 327.33(3)~~(b)~~, relating to navigation rules.

144 2. Section 327.44, relating to interference with
 145 navigation.

146 3. Section 327.50(2), relating to required lights and
 147 shapes.

148 4. Section 327.53, relating to marine sanitation.

149 5. Section 328.48(5), relating to display of decal.

150 6. Section 328.52(2), relating to display of number.

151 (b) Citations issued to livery vessels under this
 152 subsection shall be the responsibility of the lessee of the
 153 vessel if the livery has included a warning of this
 154 responsibility as a part of the rental agreement and has
 155 provided to the agency issuing the citation the name, address,
 156 and date of birth of the lessee when requested by that agency.
 157 The livery is not responsible for the payment of citations if
 158 the livery provides the required warning and lessee information.

159 Section 4. For the purpose of incorporating the amendment
 160 made by this act to section 327.73, Florida Statutes, in a
 161 reference thereto, section 327.72, Florida Statutes, is
 162 reenacted and amended to read:

163 327.72 Penalties.—Any person failing to comply with the
 164 provisions of this chapter or chapter 328 not specified in s.
 165 327.73 or not paying the civil penalty specified in s. 327.73
 166 ~~said section~~ within 30 days, except as otherwise provided in
 167 this chapter or chapter 328, commits a misdemeanor of the second
 168 degree, punishable as provided in s. 775.082 or s. 775.083.

169 Section 5. For the purpose of incorporating the amendment
 170 made by this act to section 327.73, Florida Statutes, in a
 171 reference thereto, subsection (1) of section 327.731, Florida
 172 Statutes, is reenacted to read:

173 327.731 Mandatory education for violators.—

174 (1) Every person convicted of a criminal violation of this
 175 chapter, every person convicted of a noncriminal infraction
 176 under this chapter if the infraction resulted in a reportable
 177 boating accident, and every person convicted of two noncriminal
 178 infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p),
 179 and (s)-(x), said infractions occurring within a 12-month
 180 period, must:

181 (a) Enroll in, attend, and successfully complete, at his
 182 or her own expense, a boating safety course that meets minimum
 183 standards established by the commission by rule; however, the
 184 commission may provide by rule pursuant to chapter 120 for
 185 waivers of the attendance requirement for violators residing in
 186 areas where classroom presentation of the course is not
 187 available;

188 (b) File with the commission within 90 days proof of
 189 successful completion of the course;

190 (c) Refrain from operating a vessel until he or she has
 191 filed the proof of successful completion of the course with the
 192 commission.

193

194 Any person who has successfully completed an approved boating
 195 course shall be exempt from these provisions upon showing proof
 196 to the commission as specified in paragraph (b).

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197

Section 6. This act shall take effect October 1, 2011.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

5
6 Remove everything after the enacting clause and insert:
7 Section 1. Subsection (3) of section 327.33, Florida
8 Statutes, is amended to read:

9 327.33 Reckless or careless operation of vessel.—

10 (3) Each person operating a vessel upon the waters of this
11 state shall comply with the navigation rules.

12 (a) A person who violates ~~whose violation of the~~
13 navigation rules and the violation results in a boating accident
14 causing serious bodily injury as defined in s. 327.353 or death,
15 but the ~~whose violation does~~ ~~did~~ not constitute reckless
16 operation of a vessel, commits ~~is guilty of~~ a misdemeanor of the
17 second degree, punishable as provided in s. 775.082 or s.
18 775.083.

19 (b) A person who violates ~~whose violation of the~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

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20 navigation rules and the violation ~~does not result in a boating~~
21 ~~accident and~~ does not constitute reckless operation of a vessel
22 commits is guilty of a noncriminal violation as defined in s.
23 775.08, punishable as provided in s. 327.73.

24 (c) Law enforcement vessels may deviate from the
25 navigational rules when such diversion is necessary to the
26 performance of their duties and when such deviation may be
27 safely accomplished.

28 Section 2. Subsections (1) and (5) of section 327.73,
29 Florida Statutes, are amended to read:

30 327.73 Noncriminal infractions.—

31 (1) Violations of the following provisions of the vessel
32 laws of this state are noncriminal infractions:

33 (a) Section 328.46, relating to operation of unregistered
34 and unnumbered vessels.

35 (b) Section 328.48(4), relating to display of number and
36 possession of registration certificate.

37 (c) Section 328.48(5), relating to display of decal.

38 (d) Section 328.52(2), relating to display of number.

39 (e) Section 328.54, relating to spacing of digits and
40 letters of identification number.

41 (f) Section 328.60, relating to military personnel and
42 registration of vessels.

43 (g) Section 328.72(13), relating to operation with an
44 expired registration.

45 (h) Section 327.33(2), relating to careless operation.

46 (i) Section 327.37, relating to water skiing, aquaplaning,
47 parasailing, and similar activities.

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48 (j) Section 327.44, relating to interference with
49 navigation.

50 (k) Violations relating to boating-restricted areas and
51 speed limits:

52 1. Established by the commission or by local governmental
53 authorities pursuant to s. 327.46.

54 2. Speed limits established pursuant to s. 379.2431(2).

55 (l) Section 327.48, relating to regattas and races.

56 (m) Section 327.50(1) and (2), relating to required safety
57 equipment, lights, and shapes.

58 (n) Section 327.65, relating to muffling devices.

59 (o) 1. Section 327.33(3)(b), relating to a violation of
60 navigation rules not resulting in an accident.

61 2. Section 327.33(3)(b), relating to a violation of
62 navigation rules resulting in an accident not causing serious
63 bodily injury or death, for which the penalty is:

64 a. For a first offense, up to a maximum of \$500.

65 b. For a second offense, up to a maximum of \$750.

66 c. For a third or subsequent offense, up to a maximum of
67 \$1,000.

68 (p) Section 327.39(1), (2), (3), and (5), relating to
69 personal watercraft.

70 (q) Section 327.53(1), (2), and (3), relating to marine
71 sanitation.

72 (r) Section 327.53(4), (5), and (7), relating to marine
73 sanitation, for which the civil penalty is \$250.

74 (s) Section 327.395, relating to boater safety education.

75 (t) Section 327.52(3), relating to operation of overloaded

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76 or overpowered vessels.

77 (u) Section 327.331, relating to divers-down flags, except
78 for violations meeting the requirements of s. 327.33.

79 (v) Section 327.391(1), relating to the requirement for an
80 adequate muffler on an airboat.

81 (w) Section 327.391(3), relating to the display of a flag
82 on an airboat.

83 (x) Section 253.04(3)(a), relating to carelessly causing
84 seagrass scarring, for which the civil penalty upon conviction
85 is:

86 1. For a first offense, \$50.

87 2. For a second offense occurring within 12 months after a
88 prior conviction, \$250.

89 3. For a third offense occurring within 36 months after a
90 prior conviction, \$500.

91 4. For a fourth or subsequent offense occurring within 72
92 months after a prior conviction, \$1,000.

93
94 Any person cited for a violation of any such provision shall be
95 deemed to be charged with a noncriminal infraction, shall be
96 cited for such an infraction, and shall be cited to appear
97 before the county court. The civil penalty for any such
98 infraction is \$50, except as otherwise provided in this section.

99 Any person who fails to appear or otherwise properly respond to
100 a uniform boating citation shall, in addition to the charge
101 relating to the violation of the boating laws of this state, be
102 charged with the offense of failing to respond to such citation
103 and, upon conviction, be guilty of a misdemeanor of the second

COMMITTEE/SUBCOMMITTEE AMENDMENT

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104 degree, punishable as provided in s. 775.082 or s. 775.083. A
105 written warning to this effect shall be provided at the time
106 such uniform boating citation is issued.

107

108 ~~Any person cited for a violation of any such provision shall be~~
109 ~~deemed to be charged with a noncriminal infraction, shall be~~
110 ~~cited for such an infraction, and shall be cited to appear~~
111 ~~before the county court. The civil penalty for any such~~
112 ~~infraction is \$50, except as otherwise provided in this section.~~
113 ~~Any person who fails to appear or otherwise properly respond to~~
114 ~~a uniform boating citation shall, in addition to the charge~~
115 ~~relating to the violation of the boating laws of this state, be~~
116 ~~charged with the offense of failing to respond to such citation~~
117 ~~and, upon conviction, be guilty of a misdemeanor of the second~~
118 ~~degree, punishable as provided in s. 775.082 or s. 775.083. A~~
119 ~~written warning to this effect shall be provided at the time~~
120 ~~such uniform boating citation is issued.~~

121 (5) Any person electing to appear before the county court
122 or who is required so to appear shall be deemed to have waived
123 the limitations on the civil penalty specified in subsection
124 (1). The court, after a hearing, shall make a determination as
125 to whether an infraction has been committed. If the commission
126 of an infraction has been proven, the court may impose a civil
127 penalty not to exceed \$500 or a higher amount specified in
128 subsection (1).

129 Section 3. For the purpose of incorporating the amendment
130 made by this act to section 327.73, Florida Statutes, in a

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 293 (2011)

Amendment No.

131 reference thereto, section 327.72, Florida Statutes, is
132 reenacted and amended to read:

133 327.72 Penalties.—Any person failing to comply with the
134 provisions of this chapter or chapter 328 not specified in s.
135 327.73 or not paying the civil penalty specified in s. 327.73
136 ~~said section~~ within 30 days, except as otherwise provided in
137 this chapter or chapter 328, commits a misdemeanor of the second
138 degree, punishable as provided in s. 775.082 or s. 775.083.

139 Section 4. For the purpose of incorporating the amendment
140 made by this act to section 327.73, Florida Statutes, in a
141 reference thereto, subsection (1) of section 327.731, Florida
142 Statutes, is reenacted to read:

143 327.731 Mandatory education for violators.—

144 (1) Every person convicted of a criminal violation of this
145 chapter, every person convicted of a noncriminal infraction
146 under this chapter if the infraction resulted in a reportable
147 boating accident, and every person convicted of two noncriminal
148 infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p),
149 and (s)-(x), said infractions occurring within a 12-month
150 period, must:

151 (a) Enroll in, attend, and successfully complete, at his
152 or her own expense, a boating safety course that meets minimum
153 standards established by the commission by rule; however, the
154 commission may provide by rule pursuant to chapter 120 for
155 waivers of the attendance requirement for violators residing in
156 areas where classroom presentation of the course is not
157 available;

158 (b) File with the commission within 90 days proof of

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159 successful completion of the course;

160 (c) Refrain from operating a vessel until he or she has
161 filed the proof of successful completion of the course with the
162 commission.

163

164 Any person who has successfully completed an approved boating
165 course shall be exempt from these provisions upon showing proof
166 to the commission as specified in paragraph (b).

167 Section 5. This act shall take effect October 1, 2011.

168

169

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

170

171 Remove the entire title and insert:

171

172

A bill to be entitled

173

An act relating to vessels; amending s. 327.33, F.S.;

174

revising penalty provisions for violation of navigation

175

rules; providing misdemeanor penalties for a violation

176

that results in a boating accident causing serious bodily

177

injury or death; providing that under certain

178

circumstances a violation of navigation rules is a

179

noncriminal violation; amending s. 327.73, F.S.;

180

providing for increased penalties for certain noncriminal

181

violations; deleting a duplicate provision; reenacting

182

and amending s. 327.72, F.S., relating to penalties, to

183

incorporate changes made by the act in references

184

thereto; reenacting s. 327.731(1), F.S., relating to

185

mandatory education for violators, to incorporate changes

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 293 (2011)

Amendment No.

186 | made by the act in references thereto; providing an
187 | effective date.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1311 Walton County
SPONSOR(S): Coley and others
TIED BILLS: None **IDEN./SIM. BILLS:** None

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

SUMMARY ANALYSIS

The bill exempts Walton County from obtaining permits from the Department of Environmental Protection (DEP) for rigid coastal armoring structures, including sand-filled geotextile containers, which are deemed permanent structures and were constructed between July 10, 2005 and April 30, 2006, if certain requirements are met.

The bill provides that within 60 days of the effective date, DEP must develop an informational list of the coastal armoring structures, including geotextile structures, constructed between July 10, 2005 and April 30, 2006. The list must provide the type and location of armoring structure in relation to the nearest DEP "R" monument and the Walton County Coastal Construction Control Line (CCCL).

The bill further provides that property owners may complete construction on existing temporary structures without obtaining a DEP permit if the structure began between the aforementioned dates but was not completed if:

- The construction occurs on or landward of the armoring structure on the property owner's property.
- The work is completed within 1 year after the effective date of this bill.

Any work that requires sand placement or other activities that would occur seaward of the existing armoring structure would require a permit from DEP. A sand cover monitoring and maintenance plan must be included in permit applications for sand coverage over sand-filled geotextile containers. Permit applications will be exempt from vulnerability requirements of s. 161.085(2)(a), F.S.¹, but must comply with all other statutory and rule requirements.

The bill provides that sand-filled geotextile containers constructed between the aforementioned dates must be continuously covered with 3 feet of beach-quality sand and stabilized with native salt-tolerant vegetation. Within 90 days after the effective date of the bill, or at any time it appears the structure does not meet the requirements, a property owner may submit a permit application for sand placement to cover those structures having less than 3 feet of sand. DEP must order the removal of sand-filled geotextile containers that fail to meet the bill's requirements.

Any substantially damaged armoring structures must be removed within 90 days after such damage. The property owner may apply within 90 days after such damage for a permit for major reconstruction of the damaged structure. If an application for major reconstruction is denied by DEP, the structure must be removed within 90 days after final denial of the permit application.

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

¹ Section 161.085(2)(a), F.S., states that permits for present installations may be issued if it is determined that private structures or public infrastructure is vulnerable to damage from frequent coastal storms.
 This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Pursuant to s. 161.085, F.S., the state recognizes the need to protect private structures and public infrastructure from damage or destruction caused by coastal erosion. Until the state takes measures to reduce erosion on a regional basis, there are state policies allowing emergency local government sanctioned measures utilizing rigid armoring structures for protection of private property and public infrastructure

DEP defines coastal armoring as manmade structures designed to either prevent erosion of the upland property or to protect eligible structures from the effects of coastal wave and current action. Examples include seawalls, revetments, bulkheads, retaining walls, sloped boulder revetments, sloped geotextile revetments, geotextile dune scour protection, or other similar structures.

If a coastal storm causes erosion of the beach-dune system, under the authority of Section 161.085, F.S. and Chapter 62B-33, Florida Administrative Code (F.A.C.), a local government may take emergency measures for the protection of threatened private residences or public infrastructure. Emergency relief measures may be taken as long as the following considerations are incorporated into such emergency measures:

- Protection of the beach-dune system
- Siting and design criteria for the protective structure
- Impacts on adjacent properties
- Preservation of public beach access
- Protection of native coastal vegetation and nesting marine turtles, their hatchlings, and other nesting state or federally threatened or endangered species.

Emergency relief measures that result in the installation of temporary armoring are permissible provided a DEP permit has not been issued for coastal armoring to protect the threatened structure. Structures constructed under this authority must be temporary and the local government or the property owner shall remove the structure or submit a permit application to the DEP for a permanent structure within 60 days after the emergency installation of the structure.

Permits may only be granted by the DEP for dune restoration using geotextile containers or similar structures provided that such projects:

- Provide for the protection of an existing major structure or public infrastructure and that major structure or public infrastructure is vulnerable to damage from frequent coastal storms, or is upland of a beach-dune system which has experienced significant beach erosion from storm events.
- Are constructed using native or beach-quality sand and native salt-tolerant vegetation suitable for dune stabilization as approved by the DEP.
- May include materials other than native or beach-quality sand such as geotextile materials that are used to contain beach-quality sand for the purposes of maintaining the stability and longevity of the dune core.
- Are continuously covered with 3 feet of native or beach-quality sand and stabilized with native salt-tolerant vegetation.
- Are sited for landward as practicable, balancing the need to minimize excavation of the beach-dune system, impacts to nesting marine turtles and other nesting state or federally threatened or endangered species, and impacts to adjacent properties.
- Are designed and sited in a manner that will minimize the potential for erosion.

- Do not materially impede access by the public.
- Are designed to minimize adverse effects to nesting marine turtles and turtle hatchlings.
- Are designed to facilitate easy removal of the geotextile containers if needed.
- The U.S. Fish and Wildlife Service has approved an Incidental Take Permit for marine turtles and other federally threatened or endangered species pursuant to the Endangered Species Act for the placement of the structure if an Incidental Take Permit is required.

Exceptions include:

1. If all of the above criteria cannot be met, but a continuous line of rigid coastal armoring exists on either side of unarmored property and the gap does not exceed 250 feet, then armoring can be authorized where it closes the gap.
2. If all of the above criteria have been met, but construction of a beach restoration, beach nourishment, sand transfer or other protective project is to commence within nine months, and all permits and funding for the project are in place, then armoring cannot be authorized.

Structures built pursuant to permits granted under s. 161.053, F.S., may be ordered removed by the DEP only if such structures are determined to be unnecessary or to interfere with the installation of a beach restoration project.

Effect of Proposed Changes

The bill exempts Walton County from obtaining permits from DEP for rigid coastal armoring structures, including sand-filled geotextile containers, which are deemed permanent structures and were constructed between July 10, 2005 and April 30, 2006, if certain requirements are met.

The bill provides that within 60 days of the effective date, DEP must develop an informational list of the coastal armoring structures, including geotextile structures, constructed between July 10, 2005 and April 30, 2006. The list must provide the type and location of armoring structure in relation to the nearest DEP "R" monument and the Walton County Coastal Construction Control Line (CCCL).

This section does not authorize placing or locating any rigid coastal armoring structures on property that is not under the ownership or control of the individual or entity constructing the structure, unless the property owner consents in writing to the placement or location of that structure.

The bill further provides that property owners may complete construction on existing temporary structures without obtaining a DEP permit if the construction began between the aforementioned dates but was not completed if:

- The construction occurs on or landward of the armoring structure on the property owner's property.
- The work is completed within 1 year after the effective date of this bill.

Any work that requires sand placement or other activities that would occur seaward of the existing armoring structure, require a permit from DEP. A sand cover monitoring and maintenance plan must be included in permit applications for sand coverage over sand-filled geotextile containers. Permit applications will be exempt from vulnerability requirements of s. 161.085(2)(a), F.S.², but must comply with all other statutory and rule requirements.

The bill provides that sand-filled geotextile containers constructed between the aforementioned dates must be continuously covered with 3 feet of beach-quality sand and stabilized with native salt-tolerant vegetation. Within 90 days after the effective date of the bill, or at any time it appears the structure does not meet the requirements, a property owner may submit a permit application for sand placement to cover those structures having less than 3 feet of sand. DEP must order the removal of sand-filled geotextile containers that fail to meet the bill's requirements.

² *Id.*

Any substantially damaged armoring structures must be removed within 90 days after such damage. The property owner may apply within 90 days after such damage for a permit for major reconstruction of the damaged structure. If an application for major reconstruction is denied by DEP, the structure must be removed within 90 days after final denial of the permit application.

The bill defines "substantial damage" to mean that the cost of repair would exceed 50% of the replacement costs of the structure. "Major reconstruction" is defined as the complete or partial replacement or rebuilding, to its original level of protection, of a significant portion of a structure that has failed or deteriorated.

The section does not exempt structures from requirements of the Endangered Species Act (ESA), including incidental take permits. The bill provides that the Walton County Conservation Plan/Incidental Take Permit program is an appropriate method for addressing requirements of the ESA.

Finally, a seller must provide a potential purchaser notification of the requirements of this section as well as a copy of the coastal properties disclosure statement if the property has coastal armoring on it.

B. SECTION DIRECTORY:

Section 1. Providing that certain rigid coastal armoring structures constructed during a specified time may remain without the need to obtain a DEP permit; providing conditions applicable to such structures; providing definitions.

Section 2. Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 28, 2011

WHERE?

Northwest Florida Daily News

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Not applicable. This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

JAN 31 2011

NORTH WEST FLORIDA
Daily News

Published Daily
Fort Walton Beach, Florida
Distributed in Okaloosa, Santa Rosa & Walton Counties

State of Florida, County of Okaloosa

Before the undersigned authorized personally appeared _____

Maurice Wiltsie, who on oath says that (s)he is Classified Advisor of the Northwest Florida Daily News, a daily newspaper published at Fort Walton Beach, in Okaloosa County, Florida;

that the attached copy of advertisement, being a Legal 9358

in the matter of Notice of Intent

Rigid Coastal Armoring Structures

in the Okaloosa County Court, was published in said newspaper in the issues of

January 28, 2011

Affiant further says that the said Northwest Florida Daily News is a newspaper published at Fort Walton Beach, in said Okaloosa County, Florida, and that the said newspaper has heretofore been continuously published in said Okaloosa County, Florida, each day, and has been entered as second class mail matter at the post office in Fort Walton Beach, in said Okaloosa County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that (s)he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

STATE OF FLORIDA
COUNTY OF OKALOOSA

Subscribed and sworn to (or affirmed) before me this 28 January 2011
(Date)

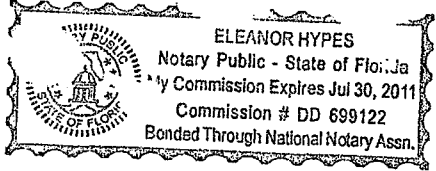
by Maurice Wiltsie, who is/are personally known to me or

has/have produced Personally Known as identification.
(Type of identification)

Eleanor Hypes Notary Public, Commission No. _____
(Signature)

(Name of Notary typed, printed or stamped)

Legal 9358
NOTICE OF INTENT TO SEEK LEGISLATION
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2011 Legislature for passage of an act relating to Walton County providing that notwithstanding the requirements of Section 161.085(3), Florida Statutes, special provisions apply to rigid coastal armoring structures constructed in Walton County between July 10, 2005 and April 30, 2008 as a result of the impact of Hurricane Dennis in Walton County, such special provisions include defining such structures as permanent as to which no permit is required from the Department of Environmental Protection and establishing specific conditions and limitations relating to such structures.
Legal 9358
Jan. 28, 2011



THE BREEZE combined with
THE DEFUNIAK SPRINGS HERALD
Published Weekly
DeFUNIAK SPRINGS, FLORIDA 32433

STATE OF FLORIDA

Before the undersigned authority personally appeared,
Gary B. Woodham or Ben R. Woodham who on oath
says that he/she is editor-publisher-manager of The
DeFuniak Springs, Herald Breeze, a Florida newspaper
published at DeFuniak Springs, in Walton County, Florida;
that the attached copy of advertisement, being

NOTICE OF INTENT TO SEEK LEGISLATION

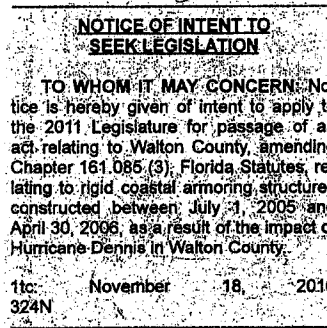
In the matter of

REPRESENTATIVE BRAD DRAKE

In the Circuit Court for Walton County, Florida,
was published in said newspaper in the issues of

NOVEMBER 18, 2010

Affiant further says that the said The DeFuniak Springs
Herald-Breeze is a newspaper published at DeFuniak
Springs, in said Walton County, Florida, and that the said
newspaper has heretofore been continuously published
in said Walton County Florida, for a period of one year
next preceding the first publication of the attached copy
of advertisement; and affiant further says that he/she has
neither paid nor promised any person, firm or corporation
any discount, rebate, commission or refund for the
purpose of securing this advertisement for publication in
the said newspaper.



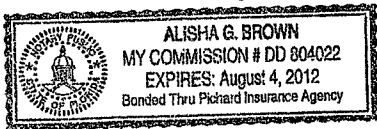
[Handwritten signature]

known to me personally,
Sworn to and subscribed before me this

19th day of November

A.D., 20 10

[Handwritten signature]



HOUSE OF REPRESENTATIVES

2011 LOCAL BILL CERTIFICATION FORM

BILL #: 1311

SPONSOR(S): Representative Marti Coley

RELATING TO: Walton County
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Walton County

CONTACT PERSON: Bryan Cherry

PHONE NO.: (850) 488-4726 E-Mail: bryan.Cherry@myfloridahouse.gov

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Community and Military Affairs Subcommittee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES NO

Date hearing held: 12/15/2010

Location: County Commission Meeting Room, South Walton Courthouse Annex

(3) Was this bill formally approved by a majority of the delegation members?

YES NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE _____

Where? _____ County _____

Referendum in lieu of publication: YES NO

Date of Referendum _____

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO NOT APPLICABLE

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO NOT APPLICABLE

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and submitted to the Military & Local Affairs Policy Committee.



Delegation Chair (Original Signature)

25 Jun 11

Date

Brad Drake

Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES
2011 ECONOMIC IMPACT STATEMENT FORM**

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

BILL #: 1311

SPONSOR(S): Representative Marti Coley

RELATING TO: Post Hurricane Dennis seawalls in South Walton County, Florida.
[Indicate Area Affected (City, County or Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	<u>FY11-12</u>	<u>FY 12-13</u>
Expenditures:	None	None

Note: Cost expenditures by the State and County, as well as by the affected private parties, are reduced to near zero. The bill eliminates ongoing costly permitting, administrative hearings, rulemaking, and enforcement actions.

II. ANTICIPATED SOURCE(S) OF FUNDING:

	<u>FY 11-12</u>	<u>FY 12-13</u>
Federal:	None	None
State:	None	None
Local:	None	None

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	<u>FY 11-12</u>	<u>FY 12-13</u>
Revenues:		

Local property tax revenues are expected to increase due to an anticipated increase in assessed value of beachfront properties with affected seawalls. State tax revenues from documentary stamp taxes are expected to increase due to improved marketability of beachfront properties with affected seawalls.

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Owners of affected properties will experience an increase and stabilization of property values, and will save significant attorney and consultant fees and potential administrative penalties as well as the cost of corrective measures. Affect on local real estate industry will be positive. Cost of permitting and enforcement by State and County are reduced to near zero.

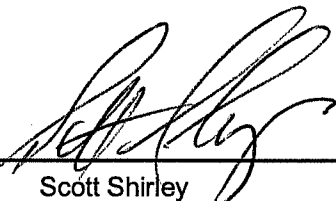

Disadvantages: None.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

Increased real property value and marketability of affected properties is expected to have a positive economic impact on the local real estate sales industry with additional sales of affected properties leading to additional employment opportunities for local real estate businesses. Also, bill allows completion of unfinished seawalls which will lead to additional contractor work and employment.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

All matters stated above are within the personal knowledge of the signatories.

PREPARED BY:   _____
Scott Shirley Thomas G. Tomasello 02/15/11
Date

TITLE: Attorneys

REPRESENTING: C.T. Fitzpatrick (SS), Emmett & Linda Hildreth (TGT)

PHONE: (850) 577-6500

E-Mail Address: sshirley@asrlegal.com; tgtpa@earthlink.net

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1 A bill to be entitled
 2 An act relating to Walton County; providing that certain
 3 rigid coastal armoring structures constructed during a
 4 specified time may remain without the need to obtain a
 5 Department of Environmental Protection permit; providing
 6 conditions applicable to such structures; providing
 7 definitions; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Within Walton County, rigid coastal armoring
 12 structures, including sand-filled geotextile containers and
 13 similar structures, constructed between July 10, 2005, and April
 14 30, 2006, are deemed permanent structures and may remain without
 15 the need to obtain a Department of Environmental Protection
 16 permit under sections 161.053 and 161.085(3), Florida Statutes,
 17 subject to the following:

18 (1) Within 60 days after the effective date of this act,
 19 the Department of Environmental Protection, in coordination with
 20 Walton County, shall develop an informational list of the rigid
 21 coastal armoring structures, including sand-filled geotextile
 22 containers and similar structures, constructed between July 10,
 23 2005, and April 30, 2006, that meet the requirements of this
 24 section. Such list shall describe, to the extent practicable and
 25 based on available information, the type of armoring structure
 26 and the location of the armoring structure in relation to the
 27 nearest Department of Environmental Protection "R" monument and
 28 the Walton County Coastal Construction Control Line.

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2011

29 (2) This section may not be construed as authorization to
 30 place or locate any rigid coastal armoring structure on property
 31 not under the ownership or control of the individual or entity
 32 constructing the structure, unless the property owner consents
 33 in writing to the placement or location of such structure.

34 (3) A property owner may complete construction on an
 35 existing temporary structure without obtaining a permit from the
 36 department if the construction began between July 10, 2005, and
 37 April 30, 2006, but was not completed; if the construction
 38 occurs on or landward of the armoring structure on the property
 39 owner's property; and if the work is completed within 1 year
 40 after the effective date of this act. Examples of such work
 41 include the addition of tie-backs, walers, and bulkhead caps.
 42 Work requiring sand placement or other activities that would
 43 occur seaward of the existing coastal armoring structure will
 44 require a permit from the department. A sand cover monitoring
 45 and maintenance plan will be included in permit applications for
 46 sand coverage over sand-filled geotextile containers or similar
 47 structures. Applications submitted under this subsection are
 48 exempt from the vulnerability requirements of section
 49 161.085(2)(a), Florida Statutes, but must comply with all other
 50 applicable statutory and rule requirements.

51 (4) Sand-filled geotextile containers or similar
 52 structures constructed between July 10, 2005, and April 30,
 53 2006, shall be continuously covered with 3 feet of beach-quality
 54 sand and stabilized with native salt-tolerant vegetation. Within
 55 90 days after the effective date of this act or at any time it
 56 appears the structure does not meet the sand coverage and

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57 vegetation requirement, a property owner may submit a permit
58 application for sand placement to cover those structures having
59 less than 3 feet of sand. The department shall order the removal
60 of sand-filled geotextile containers and similar structures that
61 fail to meet the sand-cover and vegetation requirements of this
62 subsection.

63 (5) (a) Substantially damaged armoring structures must be
64 removed by the property owner within 90 days after such damage.
65 However, the property owner may apply within 90 days after such
66 damage for a permit for major reconstruction of the damaged
67 armoring structure, in accordance with applicable rules and law.
68 If an application for a major reconstruction permit is denied by
69 the department, the armoring structure must be removed within 90
70 days after final denial of the permit application. Such
71 applications shall comply with all applicable statutory and rule
72 requirements.

73 (b) For the purposes of this section, the term:

74 1. "Substantial damage" means that the cost of repair
75 would exceed 50 percent of the replacement costs of such
76 structure.

77 2. "Major reconstruction" means the complete or partial
78 replacement or rebuilding, to its original level of protection,
79 of a significant portion of a structure that has failed or
80 deteriorated.

81 (6) This section does not exempt a structure from the
82 requirements of the Endangered Species Act, including any
83 incidental take permits that are required by the Endangered
84 Species Act. Participation in the Walton County Habitat

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85 Conservation Plan/Incidental Take Permit program may be an
86 appropriate method of addressing applicable requirements of the
87 Endangered Species Act.

88 (7) At the time or before a seller and purchaser execute a
89 contract for sale and purchase of any interest in real property
90 having coastal armoring authorized under this section, the
91 seller must provide to the potential purchaser notification of
92 the requirements of this section and a copy of the coastal
93 properties disclosure statement required in section 161.57,
94 Florida Statutes.

95 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANRS 11-01 Department of Agriculture and Consumer Services

SPONSOR(S): Agriculture & Natural Resources Subcommittee

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

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

SUMMARY ANALYSIS

PCB 11-01 addresses several issues related to the powers and duties of the Department of Agriculture and Consumer Services (department). The bill:

- Deletes provisions allowing department advisory committee members and members and former members of the Board of Surveyors and Mappers to claim per diem and travel expenses.
- Exempts certain Direct Service Organization's within the department from annual audits.
- Increases current levels of insurance for pest control businesses to provide better protection to Florida consumers.
- Provides for the establishment, monitoring, and regulation of centralized pest control customer contact centers in lieu of licensure as pest control businesses.
- Establishes a limited certification category authorizing persons to use nonchemical methods for controlling rodents in lieu of licensure.
- Requires registered pesticide brand products that undergo label revision during the biennial registration period to provide the department with a copy of the revised label.
- States that any fees associated with the pesticide brand registration program are non-refundable.
- Deletes the Division of Dairy within the department and transfers the duties and responsibilities associated with that division to the Division of Food Safety.
- Requires persons who produce, harvest, pack, or repack tomatoes that are not permitted under Chapter 500, F.S., to register each location annually by August 1 on a form prescribed by the department.
- Establishes a Certified Pile Burner program in statute.
- Allows the lead managing agency, instead of the Department of Environmental Protection (DEP), to receive the proceeds from easements for the construction of electric transmission and distribution facilities on Board of Trustees (BOT)-owned lands.
- Exempts the department from local government enforcement regarding the Florida Building Code as it relates to wildfire and law enforcement facilities.
- Provides Selected Exempt status to the aviation manager and the training coordinator of the Florida Forestry Service.
- Authorizes monies received from the sale of surplus state-owned firefighting equipment and vehicles to be used to maintain, exchange or purchase firefighting equipment.
- Authorizes the department to dispose of surplus firefighting equipment and vehicles when, and as, it sees fit.
- Authorizes the department to delegate authority to local governments to issue authorizations for open burning.
- Renames the Office of Water Coordination as the Office of Energy and Water.
- Adds the appointment of a (non-voting) youth member who is active in the Future Farmers of America or a 4-H Club to the Florida State Fair Authority.
- Provides criminal charges for the theft of bee colonies of registered beekeepers as a farm product.

The bill appears to have a significant fiscal impact on state government as well as an insignificant fiscal impact on local governments. For a more detailed explanation of the fiscal impact, please see Section II, Fiscal Analysis & Economic Impact Statement, of this analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Advisory Committees

Present Situation

The Commissioner of Agriculture has statutory authority¹ to appoint advisory committees to assist the Department of Agriculture and Consumer Services (department) with its duties and responsibilities. There are advisory committees for Off-Highway Vehicle Recreation Use, Pest Control Enforcement, Pesticide Review, Motor Vehicle Repair, and the Agricultural Promotion Campaign, to name a few.

The law mandates the composition of the committees, their powers and duties, and the term of their service, among other things. The law also states that advisory committee members may not receive compensation for their services, but are entitled to reimbursement for per diem and travel expenses.² According to a 2007 response to a Joint Legislative Sunset Committee request, the department had approximately 50 advisory boards, councils, or committees that incurred travel, staff, and other expenses totaling approximately \$220,000.³

Current law also authorizes a member or former member of the department's Board of Surveyors and Mappers serving on a probable cause panel to receive \$50 per day while participating in official business of the board. Members and former members are also entitled to travel expenses.

Effect of Proposed Changes

The bill repeals statutory provisions authorizing members of the department's advisory committees to receive per diem and travel expenses. It also repeals provisions providing for the per diem and travel expenses for members and former members of the Board of Surveyors and Mappers.

Pest Control

Insurance

Present Situation

The minimum requirements for insurance coverage to conduct pest control businesses have not been increased since 1992. The department maintains these minimums need to be increased to reflect current levels of insurance offered by liability insurers and to provide better protection to Florida consumers.

Effect of Proposed Changes

The bill increases:

- Bodily injury from \$100,000 to \$250,000 per person, \$300,000 to \$500,000 per occurrence;
- Property damage from \$50,000 to \$250,000 per occurrence, \$100,000 to \$500,000 in the aggregate; and,
- Combined single-limit coverage from \$400,000 to \$500,000 in the aggregate.

For wood-destroying organism inspection licenses, the limits are increased from \$50,000 to \$250,000 in the aggregate, \$25,000 to \$250,000 per occurrence, and financial responsibility from \$100,000 to \$500,000.

Pest Control Customer Contact Centers

¹ Section 570.0705, F.S.

² Section 112.061, F.S., establishes per diem and travel expenses for public officers, employees, and other authorized persons.

³ FY 2006-07

Current Situation

Some pest control companies operate regional customer contact centers that solicit business and receive calls for the appropriate state/area in the region. These companies maintain that pest control contact centers provide licensees with a more efficient means of providing service to customers.

Florida law currently requires pest control businesses to register and obtain an annual license⁴ for each location. In addition to being licensed, a pest control business must have at least one certified operator in charge at each location to provide oversight and training for the identification card holders who perform the actual pesticide application.⁵ Currently, a customer contact center may not solicit business or receive calls from customers located in Florida without the requisite pest control licenses.

Effect of Proposed Changes

The bill provides for the establishment, monitoring, and regulation of centralized pest control customer contact centers, allowing licensed centers to solicit pest control business and provide service to consumers for one or more business locations. The bill establishes a licensing fee⁶ and biennial renewal fee.⁷ The department is authorized to deny or refuse to renew a license if:

- The pest control business licensees for whom it solicits business are not owned in common by a person or business entity recognized by the state.
- The applicant or licensee, or one or more of the applicant's or licensee's directors, officers, owners, or general partners, are or have been directors, officers, owners, or general partners of a pest control business that have gone out of business or sold the business to another party within 5 years immediately preceding the date of application or renewal and failed to reimburse the prorated value of its customers' remaining contract periods or failed to provide for another licensed pest control operator to assume its existing contract responsibility.
- A person who solicits pest control services or provides customer service in a licensed customer contact center performs pest control services such as: the use or application of a device or application to prevent or control any pest in, on, or under a structure, lawn, or ornamental; the identification of or inspection for infestation in, on, or under a structure, lawn, or ornamental; the use of pesticides, poisons, or devices for preventing or controlling insects, vermin, rodents, pest birds, bats, or other pests in, on, or under a structure, lawn, or ornamental; or performing any phase of fumigation.

The department is given rule-making authority for implementing provisions related to the recordkeeping and monitoring of pest control customer contact centers. The bill also provides criteria for disciplinary action against a pest control customer contact center or a pest control business licensee of the contact center.

Certification for Commercial Wildlife Management Personnel

Current Situation

For several years, the Florida Fish and Wildlife Conservation Commission issued permits for persons engaged in the control of nuisance wildlife. Interest in the permitting system dwindled over the years and the permitting was discontinued in 2008. Several persons still engaged in the control of nuisance wildlife have contacted the Department of Agriculture and Consumer Services (department) asking to have a certification process reinstated to assure that the nuisance animals are being handled humanely and the public is protected.

Under current law, pest control is defined as the use of any method or device or the application of any substance to prevent, destroy, repel, mitigate, curb, control, or eradicate any pest in, on, or under a structure, lawn, or ornamental. Pest is defined as an arthropod, wood-destroying organism, rodent (defined in statute to include: rats, mice, squirrels, flying squirrels, or other animals of the order Rodentia, including bats, which may become a pest in, on, or under a structure), or other obnoxious or

⁴ The license fee must be at least \$75 and not more than \$300.

⁵ The certification fee for a certified operator is \$150 and the fee for and identification card holder is \$10.

⁶ The license fee must be at least \$600 and not more than \$1,000.

⁷ The renewal fee must be at least \$600 and not more than \$1,000.

undesirable living plant or animal organism. Persons practicing pest control are required to be licensed under chapter 482, F.S.

Effect of Proposed Changes

The bill creates a limited certificate authorizing individual commercial wildlife trapper personnel to use nonchemical methods to control "rodents", which also includes rats, mice, squirrels, flying squirrels, or other animals of the order Rodentia, including bats, which may become a pest in, on, or under a structure. The bill does not require individuals who trap these animals by nonchemical means to obtain any license or certificate, but those who choose to obtain the certification and who practice accepted pest control methods are not required to be licensed as pest control businesses and are immune from liability under the animal cruelty provisions. The bill does not conflict with or supersede any Fish and Wildlife Conservation Commission rule, regulation, or authority.

Certification does not allow: the use of pesticides or chemicals to control rodents; operation of a pest control business; or, supervision of an uncertified person using non-chemical methods to control rodents.

Persons seeking limited certification must pass an examination given by the department. An examination fee of at least \$150, but not more than \$300, may be set by rule of the department. The department is required to provide appropriate reference materials for the examination and make the examination readily available to applicants at least quarterly or as necessary in each county. Prior to receiving limited certification, each applicant must furnish proof of insurance, stating that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage as required by statute.⁸

Fumigation Notice

Current Situation

Currently, to protect the health, safety and welfare of the public, a pest control licensee must give the department an advance notice of at least 24 hours of the location where general fumigation will be taking place. In emergency cases, when a 24-hour notice is not possible, a licensee may provide notice by means of a telephone call and then follow up with a written confirmation providing the required information.

Effect of Proposed Changes

The bill allows a licensee to contact the department regarding the location where fumigation will be taking place by facsimile or another form of electronic communication, as well as by telephone.

Pesticide Registration

Current Situation

Currently, each brand of pesticide distributed, sold, or offered for sale in the state must be registered biennially by the department.⁹ The registrant must supply the department with such information as: the name and address of the registrant, the pesticide brand name, an ingredient statement, and a copy of the labeling. Registrants are required to pay a fee per brand of pesticide and another fee for each special local need label and experimental use permit. The department may also assess a supplemental fee to offset the costs of testing for food safety for pesticide brands that contain an active ingredient for which the U.S. Environmental Protection Agency (EPA) has established a food tolerance limit.¹⁰ The department is authorized to assess late fees for registrations¹¹ that are not timely renewed. Fees collected through the pesticide registration program are deposited into the General Inspection Trust Fund and used to carry out the provisions of the registration program.

⁸ Section 482.071(4), F.S.

⁹ The registration requirement also applies to pesticide brands delivered for transportation or transported in intrastate commerce or between points within the state through any point out of the state.

¹⁰ Per 40 C.F.R., part 180

¹¹ These include pesticide brands, special local need labels, and/or experimental use permits.

Effect of Proposed Changes

The bill requires registered pesticide brand products that undergo label revision during the biennium to provide the department with a copy of the revised label, including a cover letter that details the changes. This must be done prior to the "newly labeled" pesticide brand being distributed or offered for sale. If the revised label warrants notification of or amendment review by the EPA, the registrant must submit an additional copy of the label with markings to identify those revisions.

The bill also provides that, by January 1, 2013, all fees related to pesticide registration must be submitted electronically using the department's e-commerce/eGov web site. The bill states that any fees associated with the pesticide brand registration program are non-refundable.

Food Safety

Current

The department currently has a Division of Food Safety and a Division of Dairy. The Division of Food Safety is responsible for assuring that the public has a safe and wholesome food supply through the permitting and inspection of food establishments, inspection of food products, and performance of specialized laboratory analyses on a variety of food products sold or produced in the state. The Division of Dairy is responsible for inspecting dairy farms in the state and enforcing provisions relating to milk and milk products to ensure dairy products are wholesome and produced under sanitary conditions. The Division of Dairy is also responsible for inspecting milk plants, milk product plants, and plants that manufacture and distribute frozen desserts and frozen desserts mix, as well as analyzing and testing samples of milk, milk products, frozen desserts, and frozen desserts mix.

In 2010, the Legislature enacted legislation¹² creating s. 500.70, F.S., authorizing the department to adopt rules establishing food safety standards to safeguard the public health and promote the public welfare by protecting the consuming public from injury caused by the adulteration or the microbiological, chemical, or radiological contamination of tomatoes. The law also required the rules to apply to the producing, harvesting, packing, and repacking of tomatoes for sale for human consumption by a tomato farm, tomato greenhouse, or tomato packinghouse or repacker in this state. The law specifically authorized the rules to establish standards for:

- Registration with the department of persons who produce, harvest, pack or repack tomatoes in the state, such as farms, who do not hold a food permit issued under s. 500.12, F.S.¹³
- Proximity of domestic animals and livestock to the production areas for tomatoes;
- Food safety-related use of water for irrigation during production and washing of tomatoes after harvest;
- Use of fertilizers;
- Cleaning and sanitation of containers, materials, equipment, vehicles, and facilities, including storage and ripening areas;
- Health, hygiene, and sanitation of employees who handle tomatoes;
- Training and continuing education of persons who produce, harvest, pack, or repack tomatoes in the state, and their employees who handle tomatoes; and,
- Labeling and recordkeeping, including standards for identifying and tracing tomatoes for sale for human consumption.

The department has statutory authority to establish standards for registration and to set registration costs for the tomato food safety program, but does not have statutory authority to require registration or payment of said registration costs.

¹² CS/CS/HB 69

¹³ Section 500.12, F.S., requires any person who operates a food establishment or retail food store to obtain a food permit from the department. The exceptions to the permit requirement include:

- Persons operating minor food outlets that sell prepackaged candy, chewing gum, soda, or popcorn provided in shelf space of less than 12 linear feet.
- Persons subject to continuous, onsite federal or state inspection.
- Persons selling only legumes, in the shell, either parched, roasted or boiled.
- Persons selling sugar cane or sorghum syrup that has been boiled and bottled on a premise located within the state.

Effect of Proposed Changes

The bill abolishes the Division of Dairy within the department and transfers the duties and responsibilities associated with that division to the Division of Food Safety. The Division of Food Safety will assume responsibility for inspecting dairy farms in the state and enforcing provisions relating to milk and milk products to ensure dairy products are wholesome and produced under sanitary conditions. The Division of Food Safety will also assume responsibility for inspecting milk plants, milk product plants, and plants that manufacture and distribute frozen desserts and frozen desserts mix, as well as analyzing and testing samples of milk, milk products, frozen desserts, and frozen desserts mix.

The bill creates subsection (7) in s. 500.70, F.S., to require that any person who produces, harvests, packs, or repacks tomatoes that are not permitted according to s. 500.12, F.S., must also register each location annually by August 1 on a form prescribed by the department. If the bill passes, individuals who produce, harvest, pack, or repack tomatoes must register, along with the location where such activities are occurring. One registration may be submitted for all locations, but the physical address of each location must be provided. The bill authorizes the department to set by rule an annual registration fee not to exceed \$500. Monies collected from the registration fee must be deposited into the General Inspection Trust Fund.

Florida Forest Service (FFS) **Certified Pile Burner Program**

Current Situation

Under current law, certain requirements must be met for a person to burn wild land or vegetative land-clearing debris. Current law also regulates prescribed burning, which can be performed only when a certified prescribed burn manager is present. The certified burn manager must be on site from ignition of the burn to its completion and have in his/her possession a copy of the prescription. The FFS currently has a voluntary Certified Pile Burner program (program) in place; however, this program is not specifically authorized in statute.

Currently, the FFS sets burn restrictions by rule; however nothing in the statutes allows enforcement of these rules. Therefore, there is no punishment for someone who chooses not to comply.

Effect of Proposed Changes

The bill codifies the Certified Pile Burner 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:

- 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 law¹⁴ 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 FFS is given rule-making authority to implement the certified pile burning program.

The bill authorizes the FFS to send notices of Wildfire Hazard Reduction Treatment to landowners in wildfire hazard areas.

¹⁴ Section 590.13, F.S.
STORAGE NAME: pcb01.ANRS
DATE: 3/21/2011

The bill subjects violations of FFS rules to administrative fines, not to exceed \$1,000 per violation and creates a new criminal penalty¹⁵ for persons who fail to comply with any rule or order adopted by the FFS or who knowingly make any false statement or representation in any application, record, plan, or other document required by Chapter 597, F.S., or any rules adopted under Chapter 597, F.S.

Delegation of Authority for Local Burning

Current Situation

Current law provides for the delegation of authority to the FFS, by the Department of Environmental Protection, to control and prohibit air and water pollution in any way possible. However, the FFS does not have the statutory authority to delegate to local governments the authority to implement a burn authorization program, although many local governments have expressed an interest, and ability, to implement such a program with FFS guidance. Currently, some counties issue permits under their own authority, but because the FFS has the final authority regarding open burning, the department is required to come behind and re-issue daily authorizations. By delegating the authorization, only one permit will be required as opposed to one from the county and one from the FFS.

Effect of Proposed Changes

The bill authorizes the FFS to delegate authority to local governments to issue authorizations for open burning. The local government's program must be approved by the FFS, provide ordinances or local laws that comply 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 FFS determines that a local government's program does not comply with state law or corresponding rules, the FFS 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 FFS may 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 FFS in carrying out the FFS'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.¹⁶

The FFS retains final authority regarding the issuance of authorizations for broadcast burning, as well as agricultural and silvicultural burning. The bill preempts to the FFS exclusive authority in these areas.

Proceeds from Easements

Currently, the Department of Environmental Protection (DEP) receives the proceeds from the sale of easements for the construction and operation of electric transmission and distribution facilities on Board of Trustees (BTO) owned lands managed by the department. The funds are retained by the DEP to administer the Florida Forever program. The bill allows the lead managing agency to receive the proceeds for easements over BOT-owned lands. The managing agency may then use the funds towards the management of state conservation lands.

Department Authority

Currently, the department's functions, powers and duties include "for pollution control purposes, to regulate open burning connected with rural land clearing, agricultural, or forestry operation, except fires for cold or frost protection." This function is amended to delete reference to "rural" and to delete the current exception for fires for cold or frost protection.

FFS Selected Exempt

Currently, neither the aviation manager nor the FFS training coordinator have Selected Exempt Status in the state personnel designation. The bill provides both the aviation manager and the FFS training coordinator with Selected Exempt status.

¹⁵ Violations of program provisions are a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or a fine of \$500.

¹⁶ Ibid

Enforcement of the Florida Building Code

The Florida Building Code has been revised several times in recent years and, according to the department, this has created confusion among local governments regarding code interpretation and led to a cumbersome and costly process for the department as they construct facilities for wildfire equipment in different parts of the state. The bill exempts the department from local government enforcement regarding the Florida Building Code as it relates to wildfire and law enforcement facilities and provides for the department to exercise exclusive enforcement authority.

Surplus FFS Property

Prior to 2006, when the law¹⁷ was changed, the department had the authority to use monies acquired from the disposition of surplus firefighting equipment to reinvest in other firefighting equipment. Since 2006, the department must seek a special appropriation before the funds can be reinvested in other equipment. Also, current law¹⁸ requires that all replaced equipment be reported for disposal within 45 days of being replaced. Current law¹⁹ also requires DMS to approve the disposal of any motor vehicles or aircraft. Due to the nature of emergency response, the department's equipment needs vary from year to year. Because funding for replacement equipment is inadequate, the department has requested the flexibility to retain replaced equipment to meet future emergency needs and for use as backup for the frontline equipment. The bill allows the department to retain the monies acquired from the sale of state-owned firefighting equipment and vehicles. The monies received may be used for the acquisition of exchange and surplus equipment, and for necessary operating costs related to the equipment. The bill requires the department to maintain records of the accounts into which the money is deposited. The department is also given the authority to dispose of surplus firefighting equipment and vehicles when, and as, it sees fit.

Other Department Issues

Direct/Citizen Support Organizations

A direct /citizen support organization (DSO) is a separate, not-for-profit corporation organized and operated exclusively to assist a specific organization by providing supplemental resources from grants, gifts and bequests of money and/or services. These organizations are authorized by Florida statute to receive, hold, invest and administer property, and to make expenditures to or for the benefit of the specific organization. State law²⁰ requires DSO's to obtain an annual financial audit conducted by an independent certified public accountant if the annual expenditures are more than \$100,000. The law provides an exemption from the auditing requirement for DSO's under the purview of the Department of Environmental Protection (DEP) that are not for profit and have annual expenditures of less than \$300,000.

The bill exempts the department's DSO's that are not for profit and have annual expenditures of less than \$300,000 from obtaining annual audits.

Energy

The Office of Water Coordination (OWC), within the department, was established in 1995 by the Florida Legislature to facilitate communications among federal, state, local agencies, and the agricultural industry on water quantity and water quality issues involving agriculture. The OWC is actively involved in the development of best management practices (BMPs), addressing both water quality and water conservation on a site specific, regional, and watershed basis. The office is also directly involved with statewide programs to implement the Federal Clean Water Act's Total Maximum Daily Load (TMDL) requirements for agriculture. The OWC works cooperatively with agricultural producers and industry groups, the DEP, the university system, the water management districts, and other interested parties to develop and implement BMP Programs that are economically and technically feasible.

The bill renames the Office of Water Coordination to the Office of Energy and Water.

¹⁷ Ch. 2006-122, s. 40, L.O.F.

¹⁸ Section 287.16, F.S.

¹⁹ Section 273.055, F.S.

²⁰ Section 215.981(1), F.S.

Florida's "Farm to Fuel" initiative seeks to enhance the market for and promote the production, and distribution of, renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass. In the process, it is designed to give Florida agricultural producers alternative crops to grow to keep their farms and ranches viable. Current statute requires the department to coordinate with and solicit the expertise of the state energy office within DEP when developing and implementing this initiative.

Because the state energy office is no longer in the DEP, this requirement is no longer necessary in statute.

Florida State Fair Authority

The Florida State Fair Authority (authority) is an instrument of the state, under the supervision of the Commissioner of Agriculture (Commissioner). The authority, composed of 21 members, is responsible for staging an annual fair to serve the entire state. The Commissioner, or his/her designee, serves as a voting member. There is also a member who serves as a member of the Board of County Commissioners of Hillsborough County, the district where the state fairgrounds are located. The Commissioner appoints the remaining members of the authority. Each member serves a 4-year term and may be appointed for more than one term.

The bill provides for the membership of the authority to be increased to 22 members, with the appointment of a non-voting youth member who is active in the Florida Future Farmers of America or a 4-H Club. The youth member's term is for one year.

Apiary

Florida law currently provides criminal charges²¹ for the theft of any commercially farmed animal, such as horses, cows, sheep, swine, or other grazing animals, including aquaculture. The bill amends current law to include the theft of bee colonies of registered beekeepers.

Current law defines "farm theft" as the unlawful taking possession of any items that are grown or produced on land, owned, rented, or leased by another person. The definition of "farm theft" is amended to include the equipment and associated materials used to grow or produce the farm products as defined in the Florida Right to Farm Act²². The definition of "farmer" is also amended to include those persons who produce honey.

B. SECTION DIRECTORY:

Section 1: Amending s. 14.24, F.S.; removing a provision relating to per diem and travel expenses.

Section 2: Amending s. 20.14, F.S.; removing a reference to the Dairy Industry.

Section 3: Amending s. 215.981, F.S.; exempting certain direct-support and citizen support organizations for the Department of Agriculture and Consumer Services (department) from obtaining an independent audit.

Section 4: Amending s. 253.02, F.S.; providing for the grantee of easements for electrical transmission to pay the lead manager of the state owned lands or, when there is no lead manager, the Department of Environmental Protection if suitable replacement uplands cannot be identified.

Section 5: Amending s. 261.04, F.S.; removing a provision relating to per diem and travel expenses.

Section 6: Amending s. 472.007, F.S.; removing a provision relating to per diem and travel expenses.

Section 7: Amending s. 482.051, F.S.; providing rule changes that allow operators to provide certain emergency notice to the department by facsimile or other electronic means.

²¹ Grand theft of the third degree and a felony of the third degree, punishable by imprisonment not exceeding 5 years, \$5,000 fine or, for habitual offenders, for a term of imprisonment not exceeding 10 years.

²² Section 823.14(3)(c), F.S.

Section 8: Amending s. 482.071, F.S.; increasing the minimum bodily injury and property damage insurance coverage required for pest control businesses.

Section 9: Creating s. 482.072, F.S.; providing for licensure by the department of pest control customer contact centers; providing application requirements; and, providing for fees, licensure renewal, penalties, licensure expiration and transfer of licenses.

Section 10: Creating s. 482.157, F.S.; providing for the certification of commercial wildlife trappers; providing certification requirements, examination requirements, and fees; limiting the scope of work permitted by certificate holders; and, clarifying that licensees and certificate holders who practice accepted pest control methods are immune from liability for violating laws prohibiting cruelty to animals.

Section 11: Amending s. 482.226, F.S.; increasing the minimum financial responsibility requirements for licensees that perform certain inspections.

Section 12: Amending s. 482.243, F.S.; removing a provision relating to per diem and travel expenses.

Section 13: Amending s. 487.041, F.S.; deleting a cap for late fees for pesticide brand renewal; providing that fees relating to pesticide brands are non-refundable; providing requirements for label revisions of pesticide brands; providing requirements for label revisions that must be reviewed by the U.S. Environmental Protection Agency; and, providing for payments of pesticide registration fees to be submitted electronically by a date certain.

Section 14: Amending s. 487.0615, F.S.; removing a provision relating to per diem and travel expenses.

Section 15: Amending s. 500.70, F.S.; requiring certain persons that produce, harvest, pack, or repack tomatoes to register each location by a date certain; providing for a fee to be set by department rule for registration; and, providing for funds collected to be deposited into the General Inspection Trust Fund.

Section 16: Amending s. 527.22, F.S.; removing a provision relating to per diem and travel expenses.

Section 17: Amending s. 559.9221, F.S.; removing a provision relating to per diem and travel expenses.

Section 18: Amending s. 570.07, F.S.; revising the powers and duties of the department regarding pollution control and the prevention of wildfires.

Section 19: Amending s. 570.0705, F.S.; removing a provision relating to per diem and travel expenses.

Section 20: Amending s. 570.074, F.S.; renaming the Office of Water Coordination to the Office of Energy and Water.

Section 21: Amending s. 570.23, F.S.; removing a provision relating to per diem and travel expenses.

Section 22: Amending s. 570.29, F.S.; deleting a reference to the Dairy Industry.

Section 23: Amending s. 570.38, F.S.; removing a provision relating to per diem and travel expenses,

Section 24: Amending s. 570.382, F.S.; removing a provision relating to per diem and travel expenses.

Section 25: Repealing s. 570.40, F.S.; relating to the powers and duties of the Division of Dairy.

Section 26: Repealing s. 570.41, F.S.; relating to the qualifications and duties of the Director for the Division of Dairy.

Section 27: Amending s. 570.42, F.S.; removing a provision relating to per diem and travel expenses.

Section 28: Amending s. 570.50, F.S.; amending the powers and duties of the Division of Food Safety to include inspecting dairy farms and enforcing the provisions of Chapter 502, F.S.; authorizing the division to inspect milk plants, milk product plants, and plants engaged in the manufacture and distribution of frozen desserts and frozen desserts mix; and, authorizing the division to analyze and test samples of milk, milk products, frozen desserts, and frozen desserts mix.

Section 29: Amending s. 570.543, F.S.; removing a provision relating to per diem and travel expenses.

Section 30: Amending s. 570.954, F.S.; removing the requirement that the department coordinate with and solicit the expertise of the state energy office when developing the farm-to-fuel initiative.

Section 31: Amending s. 571.28, F.S.; removing a provision relating to per diem and travel expenses.

Section 32: Amending s. 573.112, F.S.; removing a provision relating to per diem and travel expenses.

Section 33: Amending s. 576.091, F.S.; removing a provision relating to per diem and travel expenses.

Section 34: Amending s. 580.151, F.S.; removing a provision relating to per diem and travel expenses.

Section 35: Amending s. 581.186, F.S.; removing a provision relating to per diem and travel expenses.

Section 36: Amending s. 586.161, F.S.; removing a provision relating to per diem and travel expenses.

Section 37: Amending s. 590.015, F.S.; amending the definition for “fire management services”; and, providing a definition for “open burning” and “broadcast burning”.

Section 38: Amending s. 590.02, F.S.; authorizing forest operations administrators to be certified as forestry firefighters; providing Selected Exempt Service status to an aviation manager and Florida Forest Service training coordinator; authorizing the department to have exclusive authority over the Florida Building code as it pertains to wildfire and law enforcement facilities under the jurisdiction of the department; authorizing the department to retain, transfer warehouse, bid, destroy, scrap or dispose of surplus wildland firefighting equipment and vehicles; authorizing the department to retain any monies received from the disposition of state-owned wildland firefighting equipment and vehicles; providing that monies received may be used for the acquisition of exchange and surplus wildland firefighting equipment and all necessary operating expenditures related to the equipment in the same fiscal year and fiscal year following disposition; requiring the department to maintain records of the accounts into which the money is deposited; giving the department exclusive authority to require and issue authorizations for broadcast burning, and agricultural and silvicultural pile burning; preempting other governmental entities from adopting laws, regulations, rules or policies pertaining to broadcast burning, or agricultural or silvicultural pile burning unless the department has delegated its authority or an emergency order has been declared; and, authorizing the department to delegate its authority to a county or municipality to issue authorizations for the burning of yard trash and debris from land clearing operations.

Section 39: Amending s. 590.125, F.S.; revising definitions for pile burning authorizations; specifying purposes of certified prescribed burning; requiring the authorization of the Florida Forest Service for certified pile burning; providing pile burning requirements; limiting the liability of property owners or agents engaged in pile burning; providing for the certification of pile burners; providing penalties for violations by certified pile burners; requiring rules; revises notice requirements for wildfire hazard reduction treatments; providing for approval of local government open burning authorization programs; providing program requirements; authorizing the division to close local government programs under certain circumstances; and, providing penalties for violations of local government open burning requirements.

Section 40: Amending s. 590.14, F.S.; authorizing fines for violations of any Florida Forest Service rules; providing penalties for certain violations; and, providing legislative intent.

Section 41: Amending s. 597.005, F.S.; removing a provision relating to per diem and travel expenses.

Section 42: Amending s. 599.002, F.S.; removing a provision relating to per diem and travel expenses.

Section 43: Amending s. 616.252, F.S.; providing for a youth member to serve on the Florida State Fair Authority as a non-voting member; providing a term of one year for a youth member of the Authority; excluding youth members from compensation for special or full-time service performed on behalf of the Authority.

Section 44: Amending s. 812.014, F.S.; providing penalties for the theft of bee colonies of registered beekeepers.

Section 45: Amending s. 812.015, F.S.; amending definitions for "farmer" and "farm theft".

Section 46: Providing an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:	FY 10-11	FY 11-12	FY 12-13
<u>Food Safety</u>			
Registration of Tomato Farms	\$ -	\$ 2,500	\$ 3,000
<u>Pest Control Registration</u>			
<u>Customer Contact Center</u>			
License*	\$ 6,000	-	\$ 6,000
Limited Certification Wildlife			
Limited Certification Exam**	15,000	7,500	7,500
Limited Certification Renewal***	-	7,500	7,500
	<u>\$ 21,000</u>	<u>\$ 15,000</u>	<u>\$ 21,000</u>

*Based on 10 licenses issued per year at \$600 each, renewing biennially.

**Based on 100 exams the first year, 50 the second and third years, at \$150 each.

***Based on 100 renewals at \$75 each.

2. Expenditures:

<u>Food Safety</u>			
Registration of Tomato Farms*	\$ -	\$ 150	\$ 175
<u>Pest Control Registration</u>			
Inspections*	\$ 15,860	\$ 15,860	\$ 15,860
License Issuance**	<u>1,097</u>	<u>499</u>	<u>1,595</u>
	\$ 16,957	\$ 16,359	\$ 17,455

*FY 09-10 unit cost per inspection, 20 inspections at \$793.

**FY 09-10 unit cost per license, 110 inspections at \$9.97 the first year, 50 inspections the second year, and 160 inspections the third year.

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:

Persons serving on advisory committees for the Department of Agriculture and Consumer Services (department) and members and former members of the Board of Surveyors and Mappers will be responsible for covering any travel expenses they incur while performing the duties associated with said service.

Pest control businesses that choose to obtain the pest control customer contact center license and individuals choosing to obtain a limited certification for commercial wildlife management personnel will incur fees associated with these licenses. Also, pest control businesses that do not currently have the proposed minimum insurance requirements will need to meet these requirements, resulting in additional costs.

Companies registering pesticides are required to submit their registration fees by means of the electronic commerce site. Some companies may have to adjust the process by which they register to accommodate this change; however, the reduction in postage and paperwork should reduce the overall cost.

While some tomato farms are in compliance, there are a few that may be impacted by the requirement to register locations with the Department of Agriculture and Consumer Services, as well as pay an annual registration fee.

The bill provides civil liability protection to certified pile burners. Persons wishing to obtain an authorization for open burning will no longer be required to obtain two permits. Persons who fail to comply with rules adopted by the department relating to the Florida Forest Service may be charged with civil/criminal charges.

D. FISCAL COMMENTS:

According to a 2007 response to a Joint Legislative Sunset Committee request, the department had approximately 50 advisory boards, councils, or committees that incurred travel, staff, and other expenses totaling approximately \$220,000.²³

A provision in the bill providing for civil/criminal charges for persons who fail to comply with rules adopted by the Department of Agriculture and Consumer may result in a local government needing to expend funds.

Other provisions in the bill having an indeterminate fiscal impact include:

- Provisions allowing the lead managing agency to receive the proceeds for easements over Board of Trustees-owned lands.
- Designation of the aviation manager and the FFS training coordinator as Selected Exempt Status in the state personnel designation.
- Provisions allowing the department to retain monies acquired from the sale of state-owned firefighting equipment and vehicles and to dispose of surplus firefighting equipment and vehicles when, and as, it sees fit.

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 Agriculture and Consumer Services is given rule-making authority regarding:

- Requirements and procedures for pest control customer contact centers.
- Fees for recertification of limited certification for commercial wildlife management personnel.
- Fees for the tomato food safety registration program.
- Regulating certified pile burning.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill "requires persons who produce, harvest, pack, or repack tomatoes that are not permitted according to s. 500.12, F.S., to register each location annually by August 1 on a form prescribed by the department." However, the term "location" is not defined, thus making it unclear what must be registered.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 | A bill to be entitled
 2 | An act relating to Department of Agriculture and Consumer
 3 | Services; amending s. 14.24, F.S.; deleting provisions
 4 | related to per diem and travel expenses; amending s.
 5 | 20.14, F.S.; deleting a reference to the Division of
 6 | Dairy; amending s. 215.981, F.S.; exempting certain
 7 | direct-support organizations and citizen support
 8 | organizations for the Department of Agriculture and
 9 | Consumer Services from obtaining an independent audit;
 10 | amending s. 253.02, F.S.; providing for the grantee of
 11 | easements for electrical transmission to pay the lead
 12 | manager of the state owned lands or, when there is no lead
 13 | manager, the Department of Environmental Protection if
 14 | suitable replacement uplands cannot be identified;
 15 | amending s. 261.04, F.S.; deleting provisions related to
 16 | per diem and travel expenses; amending s. 472.007, F.S.;
 17 | deleting provisions related to per diem and travel
 18 | expenses; amending s. 482.051, F.S.; providing rule
 19 | changes that allow operators to provide certain emergency
 20 | notice to the Department of Agriculture and Consumer
 21 | Services by facsimile or electronic means; amending s.
 22 | 482.071, F.S.; increasing the minimum bodily injury and
 23 | property damage insurance coverage required for pest
 24 | control businesses; creating s. 482.072, F.S.; providing
 25 | for licensure by the department of pest control customer
 26 | contact centers; providing application requirements;
 27 | providing for fees, licensure renewal, penalties,
 28 | licensure expiration, and transfer of licenses; creating

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29 s. 482.157, F.S.; providing for the certification of
 30 commercial wildlife trappers; providing certification
 31 requirements, examination requirements, and fees; limiting
 32 the scope of work permitted by certificate holders;
 33 clarifying that licensees and certificateholders who
 34 practice accepted pest control methods are immune from
 35 liability for violating laws prohibiting cruelty to
 36 animals; amending s. 482.226, F.S.; increasing the minimum
 37 financial responsibility requirements for licensees that
 38 perform certain inspections; amending s. 482.243, F.S.;
 39 deleting provisions relating to reimbursement; amending s.
 40 487.041, F.S.; providing that fees relating to pesticide
 41 brands are non-refundable; providing requirements for
 42 label revisions of pesticide brands; providing
 43 requirements for label revisions that must be reviewed by
 44 the U.S. Environmental Protection Agency; providing for
 45 payments of pesticide registration fees to be submitted
 46 electronically by a date certain; amending s. 487.0615,
 47 F.S.; deleting reference relating to per diem and travel;
 48 amending s. 500.70, F.S.; requiring certain persons that
 49 produce, harvest, pack, or repack tomatoes to register
 50 each location by a date certain; providing for a fee to be
 51 set by rule for registration; providing for funds
 52 collected to be deposited into the General Inspection
 53 Trust Fund; amending s. 527.22, F.S.; deleting provisions
 54 relating to per diem and travel expenses; amending s.
 55 559.9221, F.S.; deleting provisions relating to per diem
 56 and travel expenses; amending s. 570.07, F.S.; revising

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57 | the powers and duties of the Department of Agriculture and
 58 | Consumer Services regarding pollution control and the
 59 | prevention of wildfires; amending s. 570.0705, F.S.;
 60 | deleting provisions relating to per diem and travel
 61 | expenses; amending s. 570.074, F.S.; revising the name of
 62 | the Office of Water Coordination to the Office of Energy
 63 | and Water; amending s. 570.23, F.S.; deleting provisions
 64 | relating to per diem and travel expenses; amending s.
 65 | 570.29, F.S.; deleting a reference to the Dairy Industry;
 66 | amending s. 570.38, F.S.; deleting provisions relating to
 67 | per diem and travel expenses; amending s. 570.382, F.S.;
 68 | deleting provisions relating to per diem and travel
 69 | expenses; repealing s. 570.40, F.S.; relating to the
 70 | powers and duties of the Division of Dairy; repealing s.
 71 | 570.41, F.S.; relating to the qualifications and duties of
 72 | the Director of the Division of Dairy; amending s. 570.42,
 73 | F.S.; deleting provisions relating to per diem and travel
 74 | expenses; amending s. 570.50, F.S.; amending the powers
 75 | and duties of the Division of Food Safety to include
 76 | inspecting dairy farms and enforcing the provisions of ch.
 77 | 502; authorizing the Division of Food Safety to inspect
 78 | milk plants, milk product plants, and plants engaged in
 79 | the manufacture and distribution of frozen desserts and
 80 | frozen desserts mix; authorizing the Division of Food
 81 | Safety to analyze and test samples of milk, milk products,
 82 | frozen desserts, and frozen desserts mix; amending s.
 83 | 570.543, F.S.; deleting provisions relating to per diem
 84 | and travel expenses; amending s. 570.954, F.S.; removing

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85 | the requirement that the Department of Agriculture and
 86 | Consumer Services coordinate with and solicit the
 87 | expertise of the state energy office when developing the
 88 | farm-to-fuel initiative; amending s. 571.28, F.S.;
 89 | deleting provisions relating to per diem and travel
 90 | expenses; amending s. 573.112, F.S.; deleting provisions
 91 | relating to per diem and travel expenses; amending s.
 92 | 576.091, F.S.; deleting provisions relating to per diem
 93 | and travel expenses; amending s. 580.151, F.S.; deleting
 94 | provisions relating to per diem and travel expenses;
 95 | amending s. 581.186, F.S.; deleting provisions relating to
 96 | per diem and travel expenses; amending s. 586.161, F.S.;
 97 | deleting provisions relating to per diem and travel
 98 | expenses; amending s. 590.015, F.S.; providing a
 99 | definition for "department"; amending the definition of
 100 | "fire management services"; providing a definition for
 101 | "open burning"; providing a definition for "broadcast
 102 | burning"; providing a definition for "broadcast burning";
 103 | amending s. 590.02, F.S.; authorizing forest operations
 104 | administrators to be certified as forestry firefighters;
 105 | providing Selected Exempt Service status to an aviation
 106 | manager and Florida Forest Service training coordinator;
 107 | authorizing the department to have exclusive authority
 108 | over the Florida Building code as it pertains to wildfire
 109 | and law enforcement facilities under the jurisdiction of
 110 | the department; authorizing the department to retain,
 111 | transfer, warehouse, bid, destroy, scrap or dispose of
 112 | surplus wildland firefighting equipment and vehicles;

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113 | authorizing the department to retain any monies received
 114 | from the disposition of state-owned wildland firefighting
 115 | equipment and vehicles; providing that monies received may
 116 | be used for the acquisition of exchange and surplus
 117 | wildland firefighting equipment and all necessary
 118 | operating expenditures related to the equipment in the
 119 | same fiscal year and fiscal year following disposition;
 120 | requiring the department to maintain records of the
 121 | accounts into which the money is deposited; giving the
 122 | department exclusive authority to require and issue
 123 | authorizations for broadcast burning, and agricultural and
 124 | silvicultural pile burning; preempting other governmental
 125 | entities from adopting laws, regulations, rules, or
 126 | policies pertaining to broadcast burning, or agricultural
 127 | or silvicultural pile burning unless an emergency order
 128 | has been declared; authorizing the department to delegate
 129 | its authority to a county or municipality to issue
 130 | authorizations for the burning of yard trash and debris
 131 | from land clearing operations; amending s. 590.125, F.S.;
 132 | revising terminology for open burning authorizations;
 133 | specifying purposes of certified prescribed burning;
 134 | requiring the authorization of the Florida Forest Service
 135 | for certified pile burning; providing pile burning
 136 | requirements; limiting the liability of property owners or
 137 | agents engaged in pile burning; providing for the
 138 | certification of pile burners; providing penalties for
 139 | violations by certified pile burners; requiring rules;
 140 | authorizing the Florida Forest Service to adopt rules

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141 regulating certified pile burning; revising notice
 142 requirements for wildfire hazard reduction treatments;
 143 providing for approval of local government open burning
 144 authorization programs; providing program requirements;
 145 authorizing the Florida Forest Service to close local
 146 government programs under certain circumstances; providing
 147 penalties for violations of local government open burning
 148 requirements; amending s. 590.14, F.S.; authorizing fines
 149 for violations of any Florida Forest Service rule;
 150 providing penalties for certain violations; providing
 151 legislative intent; amending s. 597.005, F.S.; deleting
 152 provisions relating to per diem and travel expenses;
 153 amending s. 599.002, F.S.; deleting provisions relating to
 154 per diem and travel expenses; amending s. 616.252, F.S.;
 155 providing for a youth member to serve on the Florida State
 156 Fair Authority as a non-voting member; providing a term of
 157 one year for a youth member of the Authority; excluding
 158 youth members from compensation for special or full-time
 159 service performed on behalf of the Authority; amending s.
 160 812.014, F.S.; including bee colonies of registered
 161 beekeepers regarding theft of farm products; amending s.
 162 812.015, F.S.; amending definitions; providing an
 163 effective date.

164
 165 Be It Enacted by the Legislature of the State of Florida:

166
 167 Section 1. Subsection (3) of section 14.24, Florida
 168 Statutes, is amended to read:

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169 14.24 Florida Commission on the Status of Women.—
 170 (3) Members of the commission shall serve without
 171 compensation, ~~but shall be reimbursed for per diem and travel~~
 172 ~~expenses in accordance with s. 112.061.~~

173 Section 2. Paragraph (f) of subsection (2) of section
 174 20.14, Florida Statutes, is amended to read:

175 20.14 Department of Agriculture and Consumer Services.—
 176 There is created a Department of Agriculture and Consumer
 177 Services.

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

180 ~~(f) Dairy Industry.~~

181 Section 3. Subsection (2) of section 215.981, Florida
 182 Statutes, is amended to read:

183 215.981 Audits of state agency direct-support
 184 organizations and citizen support organizations.—

185 (2) Notwithstanding the provisions of subsection (1),
 186 direct-support organizations and citizen support organizations
 187 for the Department of Environmental Protection or direct-support
 188 organizations and citizen support organizations for the
 189 Department of Agriculture and Consumer Services that are not for
 190 profit and that have annual expenditures of less than \$300,000
 191 are not required to have an independent audit. The department
 192 shall establish accounting and financial management guidelines
 193 for those organizations under the department's jurisdiction.
 194 Each year, the department shall conduct operational and
 195 financial reviews of a selected number of direct-support
 196 organizations or citizen support organizations which fall below

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197 the audit threshold established in this subsection.
 198 Section 4. Paragraph (b) of subsection (2) of section
 199 253.02, Florida Statutes, is amended to read:
 200 253.02 Board of trustees; powers and duties.-
 201 (2)
 202 (b) The authority of the board of trustees to grant
 203 easements for rights-of-way over, across, and upon uplands the
 204 title to which is vested in the board of trustees for the
 205 construction and operation of electric transmission and
 206 distribution facilities and related appurtenances is hereby
 207 confirmed. The board of trustees may delegate to the Secretary
 208 of Environmental Protection the authority to grant such
 209 easements on its behalf. All easements for rights-of-way over,
 210 across, and upon uplands the title to which is vested in the
 211 board of trustees for the construction and operation of electric
 212 transmission and distribution facilities and related
 213 appurtenances which are approved by the Secretary of
 214 Environmental Protection pursuant to the authority delegated by
 215 the board of trustees shall meet the following criteria:
 216 1. Such easements shall not prevent the use of the state-
 217 owned uplands adjacent to the easement area for the purposes for
 218 which such lands were acquired and shall not unreasonably
 219 diminish the ecological, conservation, or recreational values of
 220 the state-owned uplands adjacent to the easement area.
 221 2. There is no practical and prudent alternative to
 222 locating the linear facility and related appurtenances on state-
 223 owned upland. For purposes of this subparagraph, the test of
 224 practicality and prudence shall compare the social, economic,

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225 and environmental effects of the alternatives.

226 3. Appropriate steps are taken to minimize the impacts to
227 state-owned uplands. Such steps may include:

228 a. Siting of facilities so as to reduce impacts and
229 minimize fragmentation of the overall state-owned parcel;

230 b. Avoiding significant wildlife habitat, wetlands, or
231 other valuable natural resources to the maximum extent
232 practicable; or

233 c. Avoiding interference with active land management
234 practices, such as prescribed burning.

235 4. Except for easements granted as a part of a land
236 exchange to accomplish a recreational or conservation benefit or
237 other public purpose, in exchange for such easements, the
238 grantee pays an amount equal to the market value of the interest
239 acquired. In addition, for the initial grant of such easements
240 only, the grantee shall provide additional compensation by
241 vesting in the board of trustees fee simple title to other
242 available uplands that are 1.5 times the size of the easement
243 acquired by the grantee. The Secretary of Environmental
244 Protection shall approve the property to be acquired on behalf
245 of the board of trustees based on the geographic location in
246 relation to the land proposed to be under easement and a
247 determination that economic, ecological, and recreational value
248 is at least equivalent to the value of the lands under proposed
249 easement. Priority for replacement uplands shall be given to
250 parcels identified as inholdings and additions to public lands
251 and lands on a Florida Forever land acquisition list. However,
252 if suitable replacement uplands cannot be identified, the

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253 grantee shall provide additional compensation for the initial
 254 grant of such easements only by paying to the lead manager of
 255 the state owned lands or, when there is no lead manager by
 256 paying to the department, an amount equal to two times the
 257 current market value of the state-owned land or the highest and
 258 best use value at the time of purchase, whichever is greater.
 259 When determining such use of funds, priority shall be given to
 260 parcels identified as inholdings and additions to public lands
 261 and lands on a Florida Forever land acquisition list.

262 Section 5. Subsection (5) of section 261.04, Florida
 263 Statutes, is amended to read:

264 261.04 Off-Highway Vehicle Recreation Advisory Committee;
 265 members; appointment.-

266 (5) The members of the advisory committee shall serve
 267 without compensation, ~~but shall be reimbursed for travel and per~~
 268 ~~diem expenses as provided in s. 112.061,~~ while in the
 269 performance of their official duties.

270 Section 6. Subsection (5) of section 472.007, Florida
 271 Statutes, is amended to read:

272 472.007 Board of Professional Surveyors and Mappers.-There
 273 is created in the Department of Agriculture and Consumer
 274 Services the Board of Professional Surveyors and Mappers.

275 (5) ~~Unless otherwise provided by law, a board member or~~
 276 ~~former board member serving on a probable cause panel must be~~
 277 ~~compensated \$50 for each day in attendance at an official~~
 278 ~~meeting of the board and for each day participating in any other~~
 279 ~~business involving the board. The board shall adopt a rule~~
 280 ~~defining the phrase "other business involving the board."~~

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281 ~~However, the phrase may not routinely be defined to include~~
 282 ~~telephone conference calls. A board member is also entitled to~~
 283 ~~reimbursement for expenses pursuant to s. 112.061. Travel out of~~
 284 ~~state requires the prior approval of the commissioner or the~~
 285 ~~commissioner's designee.~~

286 Section 7. Subsection (4) of section 482.051, Florida
 287 Statutes, is amended to read:

288 482.051 Rules.—The department has authority to adopt rules
 289 pursuant to ss. 120.536(1) and 120.54 to implement the
 290 provisions of this chapter. Prior to proposing the adoption of a
 291 rule, the department shall counsel with members of the pest
 292 control industry concerning the proposed rule. The department
 293 shall adopt rules for the protection of the health, safety, and
 294 welfare of pest control employees and the general public which
 295 require:

296 (4) That a licensee, before performing general fumigation,
 297 notify in writing the department inspector having jurisdiction
 298 over the location where the fumigation is to be performed, which
 299 notice must be received by the department inspector at least 24
 300 hours in advance of the fumigation and must contain such
 301 information as the department requires. However, in an authentic
 302 and verifiable emergency, when 24 hours' advance notification is
 303 not possible, advance telephone, facsimile, or any form of
 304 acceptable electronic communication ~~telegraph notice~~ may be
 305 given; but such notice must be immediately followed by written
 306 confirmation providing the required information.

307 Section 8. Subsection (4) of section 482.071, Florida
 308 Statutes, is amended to read:

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309 482.071 Licenses.—

310 (4) A licensee may not operate a pest control business
 311 without carrying the required insurance coverage. Each person
 312 making application for a pest control business license or
 313 renewal thereof must furnish to the department a certificate of
 314 insurance that meets the requirements for minimum financial
 315 responsibility for bodily injury and property damage consisting
 316 of:

317 (a) Bodily injury: \$250,000 ~~100,000~~ each person and
 318 \$500,000 ~~300,000~~ each occurrence; and property damage: \$250,000
 319 ~~50,000~~ each occurrence and \$500,000 ~~100,000~~ in the aggregate; or

320 (b) Combined single-limit coverage: \$500,000 ~~400,000~~ in
 321 the aggregate.

322 Section 9. Section 482.072, Florida Statutes, is created
 323 to read:

324 482.072 Pest control customer contact centers.—

325 (1) The department may issue a license to a qualified
 326 business to operate a customer contact center, to solicit pest
 327 control business, or to provide services to customers for one or
 328 more business locations licensed under s. 482.071. A person may
 329 not operate a customer contact center for a pest control
 330 business that is not licensed by the department.

331 (2) (a) Before operating a customer contact center, and
 332 biennially thereafter, on or before an anniversary date set by
 333 the department for the licensed customer contact center
 334 location, the pest control business must apply to the department
 335 for a license under this chapter, or a renewal thereof, for each
 336 customer contact center location. An application must be

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337 submitted in the format prescribed by the department.

338 (b) The department shall establish a fee for the issuance
 339 of a customer contact center license of at least \$600, but not
 340 more than \$1,000, and a renewal fee of at least \$600, but not
 341 more than \$1,000, for a customer contact center license.

342 However, until renewal fee rules are adopted, the initial
 343 license and renewal fees are each \$600. The department shall
 344 establish a grace period, not to exceed 30 calendar days after
 345 the license's anniversary renewal date, and shall assess a late
 346 fee of \$150, in addition to the renewal fee, for a license that
 347 is renewed after the grace period.

348 (c) A license automatically expires 60 calendar days after
 349 the anniversary renewal date unless the license is renewed
 350 before that date. Once a license expires, it may be reinstated
 351 only upon reapplication and payment of the license renewal fee
 352 and late renewal fee.

353 (d) A license automatically expires if a licensee changes
 354 its customer contact center business location address. The
 355 department shall issue a new license upon payment of a \$250 fee.
 356 The new license automatically expires 60 calendar days after the
 357 anniversary renewal date of the former license unless the
 358 license is renewed before that date.

359 (e) The department may not issue or renew a license to
 360 operate a customer contact center unless the pest control
 361 business licensees for whom it solicits business are owned in
 362 common by a person or business entity recognized by this state.

363 (f) The department may deny a license or refuse to renew a
 364 license if the applicant or licensee, or one or more of the

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365 applicant's or licensee's directors, officers, owners, or
 366 general partners, are or have been directors, officers, owners,
 367 or general partners of a pest control business that meets the
 368 conditions in s. 482.071(2)(g).

369 (g) Sections 482.091 and 482.152 do not apply to a person
 370 who solicits pest control services or provides customer service
 371 in a licensed customer contact center unless the person performs
 372 the pest control work as defined in s. 482.021(22)(a)-(d),
 373 executes a pest control contract, or accepts remuneration for
 374 such work.

375 (h) Section 482.071(2)(e) does not apply to a license
 376 issued under this section.

377 (3)(a) The department shall adopt rules establishing
 378 requirements and procedures for recordkeeping and monitoring
 379 customer contact center operations to ensure compliance with
 380 this chapter and rules adopted hereunder.

381 (b) Notwithstanding any other provision of this chapter:

382 1. A customer contact center licensee is subject to
 383 disciplinary action under s. 482.161 for a violation of this
 384 chapter or a rule adopted hereunder committed by a person who
 385 solicits pest control services or provides customer service in a
 386 customer contact center.

387 2. A pest control business licensee may be subject to
 388 disciplinary action under s. 482.161 for a violation committed
 389 by a person who solicits pest control services or provides
 390 customer service in a customer contact center operated by the
 391 licensee if the licensee participates in the violation.

392 Section 10. Section 482.157, Florida Statutes, is created

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393 to read:

394 482.157 Limited certification for commercial wildlife
 395 management personnel.-

396 (1) The department shall establish a limited certificate
 397 authorizing individual commercial wildlife trapper personnel to
 398 use nonchemical methods, including traps, glue boards,
 399 mechanical or electronic devices, or exclusionary techniques to
 400 control rodents as defined in s. 482.021(23).

401 (2) A person seeking limited certificate under this
 402 section must pass an examination given by the department. Each
 403 application for examination must be accompanied by an
 404 examination fee set by rule of the department, in an amount of
 405 not more than \$300 or less than \$150. The department shall
 406 provide the appropriate reference materials for the examination
 407 and make the examination readily available to applicants at
 408 least quarterly or as necessary in each county. Prior to the
 409 department's issuing a limited certification under this
 410 section, each person applying for the certification must furnish
 411 proof of having a certificate of insurance which states that the
 412 employer meets the requirements for minimum financial
 413 responsibility for bodily injury and property damage required by
 414 s. 482.071(4).

415 (3) An application for recertification must be made
 416 annually and be accompanied by a recertification fee of not more
 417 than \$150 or less than \$75, as established by rule. The
 418 application also must be accompanied by proof of completion of
 419 the required 4 classroom hours of acceptable continuing
 420 education and the required proof of insurance. After a grace

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421 period not exceeding 30 calendar days after the recertification
 422 renewal date, a late fee of \$50 shall be assessed in addition to
 423 the renewal fee. A certificate automatically expires 180 days
 424 after the recertification date if the renewal fee has not been
 425 paid. After expiration, a new certificate shall be issued only
 426 upon successful reexamination and payment of the examination and
 427 late fees.

428 (4) Certification under this section does not authorize:

429 (a) The use of pesticides or chemical substances, other
 430 than adhesive materials, to control rodents or other nuisance
 431 wildlife in, on, or under structures;

432 (b) Operation of a pest control business; or

433 (c) Supervision of an uncertified person using non-
 434 chemical methods to control rodents.

435 (5) Persons licensed under this chapter who practice
 436 accepted pest control methods are immune from liability under s.
 437 828.12.

438 Section 11. Subsection (6) of section 482.226, Florida
 439 Statutes, is amended to read:

440 482.226 Wood-destroying organism inspection report; notice
 441 of inspection or treatment; financial responsibility.-

442 (6) Any licensee that performs wood-destroying organism
 443 inspections in accordance with subsection (1) must meet minimum
 444 financial responsibility in the form of errors and omissions
 445 (professional liability) insurance coverage or bond in an amount
 446 no less than \$500,000 ~~50,000~~ in the aggregate and \$250,000
 447 ~~25,000~~ per occurrence, or demonstrate that the licensee has
 448 equity or net worth of no less than \$500,000 ~~100,000~~ as

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449 determined by generally accepted accounting principles
 450 substantiated by a certified public accountant's review or
 451 certified audit. The licensee must show proof of meeting this
 452 requirement at the time of license application or renewal
 453 thereof.

454 Section 12. Subsection (6) of section 482.243, Florida
 455 Statutes, is amended to read:

456 482.243 Pest Control Enforcement Advisory Council.-

457 (6) The meetings, powers and duties, procedures, and
 458 ~~recordkeeping, and reimbursement of expenses of members of the~~
 459 ~~council~~ shall be in accordance with the provisions of s.
 460 570.0705 relating to advisory committees established within the
 461 department.

462 Section 13. Subsection (1) of section 487.041, Florida
 463 Statutes, is amended to read:

464 487.041 Registration.-

465 (1)(a) Effective January 1, 2009, each brand of pesticide,
 466 as defined in s. 487.021, which is distributed, sold, or offered
 467 for sale, except as provided in this section, within this state
 468 or delivered for transportation or transported in intrastate
 469 commerce or between points within this state through any point
 470 outside this state must be registered in the office of the
 471 department, and such registration shall be renewed biennially.
 472 Emergency exemptions from registration may be authorized in
 473 accordance with the rules of the department. The registrant
 474 shall file with the department a statement including:

475 1. The name, business mailing address, and street address
 476 of the registrant.

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477 2. The name of the brand of pesticide.

478 3. An ingredient statement and a complete current copy of
 479 the ~~labeling~~ accompanying the brand of ~~the~~ pesticide, which must
 480 conform to the registration, and a statement of all claims to be
 481 made for it, including directions for use and a guaranteed
 482 analysis showing the names and percentages by weight of each
 483 active ingredient, the total percentage of inert ingredients,
 484 and the names and percentages by weight of each "added
 485 ingredient."

486 (h) All registration fees, including supplemental fees and
 487 late fees are non-refundable.

488 (i) For any currently registered pesticide product brand
 489 that undergoes label revision during the registration period,
 490 the registrant shall submit to the department a copy of the
 491 revised label along with the cover letter detailing changes
 492 prior to the sale or distribution of a product brand with the
 493 revised label in Florida. If the label revisions required
 494 notification of or amendment review by the U.S. Environmental
 495 Protection Agency, the registrant shall submit an additional
 496 copy of the label marked to identify those revisions.

497 (j) Effective January 1, 2013, all payments of any
 498 pesticide registration fees, including supplemental fees and
 499 late fees shall be submitted electronically utilizing the
 500 department's e-commerce/eGov web site for pesticide product
 501 brand registrations.

502 Section 14. Subsection (5) of section 487.0615, Florida
 503 Statutes, is amended to read:

504 487.0615 Pesticide Review Council.—

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505 (5) Members of the council shall receive no compensation
 506 for their services, ~~but are entitled to be reimbursed for per~~
 507 ~~diem and travel expenses as provided in s. 112.061.~~

508 Section 15. Subsection (7) is added to section 500.70,
 509 Florida Statutes, to read:

510 500.70 Tomato food safety standards; inspections;
 511 penalties; tomato good agricultural practices; tomato best
 512 management practices.-

513 (7) Any person who produces, harvests, packs, or repacks
 514 tomatoes in this state who does not hold a food permit issued
 515 under s. 500.12, must register each location annually by August
 516 1 on a form prescribed by the department. Any person who
 517 produces, harvests, packs, or repacks tomatoes at more than one
 518 location may submit one registration for all such locations, but
 519 must provide the physical address of each location. The
 520 department may set by rule an annual registration fee not to
 521 exceed \$500. The money collected from the registration fee
 522 payments shall be deposited into the General Inspection Trust
 523 Fund.

524 Section 16. Subsection (5) of section 527.22, Florida
 525 Statutes, is amended to read:
 526 527.22 Florida Propane Gas Education, Safety, and Research
 527 Council established; membership; duties and responsibilities.-

528 (5) Council members shall receive no compensation or
 529 honorarium for their services, ~~and are authorized to receive~~
 530 ~~only per diem and reimbursement for travel expenses as provided~~
 531 ~~in s. 112.061.~~

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532 Section 17. Subsection (3) of section 559.9221, Florida
 533 Statutes, is amended to read:

534 559.9221 Motor Vehicle Repair Advisory Council.—The Motor
 535 Vehicle Repair Advisory Council is created to advise and assist
 536 the department in carrying out this part.

537 (3) The members of the council shall receive no
 538 compensation for their services, ~~except that they may receive~~
 539 ~~per diem and travel expenses as provided in s. 112.061.~~

540 Section 18. Subsection (28) of section 570.07, Florida
 541 Statutes, is amended to read:

542 570.07 Department of Agriculture and Consumer Services;
 543 functions, powers, and duties.—The department shall have and
 544 exercise the following functions, powers, and duties:

545 (28) For the purpose of pollution control and the
 546 prevention of wildfires ~~purposes~~, to regulate open burning
 547 connected with ~~rural~~ land-clearing, agricultural, or forestry
 548 operations, ~~except fires for cold or frost protection.~~

549 Section 19. Subsection (9) of section 570.0705, Florida
 550 Statutes, is amended to read:

551 570.0705 Advisory committees.—From time to time the
 552 commissioner may appoint any advisory committee to assist the
 553 department with its duties and responsibilities.

554 (9) Members of each advisory committee shall receive no
 555 compensation for their services, ~~but shall be entitled to~~
 556 ~~reimbursement for per diem and travel expenses as provided in s.~~
 557 ~~112.061.~~

558 Section 20. Section 570.074, Florida Statutes, is amended
 559 to read:

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560 570.074 Department of Agriculture and Consumer Services;
 561 energy and water policy ~~coordination~~.—The commissioner may
 562 create an Office of Energy and Water ~~Coordination~~ under the
 563 supervision of a senior manager exempt under s. 110.205 in the
 564 Senior Management Service. The commissioner may designate the
 565 bureaus and positions in the various organizational divisions of
 566 the department which ~~that~~ report to this office relating to any
 567 matter over which the department has jurisdiction in matters
 568 relating to energy and water policy affecting agriculture,
 569 application of such policies, and coordination of such matters
 570 with state and federal agencies.

571 Section 21. Subsection (2) of section 570.23, Florida
 572 Statutes, is amended to read:

573 570.23 State Agricultural Advisory Council.—

574 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;
 575 ~~COMPENSATION~~.—The meetings, powers and duties, procedures, and
 576 recordkeeping of the State Agricultural Advisory Council, ~~and~~
 577 ~~per diem and reimbursement of expenses of council members,~~ shall
 578 be governed by the provisions of s. 570.0705 relating to
 579 advisory committees established within the department.

580 Section 22. Subsection (6) of section 570.29, Florida
 581 Statutes, is amended to read:

582 570.29 Departmental divisions.—The department shall
 583 include the following divisions:

584 ~~(6) Dairy Industry.~~

585 Section 23. Section 570.38, Florida Statutes, is amended
 586 to read:

587 570.38 Animal Industry Technical Council.—

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588 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;
 589 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 590 recordkeeping of the Animal Industry Technical Council, ~~and per~~
 591 ~~diem and reimbursement of expenses of council members,~~ shall be
 592 governed by the provisions of s. 570.0705 relating to advisory
 593 committees established within the department.

594 Section 24. Paragraph (d) of subsection (3) of section
 595 570.382, Florida Statutes, is amended to read:

596 570.382 Arabian horse racing; breeders' and stallion
 597 awards; Arabian Horse Council; horse registration fees; Florida
 598 Arabian Horse Racing Promotion Account.—

599 (3) ARABIAN HORSE COUNCIL.—

600 (d) Members of the council shall receive no compensation
 601 for their services, ~~except that they shall receive per diem and~~
 602 ~~travel expenses as provided in s. 112.061 when actually engaged~~
 603 ~~in the business of the council.~~

604 Section 25. Section 570.40, Florida Statutes, is repealed.

605 Section 26. Section 570.41, Florida Statutes, is repealed.

606 Section 27. Subsection (2) of section 570.42, Florida
 607 Statutes, is amended to read:

608 570.42 Dairy Industry Technical Council.—

609 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;
 610 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 611 recordkeeping of the Dairy Industry Technical Council, ~~and per~~
 612 ~~diem and reimbursement of expenses of council members,~~ shall be
 613 governed by the provisions of s. 570.0705 relating to advisory
 614 committees established within the department.

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615 Section 28. Subsections (6) and (7) are added to section
616 570.50, Florida Statutes, to read:

617 570.50 Division of Food Safety; powers and duties.—The
618 duties of the Division of Food Safety include, but are not
619 limited to:

620 (6) Inspecting dairy farms of the state, enforcing those
621 provisions of chapter 502 as are authorized by the department
622 and relating to the supervision of milking operations, and
623 enforcing rules adopted pursuant to such law.

624 (7) Inspecting milk plants, milk product plants, and plants
625 engaged in the manufacture and distribution of frozen desserts
626 and frozen desserts mix; analyzing and testing samples of milk,
627 milk products, frozen desserts, and frozen desserts mix
628 collected by it; and enforcing those provisions of chapters 502
629 and 503 as are authorized by the department.

630 Section 29. Subsection (2) of section 570.543, Florida
631 Statutes, is amended to read:

632 570.543 Florida Consumers' Council.—The Florida Consumers'
633 Council in the department is created to advise and assist the
634 department in carrying out its duties.

635 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;
636 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
637 recordkeeping of the Florida Consumers' Council, ~~and per diem~~
638 ~~and reimbursement of expenses of council members,~~ shall be
639 governed by the provisions of s. 570.0705 relating to advisory
640 committees established within the department. The council
641 members or chair may call no more than two meetings.

642 Section 30. Subsection (3) of section 570.954, Florida

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643 Statutes, is amended to read:

644 570.954 Farm-to-fuel initiative.—

645 ~~(3) The department shall coordinate with and solicit the~~
 646 ~~expertise of the state energy office within the Department of~~
 647 ~~Environmental Protection when developing and implementing this~~
 648 ~~initiative.~~

649 Section 31. Subsection (2) of section 571.28, Florida
 650 Statutes, is amended to read:

651 571.28 Florida Agricultural Promotional Campaign Advisory
 652 Council.—

653 (2) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS;
 654 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 655 recordkeeping of the Florida Agricultural Promotional Campaign
 656 Advisory Council, ~~and per diem and reimbursement of expenses of~~
 657 ~~council members,~~ shall be governed by the provisions of s.
 658 570.0705 relating to advisory committees established within the
 659 department.

660 Section 32. Subsection (6) of section 573.112, Florida
 661 Statutes, is amended to read:

662 573.112 Advisory council.—

663 (6) No member or alternate member of the council shall
 664 receive a salary, ~~but shall be reimbursed for travel expenses~~
 665 ~~while on council business as provided in s. 112.061.~~ The
 666 department may employ necessary personnel, including
 667 professional and technical services personnel, and fix their
 668 compensation and terms of employment and may incur expenses to
 669 be paid from moneys collected as herein provided.

670 Section 33. Subsection (3) of section 576.091, Florida

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671 Statutes, is amended to read:

672 576.091 Fertilizer Technical Council.—

673 (3) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;

674 ~~REIMBURSEMENTS.~~—The meetings, powers and duties, procedures, and

675 ~~recordkeeping, and reimbursement of expenses of members and~~

676 ~~alternate members of the council~~ shall be in accordance with the

677 provisions of s. 570.0705 relating to advisory committees

678 established within the department.

679 Section 34. Subsection (2) of section 580.151, Florida

680 Statutes, is amended to read:

681 580.151 Commercial Feed Technical Council.—

682 (2) POWERS AND DUTIES; PROCEDURES; RECORDS; ~~COMPENSATION.~~—

683 The meetings, powers and duties, procedures, and recordkeeping

684 of the Commercial Feed Technical Council, ~~and per diem and~~

685 ~~reimbursement of expenses of council members,~~ shall be governed

686 by the provisions of s. 570.0705 relating to advisory committees

687 established within the department.

688 Section 35. Subsection (2) of section 581.186, Florida

689 Statutes, is amended to read:

690 581.186 Endangered Plant Advisory Council; organization;

691 meetings; powers and duties.—

692 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;

693 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and

694 recordkeeping of the Endangered Plant Advisory Council, ~~and per~~

695 ~~diem and reimbursement of expenses of council members,~~ shall be

696 governed by the provisions of s. 570.0705 relating to advisory

697 committees established within the department.

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698 Section 36. Subsection (3) of section 586.161, Florida
 699 Statutes, is amended to read:

700 586.161 Honeybee Technical Council.—

701 (3) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS;
 702 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 703 recordkeeping of the Honeybee Technical Council, ~~and per diem~~
 704 ~~and reimbursement of expenses of council members,~~ shall be
 705 governed by the provisions of s. 570.0705 relating to advisory
 706 committees established within the department.

707 Section 37. Section 590.015, Florida Statutes, is amended
 708 to read:

709 590.015 Definitions.—As used in this chapter, the term:

710 (1) "Department" ~~"Division"~~ means ~~the Division of~~
 711 ~~Forestry of~~ the Department of Agriculture and Consumer Services.

712 (2) "Fire management services" means presuppression
 713 fireline plowing, prescribed burning assistance, contract
 714 prescribed burning, prescribed and wildfire management training,
 715 and other activities associated with prevention, detection, and
 716 suppression of wildfires.

717 (4) "Open burning" means any outdoor fire or open
 718 combustion of material which produces visible emissions.

719 (5) "Broadcast burning" means the burning of agricultural or
 720 natural vegetation by allowing fire to move across a
 721 predetermined area of land, but does not include the burning of
 722 vegetative debris that is piled or stacked.

723 Section 38. Subsections (1) and (4) of section 590.02,
 724 Florida Statutes, are amended to read:

725 590.02 Florida Forest Service ~~Division~~ powers, authority,

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726 and duties; liability; building structures; Florida Center for
 727 Wildfire and Forest Resources Management Training.-

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

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

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

735 (c) To provide firefighting crews, who shall be under the
 736 control and direction of the Florida Forest Service ~~division~~ and
 737 its designated agents;

738 (d) To appoint center managers, forest area supervisors,
 739 forestry program administrators, a forest protection bureau
 740 chief, a forest protection assistant bureau chief, a field
 741 operations bureau chief, deputy chiefs of field operations,
 742 district managers, forest operations administrators, senior
 743 forest rangers, investigators, forest rangers, firefighter
 744 rotorcraft pilots, and other employees who may, at the Florida
 745 Forest Service's ~~division's~~ discretion, be certified as
 746 forestry firefighters pursuant to s. 633.35(4). Other provisions
 747 of law notwithstanding, center managers, district managers,
 748 forest protection assistant bureau chief, aviation manager,
 749 Florida Forest Service training coordinator, and deputy chiefs
 750 of field operations shall have Selected Exempt Service status in
 751 the state personnel designation;

752 (e) To develop a training curriculum for forestry
 753 firefighters which must contain the basic volunteer structural

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754 fire training course approved by the Florida State Fire College
 755 of the Division of State Fire Marshal and a minimum of 250 hours
 756 of wildfire training;

757 (f) To make rules to accomplish the purposes of this
 758 chapter;

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

764 (h) To require all state, regional, and local government
 765 agencies operating aircraft in the vicinity of an ongoing
 766 wildfire to operate in compliance with the applicable state
 767 Wildfire Aviation Plan.

768 (4) (a) The department may build structures,
 769 notwithstanding chapters 216 and 255, not to exceed a cost of
 770 \$50,000 per structure from existing resources on forest lands,
 771 federal excess property, and unneeded existing structures. These
 772 structures must meet all applicable building codes.

773 (b) Notwithstanding subsection 553.80(1), the Florida
 774 Building Code as it pertains to wildfire and law enforcement
 775 facilities under the jurisdiction of the department shall be
 776 enforced exclusively by the department.

777 (9) (a) Notwithstanding sections 273.055 and 287.16, the
 778 department may retain, transfer, warehouse, bid, destroy, scrap
 779 or otherwise dispose of surplus wildland firefighting equipment
 780 and vehicles.

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781 (b) All money received from the disposition of state-owned
 782 wildland firefighting equipment and vehicles shall be retained
 783 by the department. Money received pursuant to this section is
 784 appropriated for and may be disbursed for the acquisition of
 785 exchange and surplus wildland firefighting equipment, and for
 786 all necessary operating expenditures related to such equipment,
 787 in the same fiscal year and the fiscal year following the
 788 disposition. The department shall maintain records of the
 789 accounts into which the money is deposited.

790 (10) (a) The Florida Forest Service shall have exclusive
 791 authority to require and issue authorizations for broadcast
 792 burning, and agricultural and silvicultural pile burning. No
 793 agency, commission, department, county, municipality, or other
 794 political subdivision of the state may adopt laws, regulations,
 795 rules, or policies pertaining to broadcast burning, or
 796 agricultural and silvicultural pile burning unless an emergency
 797 order has been declared in accordance with s. 252.38(3).

798 (b) The Florida Forest Service may delegate to a county or
 799 municipality its authority, as delegated by the Department of
 800 Environmental Protection pursuant to sections 403.061(28) and
 801 403.081, to require and issue authorizations for the burning of
 802 yard trash and debris from land clearing operations in
 803 accordance with s. 590.125(6).

804 Section 39. Section 590.125, Florida Statutes, is amended
 805 to read:

806 590.125 Open burning authorized by the Florida Forest
 807 Service division.—

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

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809 (a) "Certified pile burner" means an individual who
 810 successfully completes the Florida Forest Service's pile burning
 811 certification program and possesses a valid pile burner
 812 certification number. ~~"Prescribed burning" means the controlled~~
 813 ~~application of fire in accordance with a written prescription~~
 814 ~~for vegetative fuels under specified environmental conditions~~
 815 ~~while following appropriate precautionary measures that ensure~~
 816 ~~that the fire is confined to a predetermined area to accomplish~~
 817 ~~the planned fire or land-management objectives.~~

818 (b) "Certified prescribed burn manager" means an
 819 individual who successfully completes the certified prescribed
 820 burning certification program of the Florida Forest Service
 821 ~~division~~ and possesses a valid certification number.

822 ~~(c) "Prescription" means a written plan establishing the~~
 823 ~~criteria necessary for starting, controlling, and extinguishing~~
 824 ~~a prescribed burn.~~

825 (c)-(d) "Extinguished" means that no spreading flame:

826 1. For wild land burning or certified prescribed burning,
 827 that no spreading flames exist, and no visible flame, smoke, or
 828 emissions

829 2. For vegetative land-clearing debris burning or pile
 830 burning, that no visible flames exist.

831 3. For vegetative land-clearing debris burning or pile
 832 burning in an area designated as smoke sensitive by the Florida
 833 Forest Service, that no visible flames, smoke, or emissions
 834 exist.

835 (d) "Land-clearing operation" means the uprooting or
 836 clearing of vegetation in connection with the construction of

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837 buildings and rights-of-way, land development, and mineral
 838 operations. The term does not include the clearing of yard
 839 trash.

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

844 (f) "Prescribed burning" means the controlled application
 845 of fire by broadcast burning in accordance with a written
 846 prescription for vegetative fuels under specified environmental
 847 conditions, while following appropriate precautionary measures
 848 that ensure that the fire is confined to a predetermined area to
 849 accomplish the planned fire or land-management objectives.

850 (g) "Prescription" means a written plan establishing the
 851 criteria necessary for starting, controlling, and extinguishing
 852 a prescribed burn.

853 (h) "Yard trash" means vegetative matter resulting from
 854 landscaping and yard maintenance operations and other such
 855 routine property cleanup activities. The term includes
 856 materials such as leaves, shrub trimmings, grass clippings,
 857 brush, and palm fronds.

858 (2) NONCERTIFIED BURNING.—

859 (a) Persons may be authorized to burn wild land or
 860 vegetative land-clearing debris in accordance with this
 861 subsection if:

862 1. There is specific consent of the landowner or his or
 863 her designee;

864 2. Authorization has been obtained from the Florida Forest

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865 Service division or its designated agent before starting the
 866 burn;

867 3. There are adequate firebreaks at the burn site and
 868 sufficient personnel and firefighting equipment for the control
 869 of the fire;

870 4. The fire remains within the boundary of the authorized
 871 area;

872 5. The authorized person ~~Someone~~ is present at the burn
 873 site until the fire is extinguished;

874 6. The Florida Forest Service ~~division~~ does not cancel the
 875 authorization; and

876 7. The Florida Forest Service ~~division~~ determines that air
 877 quality and fire danger are favorable for safe burning.

878 (b) A person who burns wild land or vegetative land-
 879 clearing debris in a manner that violates any requirement of
 880 this subsection commits a misdemeanor of the second degree,
 881 punishable as provided in s. 775.082 or s. 775.083.

882 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
 883 PURPOSE.—

884 (a) The application of prescribed burning is a land
 885 management tool that benefits the safety of the public, the
 886 environment, and the economy of the state. The Legislature finds
 887 that:

888 1. Prescribed burning reduces vegetative fuels within wild
 889 land areas. Reduction of the fuel load reduces the risk and
 890 severity of wildfire, thereby reducing the threat of loss of
 891 life and property, particularly in urban areas.

892 2. Most of Florida's natural communities require periodic

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893 fire for maintenance of their ecological integrity. Prescribed
 894 burning is essential to the perpetuation, restoration, and
 895 management of many plant and animal communities. Significant
 896 loss of the state's biological diversity will occur if fire is
 897 excluded from fire-dependent systems.

898 3. Forestland and rangeland constitute significant
 899 economic, biological, and aesthetic resources of statewide
 900 importance. Prescribed burning on forestland prepares sites for
 901 reforestation, removes undesirable competing vegetation,
 902 expedites nutrient cycling, and controls or eliminates certain
 903 forest pathogens. On rangeland, prescribed burning improves the
 904 quality and quantity of herbaceous vegetation necessary for
 905 livestock production.

906 4. The state purchased hundreds of thousands of acres of
 907 land for parks, preserves, wildlife management areas, forests,
 908 and other public purposes. The use of prescribed burning for
 909 management of public lands is essential to maintain the specific
 910 resource values for which these lands were acquired.

911 5. A public education program is necessary to make
 912 citizens and visitors aware of the public safety, resource, and
 913 economic benefits of prescribed burning.

914 6. Proper training in the use of prescribed burning is
 915 necessary to ensure maximum benefits and protection for the
 916 public.

917 7. As Florida's population continues to grow, pressures
 918 from liability issues and nuisance complaints inhibit the use of
 919 prescribed burning. Therefore, the Florida Forest Service
 920 ~~division~~ is urged to maximize the opportunities for prescribed

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921 burning conducted during its daytime and nighttime authorization
 922 process.

923 (b) Certified prescribed burning pertains only to
 924 broadcast burning for purposes of silviculture, wildland fire
 925 hazard reduction, wildlife management, ecological maintenance
 926 and restoration, and range and pasture management. It must be
 927 conducted in accordance with this subsection and:

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

931 2. Requires that a written prescription be prepared before
 932 receiving authorization to burn from the Florida Forest Service
 933 ~~division~~.

934 3. Requires that the specific consent of the landowner or
 935 his or her designee be obtained before requesting an
 936 authorization.

937 4. Requires that an authorization to burn be obtained from
 938 the Florida Forest Service ~~division~~ before igniting the burn.

939 5. Requires that there be adequate firebreaks at the burn
 940 site and sufficient personnel and firefighting equipment for the
 941 control of the fire.

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

945 7. Is considered to be a property right of the property
 946 owner if vegetative fuels are burned as required in this
 947 subsection.

948 (c) Neither a property owner nor his or her agent is

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949 liable pursuant to s. 590.13 for damage or injury caused by the
 950 fire or resulting smoke or considered to be in violation of
 951 subsection (2) for burns conducted in accordance with this
 952 subsection unless gross negligence is proven.

953 (d) Any certified burner who violates this section commits
 954 a misdemeanor of the second degree, punishable as provided in s.
 955 775.082 or s. 775.083.

956 (e) The Florida Forest Service ~~division~~ shall adopt rules
 957 for the use of prescribed burning and for certifying and
 958 decertifying certified prescribed burn managers based on their
 959 past experience, training, and record of compliance with this
 960 section.

961 (4) CERTIFIED PILE BURNING: LEGISLATIVE FINDINGS AND
 962 PURPOSE.-

963 (a) Certified pile burning pertains to the disposal of
 964 piled, naturally occurring debris from an agricultural,
 965 silvicultural, or temporary land-clearing operation. A land-
 966 clearing operation is temporary if it operates for 6 months or
 967 less. Certified pile burning must be conducted in accordance
 968 with this subsection, and:

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

972 2. A certified pile burner must ensure that the piles are
 973 properly extinguished no later than 1 hour after sunset. If the
 974 burn is conducted in an area designated by the Florida Forest
 975 Service as smoke sensitive, a certified pile burner must ensure
 976 that the piles are properly extinguished at least 1 hour before

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977 sunset.

978 3. A written pile burn plan must be prepared before
 979 receiving authorization from the Florida Forest Service to burn.

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

982 5. An authorization to burn must be obtained from the
 983 Florida Forest Service or its designated agent before igniting
 984 the burn.

985 6. There must be adequate firebreaks and sufficient
 986 personnel and firefighting equipment at the burn site to control
 987 the fire.

988 (b) If a burn is conducted in accordance with this
 989 subsection, the property owner and his or her agent are not
 990 liable under s. 590.13 for damage or injury caused by the fire
 991 or resulting smoke, and are not in violation of subsection (2),
 992 unless gross negligence is proven.

993 (c) A certified pile burner who violates this section
 994 commits a misdemeanor of the second degree, punishable as
 995 provided in s. 775.082 or s. 775.083.

996 (d) The Florida Forest Service shall adopt rules
 997 regulating certified pile burning. The rules shall include
 998 procedures and criteria for certifying and decertifying
 999 certified pile burn managers based on past experience, training,
 1000 and record of compliance with this section.

1001 (5)-(4) WILDFIRE HAZARD REDUCTION TREATMENT BY THE FLORIDA
 1002 FOREST SERVICE DIVISION.—The Florida Forest Service may conduct
 1003 fuel reduction initiatives, including, but not limited to,
 1004 burning and mechanical and chemical treatment, on any area of

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1005 wild land within the state which is reasonably determined to be
 1006 in danger of wildfire in accordance with the following
 1007 procedures:

1008 (a) Describe the areas that will receive fuels treatment
 1009 to the affected local governmental entity.

1010 (b) Publish a treatment notice, including a description of
 1011 the area to be treated, in a conspicuous manner in at least one
 1012 newspaper of general circulation in the area of the treatment
 1013 not less than 10 days before the treatment.

1014 (c) Prepare, and send ~~the county tax collector shall~~
 1015 ~~include with the annual tax statement,~~ a notice to be sent to
 1016 all landowners in each area township designated by the Florida
 1017 Forest Service ~~division~~ as a wildfire hazard area. The notice
 1018 must describe particularly the area to be treated and the
 1019 tentative date or dates of the treatment and must list the
 1020 reasons for and the expected benefits from the wildfire hazard
 1021 reduction.

1022 (d) Consider any landowner objections to the fuels
 1023 treatment of his or her property. The landowner may apply to the
 1024 State Forester ~~director~~ of the Florida Forest Service ~~division~~
 1025 for a review of alternative methods of fuel reduction on the
 1026 property. If the State Forester ~~director~~ or his or her designee
 1027 does not resolve the landowner objection, the State Forester
 1028 ~~director~~ shall convene a panel made up of the local forestry
 1029 unit manager, the fire chief of the jurisdiction, and the
 1030 affected county or city manager, or any of their designees. If
 1031 the panel's recommendation is not acceptable to the landowner,
 1032 the landowner may request further consideration by the

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1033 Commissioner of Agriculture or his or her designee and shall
 1034 thereafter be entitled to an administrative hearing pursuant to
 1035 the provisions of chapter 120.

1036 (6) FLORIDA FOREST SERVICE APPROVAL OF LOCAL GOVERNMENT
 1037 OPEN BURNING AUTHORIZATION PROGRAMS.-

1038 (a) A county or municipality may exercise the Florida
 1039 Forest Service's authority, if delegated by the Florida Forest
 1040 Service under this subsection, to issue authorizations for the
 1041 burning of yard trash or debris from land-clearing operations. A
 1042 county's or municipality's existing or proposed open burning
 1043 authorization program must:

1044 1. Be approved by the Florida Forest Service. The Florida
 1045 Forest Service shall not approve a program if it fails to meet
 1046 the requirements of subsections (2) and (4) and any rules
 1047 adopted under those subsections.

1048 2. Provide by ordinance or local law the requirements for
 1049 obtaining and performing a burn authorization that comply with
 1050 subsections (2) and (4) and any rules adopted under those
 1051 subsections.

1052 3. Provide for the enforcement of the program's
 1053 requirements.

1054 4. Provide financial, personnel, and other resources
 1055 needed to carry out the program.

1056 (b) If the Florida Forest Service determines that a
 1057 county's or municipality's open burning authorization program
 1058 does not comply with subsections (2) and (4) and any rules
 1059 adopted under those subsections, the Florida Forest Service
 1060 shall require the county or municipality to take necessary

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1061 corrective actions within a reasonable period, not to exceed 90
 1062 days.

1063 1. If the county or municipality fails to take the
 1064 necessary corrective actions within the required period, the
 1065 Florida Forest Service shall resume administration of the open
 1066 burning authorization program in the county or municipality and
 1067 the county or municipality shall cease administration of its
 1068 program.

1069 2. Each county and municipality administering an open
 1070 burning authorization program must cooperate with and assist the
 1071 Florida Forest Service in carrying out the Florida Forest
 1072 Service's powers, duties, and functions.

1073 3. A person who violates the requirements of a county's or
 1074 municipality's open burning authorization program, as provided
 1075 by ordinance or local law enacted pursuant to this section,
 1076 commits a violation of this chapter, punishable as provided in
 1077 s. 590.14.

1078 (7)(5) DUTIES OF AGENCIES.—The Department of Education
 1079 shall incorporate, where feasible and appropriate, the issues of
 1080 fuels treatment, including prescribed burning, into its
 1081 educational materials.

1082 Section 40. Subsections (1), (3), and (4) of section
 1083 590.14, Florida Statutes, are amended to read:

1084 590.14 Notice of violation; penalties.—

1085 (1) If a Florida Forest Service ~~division~~ employee
 1086 determines that a person has violated chapter 589, ~~or~~ this
 1087 chapter, or any rule adopted by the Florida Forest Service to
 1088 administer provisions of law conferring duties upon the Florida

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1089 Forest Service, the Florida Forest Service employee ~~he or she~~
 1090 may issue a notice of violation indicating the statute or rule
 1091 violated. This notice will be filed with the Florida Forest
 1092 Service ~~division~~ and a copy forwarded to the appropriate law
 1093 enforcement entity for further action if necessary.

1094 (3) The department may also impose an administrative fine,
 1095 not to exceed \$1,000 per violation of any section of chapter 589
 1096 or this chapter or violation of any rule adopted by the Florida
 1097 Forest Service to administer provisions of law conferring duties
 1098 upon the Florida Forest Service. The fine shall be based upon
 1099 the degree of damage, the prior violation record of the person,
 1100 and whether the person knowingly provided false information to
 1101 obtain an authorization. The fines shall be deposited in the
 1102 Incidental Trust Fund of the Florida Forest Service ~~division~~.

1103 (4) It shall be a misdemeanor of the second degree,
 1104 punishable as provided in s. 775.082 or s. 775.083, for any
 1105 person to:

1106 (a) Fail to comply with any rule or order adopted by the
 1107 Florida Forest Service to administer provisions of law
 1108 conferring duties upon the Florida Forest Service; or

1109 (b) Knowingly make any false statement or representation in
 1110 any application, record, plan, or other document required by
 1111 this chapter or any rules adopted under this chapter.

1112 (5) It is the intent of the Legislature that a penalty
 1113 imposed by a court under subsection (4) be of a severity that
 1114 ensures immediate and continued compliance with this section.

1115 (6) ~~(4)~~ The penalties provided in this section shall extend
 1116 to both the actual violator and the person or persons, firm, or

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1117 corporation causing, directing, or permitting the violation.

1118 Section 41. Subsection (4) of section 597.005, Florida
 1119 Statutes, is amended to read:

1120 597.005 Aquaculture Review Council.—

1121 ~~(4) EXPENSES; PER DIEM. Members of the council shall~~
 1122 ~~receive expenses and per diem for travel, including attendance~~
 1123 ~~at meetings, as allowed state officers and employees pursuant to~~
 1124 ~~s. 112.061.~~

1125 Section 42. Subsection (2) of section 599.002, Florida
 1126 Statutes, is amended to read:

1127 599.002 Viticulture Advisory Council.—

1128 (2) The meetings, powers and duties, procedures, and
 1129 recordkeeping of the Viticulture Advisory Council, ~~and per diem~~
 1130 ~~and reimbursement of expenses of council members,~~ shall be
 1131 governed by the provisions of s. 570.0705 relating to advisory
 1132 committees established within the department.

1133 Section 43. Subsections (1) and (3) of section 616.252,
 1134 Florida Statutes, are amended to read:

1135 616.252 Florida State Fair Authority; membership; number,
 1136 terms, compensation.—

1137 (1) (a) The authority shall be composed of 22 ~~24~~ members.
 1138 The Commissioner of Agriculture, or her or his designee, shall
 1139 serve as a voting member. There shall also be a member who is
 1140 the member of the Board of County Commissioners of Hillsborough
 1141 County representing the county commission district in which the
 1142 Florida State Fairgrounds is located, who shall serve as a
 1143 voting member. There shall also be an appointed youth member who
 1144 is an active member of the Florida Future Farmers of America or

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1145 of a 4-H Club, and who shall serve as a non-voting member. The
 1146 Commissioner of Agriculture shall appoint each other member of
 1147 the authority. Each member appointed by the Commissioner of
 1148 Agriculture shall serve at the pleasure of the Commissioner of
 1149 Agriculture. The term of each member appointed by the
 1150 Commissioner of Agriculture shall be 4 years, except, that the
 1151 term of the non-voting youth member shall be for one year ~~to~~
 1152 ~~provide staggered terms, 9 of the members shall be initially~~
 1153 ~~appointed for a 2-year term and 10 of the members shall be~~
 1154 ~~initially appointed for a 3-year term.~~ Members may be appointed
 1155 for more than one term. Any vacancy shall be filled for the
 1156 remainder of the unexpired term pursuant to the method provided
 1157 in this section for appointment. Six of the members may be from
 1158 Hillsborough County. The Commissioner of Agriculture shall
 1159 appoint and set the compensation of an executive director. The
 1160 executive director shall serve at the pleasure of the
 1161 Commissioner of Agriculture.

1162 (3) Members of the authority shall not be entitled to
 1163 compensation for their services as members, nor ~~but~~ shall be
 1164 reimbursed for travel expenses. Except for the non-voting youth
 1165 member, members as provided in s. 112.061 ~~and~~ may be compensated
 1166 for any special or full-time service performed in its behalf as
 1167 officers or agents of the authority.

1168 Section 44. Paragraph (c) of subsection (2) of section
 1169 812.014, Florida Statutes, is amended to read:

1170 812.014 Theft.—

1171 (2)

1172 (c) It is grand theft of the third degree and a felony of

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1173 the third degree, punishable as provided in s. 775.082, s.
 1174 775.083, or s. 775.084, if the property stolen is:
 1175 1. Valued at \$300 or more, but less than \$5,000.
 1176 2. Valued at \$5,000 or more, but less than \$10,000.
 1177 3. Valued at \$10,000 or more, but less than \$20,000.
 1178 4. A will, codicil, or other testamentary instrument.
 1179 5. A firearm.
 1180 6. A motor vehicle, except as provided in paragraph (a).
 1181 7. Any commercially farmed animal, including any animal of
 1182 the equine, bovine, or swine class, or other grazing animal,
 1183 including bee colonies of registered beekeepers and ~~including~~
 1184 aquaculture species raised at a certified aquaculture facility.
 1185 If the property stolen is aquaculture species raised at a
 1186 certified aquaculture facility, then a \$10,000 fine shall be
 1187 imposed.
 1188 8. Any fire extinguisher.
 1189 9. Any amount of citrus fruit consisting of 2,000 or more
 1190 individual pieces of fruit.
 1191 10. Taken from a designated construction site identified
 1192 by the posting of a sign as provided for in s. 810.09(2)(d).
 1193 11. Any stop sign.
 1194 12. Anhydrous ammonia.
 1195
 1196 However, if the property is stolen within a county that is
 1197 subject to a state of emergency declared by the Governor under
 1198 chapter 252, the property is stolen after the declaration of
 1199 emergency is made, and the perpetration of the theft is
 1200 facilitated by conditions arising from the emergency, the

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1201 offender commits a felony of the second degree, punishable as
 1202 provided in s. 775.082, s. 775.083, or s. 775.084, if the
 1203 property is valued at \$5,000 or more, but less than \$10,000, as
 1204 provided under subparagraph 2., or if the property is valued at
 1205 \$10,000 or more, but less than \$20,000, as provided under
 1206 subparagraph 3. As used in this paragraph, the term "conditions
 1207 arising from the emergency" means civil unrest, power outages,
 1208 curfews, voluntary or mandatory evacuations, or a reduction in
 1209 the presence of or the response time for first responders or
 1210 homeland security personnel. For purposes of sentencing under
 1211 chapter 921, a felony offense that is reclassified under this
 1212 paragraph is ranked one level above the ranking under s.
 1213 921.0022 or s. 921.0023 of the offense committed.

1214 Section 45. Paragraphs (f) and (g) of subsection (1) of
 1215 section 812.015, Florida Statutes, are amended to read:

1216 812.015 Retail and farm theft; transit fare evasion;
 1217 mandatory fine; alternative punishment; detention and arrest;
 1218 exemption from liability for false arrest; resisting arrest;
 1219 penalties.—

1220 (1) As used in this section:

1221 (f) "Farmer" means a person who is engaging in the growing
 1222 or producing of farm produce, milk products, honey, eggs, or
 1223 meat, either part time or full time, for personal consumption or
 1224 for sale and who is the owner or lessee of the land or a person
 1225 designated in writing by the owner or lessee to act as her or
 1226 his agent. No person defined as a farm labor contractor pursuant
 1227 to s. 450.28 shall be designated to act as an agent for purposes
 1228 of this section.

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1229 (g) "Farm theft" means the unlawful taking possession of
 1230 any items that are grown or produced on land owned, rented, or
 1231 leased by another person. This includes equipment and
 1232 associated materials used to grow or produce farm products as
 1233 defined in s. 823.14(3)(c).
 1234 Section 46. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB ANRS 11-01 (2011)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

6 Between lines 437 and 438, insert:

7 (6) Nothing in this chapter shall be construed as an
8 exemption from the rules, orders, or regulations of the Florida
9 Fish and Wildlife Conservation Commission.

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

14 Remove line 36 and insert:
15 animals; providing clarification; amending s. 482.226, F.S.;
16 increasing the minimum