



State Affairs Committee

Thursday, January 28, 2016

10:00 AM

Morris Hall (17 HOB)

Meeting Packet

Steve Crisafulli
Speaker

Matt Caldwell
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

State Affairs Committee

Start Date and Time: Thursday, January 28, 2016 10:00 am
End Date and Time: Thursday, January 28, 2016 11:00 am
Location: Morris Hall (17 HOB)
Duration: 1.00 hrs

Consideration of the following bill(s):

CS/HB 305 Procurement Procedures for Educational Institutions by Government Operations Subcommittee, Drake
HB 505 Voter Identification by Burgess, Cortes, B.
HB 525 Small Community Sewer Construction Assistance Act by Beshears
CS/HB 7007 Department of Agriculture and Consumer Services by Agriculture & Natural Resources Appropriations Subcommittee, Agriculture & Natural Resources Subcommittee, Raburn
HB 7067 OGSR/Competitive Solicitation by Government Operations Subcommittee, Santiago
HB 7069 OGSR/Regional Autism Centers by Government Operations Subcommittee, Narain

NOTICE FINALIZED on 01/26/2016 3:48PM by Love.John

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 305 Procurement Procedures for Educational Institutions

SPONSOR(S): Government Operations Subcommittee and Drake

TIED BILLS: IDEN./SIM. **BILLS:** SB 350

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 0 N, As CS	Moore	Williamson
2) Education Appropriations Subcommittee	12 Y, 0 N	Dobson	Heflin
3) State Affairs Committee		Moore, A. <i>AM</i>	Camechis <i>(Signature)</i>

SUMMARY ANALYSIS

Chapter 287, F.S., regulates state agency procurement of personal property and services. The Department of Management Services (DMS) is responsible for overseeing state purchasing activity, including professional and construction services, as well as commodities needed to support agency activities, such as office supplies, vehicles, and information technology.

As part of their duties, district school boards, Florida College System institution boards of trustees, and university boards of trustees are required to adopt rules or regulations to be followed when making purchases.

The bill authorizes district school boards, Florida College System institutions, and universities to make purchases through an online procurement system, an electronic auction service, or other efficient procurement tool.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Agency Procurements

Chapter 287, F.S., regulates state agency¹ procurement of personal property and services. The Department of Management Services (DMS) is responsible for overseeing state purchasing activity, including professional and construction services, as well as commodities needed to support agency activities, such as office supplies, vehicles, and information technology.² DMS establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.³

Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods, which include:

- Single source contracts, which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid, which are used when an agency determines that standard goods or services will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposal, which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate, which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services.⁴

For contracts for commodities or services in excess of \$35,000, agencies must utilize a competitive solicitation process.⁵ However, specified contractual services and commodities are not subject to competitive solicitation requirements.⁶

Section 287.056, F.S., requires agencies to purchase commodities and contractual services from purchasing agreements established and state term contracts procured, pursuant to s. 287.057, F.S., by DMS. Each agreement must include:

- A provision specifying a scope of work that clearly establishes all tasks that the contractor must perform.
- A provision dividing the contract into quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the contract manager before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.⁷

¹ Section 287.012(1), F.S., defines the term "agency" as any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.

² See ss. 287.032 and 287.042, F.S.

³ *Id.*

⁴ See ss. 287.012(6) and 287.057, F.S.

⁵ Section 287.057(1), F.S., requires all projects that exceed the Category Two threshold amount (\$35,000) contained in s. 287.017, F.S., to be competitively procured.

⁶ See s. 287.057(3)(e), F.S.

⁷ Section 287.056(1), F.S.

State Universities Purchasing Procurements

Section 1001.706, F.S., provides powers and duties of the Board of Governors of the State University System. The Board of Governors must adopt regulations requiring universities to use purchasing agreements or state term contracts pursuant to s. 287.056, F.S., or enter into consortia and cooperative agreements to maximize the purchasing power for goods and services.⁸ The Board of Governors also may, by regulation, provide for alternative procedures for state universities for bidding or purchasing in cases in which the character of the item requested renders competitive bidding impractical.⁹ Each university board of trustees is required to adopt regulations to be followed in making purchases.¹⁰

Florida College System Institutions Purchasing Procurements

Section 1001.64, F.S., outlines the powers and duties of Florida College System institution boards of trustees. Each board of trustees is required to use purchasing agreements and state term contracts pursuant to s. 287.056, F.S., or enter into consortia and cooperative agreements to maximize the purchasing power for goods and services.¹¹ The board must also adopt rules to be followed when making purchases.¹²

District School Boards Purchasing Procurements

Section 1001.42, F.S., provides powers and duties of the district school boards. As part of its duties, the school board must secure purchasing regulations and amendments thereto from DMS. Prior to any purchase, the district school board's staff must determine the lowest price available to the school board under such regulations, and the school board must give consideration to such price, provided a regulation applicable to the item or items being purchased has been adopted by the Department of Education.¹³ District school boards may also use prices established by the Division of Purchasing within DMS through its state purchasing agreement price schedule.¹⁴

Each district school board must adopt rules to be followed when making purchases.¹⁵ In some counties, the county purchasing agent has authority to make purchases for the benefit of other governmental agencies within the county. In such a case, the district school board may purchase from the current county contracts.¹⁶ The State Board of Education may, by rule, provide for alternative procedures for school districts for bidding or purchasing in cases in which the character of the item requested renders competitive bidding impractical.¹⁷

Effect of Proposed Changes

The bill authorizes district school boards, Florida College System institutions, and universities to make purchases through an online procurement system, an electronic auction service, or other efficient procurement tool.

B. SECTION DIRECTORY:

Section 1 amends s. 1010.04, F.S., relating to purchasing by school districts, Florida College System institutions, and universities.

Section 2 provides an effective date of July 1, 2016.

⁸ Section 1001.706(3)(i), F.S.

⁹ Section 1010.04(4)(b), F.S.

¹⁰ Section 1010.04(2), F.S.

¹¹ Section 1001.64(48), F.S.

¹² Section 1010.04(2), F.S.

¹³ Section 1001.42(12)(j), F.S.

¹⁴ Chapter 6A-1.012(5), F.A.C.

¹⁵ Section 1010.04(2), F.S.

¹⁶ Section 1010.04(3), F.S.

¹⁷ Section 1010.04(4), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 2, 2015, the Government Operations Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute codified the bill's provisions in the Education Code instead of chapter 287, F.S. Chapter 287, F.S., governs state agencies and does not apply to district school boards, Florida College System institutions, or universities.

This analysis is drafted to the committee substitute as approved by the Government Operations Subcommittee.

1 A bill to be entitled
 2 An act relating to procurement procedures for
 3 educational institutions; amending s. 1010.04, F.S.;
 4 authorizing specified educational institutions to make
 5 purchases through an online procurement system, an
 6 electronic auction service, or another efficient
 7 procurement tool; providing an effective date.

8

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

10

11 Section 1. Subsection (2) of section 1010.04, Florida
 12 Statutes, is amended to read:

13 1010.04 Purchasing.—

14 (2) Each district school board and Florida College System
 15 institution board of trustees shall adopt rules, and each
 16 university board of trustees shall adopt regulations, to be
 17 followed in making purchases. Purchases may be made through an
 18 online procurement system, an electronic auction service, or
 19 another efficient procurement tool.

20 Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 505 Voter Identification
SPONSOR(S): Burgess, Jr. and Cortes, B. and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 666

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N	Toliver	Williamson
2) Veteran & Military Affairs Subcommittee	10 Y, 0 N	Renner	Thompson
3) State Affairs Committee		Toliver <i>IT</i>	Camechis <i>CC</i>

SUMMARY ANALYSIS

The Florida Election Code requires a voter to provide certain forms of identification for various electoral activities. The acceptable forms of identification vary according to the activity, but examples include a United States passport, Florida driver license or identification card, military identification, or student identification.

The bill adds veteran health identification cards issued by the United States Department of Veterans Affairs and licenses to carry a concealed weapon or firearm to the current lists of valid forms of identification for purposes of identification at the polls, completing absentee ballot affidavits, and identification for first time voters registering by mail.

The bill may have a fiscal impact on the Department of State if it is required to revise its existing rules and publications. In addition, the bill may have a fiscal impact on the supervisors of elections due to their having to alter absentee ballot instructions for certain first-time voters and absentee ballot affidavits.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Voter Identification

The Florida Election Code¹ requires certain forms of identification for various electoral activities. The acceptable forms of identification vary according to the activity.

A person registering to vote in Florida for the first time may hand deliver or mail his or her voter registration application.² A person registering by mail who has never previously voted in Florida and who the Department of State verifies has not been issued a current and valid Florida driver license, Florida identification card, or social security number must provide a copy of a specified form of identification or indicate that he or she is exempt from providing such identification³ prior to voting.⁴ The following are valid and acceptable forms of identification provided the identification has not expired and includes the name and photograph of the applicant:

- United States passport.
- Debit or credit card.
- Military identification.
- Student identification.
- Retirement center identification.
- Neighborhood association identification.
- Public assistance identification.⁵

In addition, a utility bill, bank statement, government check, paycheck, and other government documents (excluding voter identification cards) are considered valid and acceptable forms of identification provided they are current and contain the name and current residence address of the applicant.⁶

If an applicant meeting the aforementioned requirements opts to vote by absentee ballot and has not yet provided the required identification by the time his or her ballot is mailed, the applicant must still provide a copy of one of the acceptable forms of identification discussed above or indicate he or she is exempt.⁷

¹ Chapters 97-106, F.S.

² Section 97.053(1), F.S.

³ Section 97.0535(4), F.S., provides that the following persons are exempt from the identification requirements:

- Persons 65 years of age or older.
- Persons with a temporary or permanent physical disability.
- Members of the uniformed service on active duty who, by reason of such active duty, are absent from the county on election day, and their spouses or dependents.
- Members of the Merchant Marine who, by reason of service in the Merchant Marine, are absent from the county on election day, and their spouses or dependents.
- Persons currently residing outside the United States who are eligible to vote in Florida.

⁴ Section 97.0535(1), F.S.

⁵ Section 97.0535(3)(a), F.S.

⁶ Section 97.0535(3)(b), F.S.

⁷ Section 101.6923, F.S.

Current law requires the precinct register to be used at the polls for the purpose of identifying the elector before allowing him or her to vote. The clerk or inspector must require each elector upon entering the polling place to present one of the following current and valid picture identifications for the purpose of identifying each elector before allowing him or her to vote:

- Florida driver license.
- Florida identification card issued by the Department of Highway Safety and Motor Vehicles.
- U.S. passport.
- Debit or credit card.
- Military identification.
- Student identification.
- Retirement center identification.
- Neighborhood association identification.
- Public assistance identification.⁸

An elector voting by absentee ballot must sign a voter's certificate.⁹ The supervisor of elections compares the signature of the elector on the voter's certificate with the signature in the voter registration books or the precinct register to determine if the elector is registered to vote in the county.¹⁰ If the signatures do not match, the elector has until 5:00 p.m. on the day before the election to complete an absentee ballot affidavit to correct the discrepancy.¹¹ The instructions for the absentee ballot affidavit require the elector to make a copy of a form of identification that includes the person's name and photograph or a form of identification that shows the person's name and current residence address. The following are acceptable forms of such identification that must accompany the absentee ballot affidavit when provided to the supervisor of elections:

- U.S. passport;
- Debit or credit card;
- Military identification;
- Student identification;
- Retirement center identification ;
- Neighborhood association identification;
- Public assistance identification; or
- Current utility bill, bank statement, government check, paycheck, or other government document (excluding voter identification cards).¹²

Veteran Health Identification Card

The veteran health identification card is issued by the U.S. Department of Veterans Affairs (USDVA) to veterans who are enrolled in the USDVA health care system for identification and check-in at USDVA appointments.¹³ In order to receive an identification card, the veteran must apply for enrollment in the USDVA health care system and provide a primary and secondary form of identification.¹⁴ Once the veteran's enrollment is verified, the veteran must have his or her picture taken at the local USDVA medical center for inclusion on the identification card.¹⁵

License to Carry a Concealed Weapon or Firearm

The Department of Agriculture and Consumer Services is authorized to issue licenses to carry concealed weapons or concealed firearms to qualified persons.¹⁶ Each license must bear a color

⁸ Section 101.043(1)(a), F.S.

⁹ Section 101.64(1), F.S.

¹⁰ Section 101.68(1), F.S.

¹¹ Section 101.68(4)(b), F.S.

¹² Section 101.68(4)(c), F.S.

¹³ U.S. Department of Veterans Affairs, Health Benefits, available at <http://www.va.gov/healthbenefits/vhic/index.asp> (last visited Jan. 11, 2016).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 790.06(1), F.S.

photograph of the licensee.¹⁷ Recipients of a Florida concealed weapon or firearm license in part must be 21 years of age or older; demonstrate competency with a firearm; and, unless currently serving overseas in the United States Armed Forces, currently reside in the United States as a U.S. citizen or a lawful permanent resident alien.¹⁸

Effect of the Bill

The bill adds veteran health identification cards issued by the United States Department of Veterans Affairs and licenses to carry a concealed weapon or firearm to the current lists of valid forms of identification for purposes of identification at the polls, completing absentee ballot affidavits, and identification for first time voters registering by mail.

B. SECTION DIRECTORY:

Section 1 amends s. 97.0535, F.S., to expand the list of acceptable forms of identification for first time voters registering by mail.

Section 2 amends s. 101.043, F.S., to expand the list of acceptable forms of identification for identification at the polls.

Section 3 amends s. 101.68, F.S., to expand the list of acceptable forms of identification for completing an absentee ballot affidavit.

Section 4 amends s. 101.6923, F.S., to expand the list of acceptable forms of identification for certain first-time voters.

Section 5 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There may be a fiscal impact to the Department of State if it is required to revise its existing rules and publications.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be a fiscal impact to supervisors of elections associated with the alteration of the special instructions required by s. 101.6923, F.S., and absentee ballot affidavits required by s. 101.68(4), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

¹⁷ *Id.*

¹⁸ Section 790.06(2), F.S.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18, of the Florida Constitution explicitly exempts election laws from the municipality/county "mandates" provision within that section.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill may require the Division of Elections within the Department of State to alter its rules to conform to the changes in law; however, no additional rulemaking authority is necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

- 27 4. Student identification.
 - 28 5. Retirement center identification.
 - 29 6. Neighborhood association identification.
 - 30 7. Public assistance identification.
 - 31 8. Veteran health identification card issued by the United
 - 32 States Department of Veterans Affairs.
 - 33 9. A license to carry a concealed weapon or firearm issued
 - 34 pursuant to s. 790.06.
- 35 Section 2. Paragraph (a) of subsection (1) of section
- 36 101.043, Florida Statutes, is amended to read:
- 37 101.043 Identification required at polls.—
- 38 (1)(a) The precinct register, as prescribed in s. 98.461,
- 39 shall be used at the polls for the purpose of identifying the
- 40 elector at the polls before allowing him or her to vote. The
- 41 clerk or inspector shall require each elector, upon entering the
- 42 polling place, to present one of the following current and valid
- 43 picture identifications:
- 44 1. Florida driver license.
 - 45 2. Florida identification card issued by the Department of
 - 46 Highway Safety and Motor Vehicles.
 - 47 3. United States passport.
 - 48 4. Debit or credit card.
 - 49 5. Military identification.
 - 50 6. Student identification.
 - 51 7. Retirement center identification.
 - 52 8. Neighborhood association identification.

53 9. Public assistance identification.

54 10. Veteran health identification card issued by the
 55 United States Department of Veterans Affairs.

56 11. A license to carry a concealed weapon or firearm
 57 issued pursuant to s. 790.06.

58 Section 3. Paragraph (d) of subsection (4) of section
 59 101.68, Florida Statutes, is amended to read:

60 101.68 Canvassing of absentee ballot.—

61 (4)

62 (d) Instructions must accompany the absentee ballot
 63 affidavit in substantially the following form:

64
 65 READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE
 66 AFFIDAVIT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR
 67 BALLOT NOT TO COUNT.

68
 69 1. In order to ensure that your absentee ballot will be
 70 counted, your affidavit should be completed and returned as soon
 71 as possible so that it can reach the supervisor of elections of
 72 the county in which your precinct is located no later than 5
 73 p.m. on the 2nd day before the election.

74 2. You must sign your name on the line above (Voter's
 75 Signature).

76 3. You must make a copy of one of the following forms of
 77 identification:

78 a. Identification that includes your name and photograph:

79 United States passport; debit or credit card; military
 80 identification; student identification; retirement center
 81 identification; neighborhood association identification; ~~or~~
 82 public assistance identification; veteran health identification
 83 card issued by the United States Department of Veterans Affairs;
 84 or a Florida license to carry a concealed weapon or firearm; or

85 b. Identification that shows your name and current
 86 residence address: current utility bill, bank statement,
 87 government check, paycheck, or government document (excluding
 88 voter identification card).

89 4. Place the envelope bearing the affidavit into a mailing
 90 envelope addressed to the supervisor. Insert a copy of your
 91 identification in the mailing envelope. Mail, deliver, or have
 92 delivered the completed affidavit along with the copy of your
 93 identification to your county supervisor of elections. Be sure
 94 there is sufficient postage if mailed and that the supervisor's
 95 address is correct.

96 5. Alternatively, you may fax or e-mail your completed
 97 affidavit and a copy of your identification to the supervisor of
 98 elections. If e-mailing, please provide these documents as
 99 attachments.

100 Section 4. Subsection (2) of section 101.6923, Florida
 101 Statutes, is amended to read:

102 101.6923 Special absentee ballot instructions for certain
 103 first-time voters.—

104 (2) A voter covered by this section shall be provided with

105 | printed instructions with his or her absentee ballot in
 106 | substantially the following form:

107 |

108 | READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING YOUR
 109 | BALLOT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE
 110 | YOUR BALLOT NOT TO COUNT.

111 |

112 | 1. In order to ensure that your absentee ballot will be
 113 | counted, it should be completed and returned as soon as possible
 114 | so that it can reach the supervisor of elections of the county
 115 | in which your precinct is located no later than 7 p.m. on the
 116 | date of the election. However, if you are an overseas voter
 117 | casting a ballot in a presidential preference primary or general
 118 | election, your absentee ballot must be postmarked or dated no
 119 | later than the date of the election and received by the
 120 | supervisor of elections of the county in which you are
 121 | registered to vote no later than 10 days after the date of the
 122 | election.

123 | 2. Mark your ballot in secret as instructed on the ballot.
 124 | You must mark your own ballot unless you are unable to do so
 125 | because of blindness, disability, or inability to read or write.

126 | 3. Mark only the number of candidates or issue choices for
 127 | a race as indicated on the ballot. If you are allowed to "Vote
 128 | for One" candidate and you vote for more than one, your vote in
 129 | that race will not be counted.

130 | 4. Place your marked ballot in the enclosed secrecy

131 envelope and seal the envelope.

132 5. Insert the secrecy envelope into the enclosed envelope
 133 bearing the Voter's Certificate. Seal the envelope and
 134 completely fill out the Voter's Certificate on the back of the
 135 envelope.

136 a. You must sign your name on the line above (Voter's
 137 Signature).

138 b. If you are an overseas voter, you must include the date
 139 you signed the Voter's Certificate on the line above (Date) or
 140 your ballot may not be counted.

141 c. An absentee ballot will be considered illegal and will
 142 not be counted if the signature on the Voter's Certificate does
 143 not match the signature on record. The signature on file at the
 144 start of the canvass of the absentee ballots is the signature
 145 that will be used to verify your signature on the Voter's
 146 Certificate. If you need to update your signature for this
 147 election, send your signature update on a voter registration
 148 application to your supervisor of elections so that it is
 149 received no later than the start of canvassing of absentee
 150 ballots, which occurs no earlier than the 15th day before
 151 election day.

152 6. Unless you meet one of the exemptions in Item 7., you
 153 must make a copy of one of the following forms of
 154 identification:

155 a. Identification which must include your name and
 156 photograph: United States passport; debit or credit card;

157 military identification; student identification; retirement
 158 center identification; neighborhood association identification;
 159 ~~or~~ public assistance identification; veteran health
 160 identification card issued by the United States Department of
 161 Veterans Affairs; or a Florida license to carry a concealed
 162 weapon or firearm; or

163 b. Identification which shows your name and current
 164 residence address: current utility bill, bank statement,
 165 government check, paycheck, or government document (excluding
 166 voter identification card).

167 7. The identification requirements of Item 6. do not apply
 168 if you meet one of the following requirements:

169 a. You are 65 years of age or older.

170 b. You have a temporary or permanent physical disability.

171 c. You are a member of a uniformed service on active duty
 172 who, by reason of such active duty, will be absent from the
 173 county on election day.

174 d. You are a member of the Merchant Marine who, by reason
 175 of service in the Merchant Marine, will be absent from the
 176 county on election day.

177 e. You are the spouse or dependent of a member referred to
 178 in paragraph c. or paragraph d. who, by reason of the active
 179 duty or service of the member, will be absent from the county on
 180 election day.

181 f. You are currently residing outside the United States.

182 8. Place the envelope bearing the Voter's Certificate into

183 the mailing envelope addressed to the supervisor. Insert a copy
184 of your identification in the mailing envelope. DO NOT PUT YOUR
185 IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR
186 INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S CERTIFICATE OR YOUR
187 BALLOT WILL NOT COUNT.

188 9. Mail, deliver, or have delivered the completed mailing
189 envelope. Be sure there is sufficient postage if mailed.

190 10. FELONY NOTICE. It is a felony under Florida law to
191 accept any gift, payment, or gratuity in exchange for your vote
192 for a candidate. It is also a felony under Florida law to vote
193 in an election using a false identity or false address, or under
194 any other circumstances making your ballot false or fraudulent.


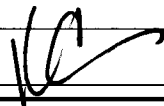
195 Section 5. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 525 Small Community Sewer Construction Assistance Act

SPONSOR(S): Beshears

TIED BILLS: IDEN./SIM. BILLS: SB 444

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Moore, R.	Harrington
2) Agriculture & Natural Resources Appropriations Subcommittee	12 Y, 0 N	Helpling	Massengale
3) State Affairs Committee		Moore, R. 	Camechis 

SUMMARY ANALYSIS

The Small Community Sewer Construction Assistance Act (Act) assists financially disadvantaged small communities with their needs for adequate sewer facilities. Currently, the Act defines the term "financially disadvantaged small community" as a municipality, which has a population of 10,000 or less, according to the latest decennial census, and a per capita annual income less than the state per capita annual income, as determined by the United States Department of Commerce.

The bill expands the definition of the term "financially disadvantaged small community" to include a county or special district that falls under the same population and per capita annual income parameters as currently required under the Act. Additionally, the bill provides that a special district may only be eligible under the Act if its public purpose includes water and sewer services, utility systems and services, or wastewater systems and services.

The bill expands eligibility to include certain counties and special districts that will be eligible to receive funds under the Act. However, this expansion does not require an increase or decrease of the annual appropriation made available under the Act.

The bill does not appear to have a fiscal impact on state government, but may have a positive fiscal impact on those counties and special districts eligible for grant funding assistance under the Act.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Small Community Sewer Construction Assistance Act¹ (Act) assists financially disadvantaged small communities with their needs for adequate sewer facilities.² The Department of Environmental Protection (DEP) awards grants using funds specifically appropriated for this purpose.³ For purposes of the Act, the term “financially disadvantaged small community” means a municipality that has a population of 10,000 or less, according to the latest decennial census, and a per capita annual income less than the state per capita annual income, as determined by the United States Department of Commerce.⁴

DEP may provide grants for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.⁵ DEP is required to perform adequate overview of each grant, including technical review, regular inspections, disbursement approvals, and auditing.⁶ DEP is authorized to use up to 2 percent of the grant funds made available each year toward the cost of administering the Act.⁷

Effect of Proposed Changes

The bill expands the definition of the term “financially disadvantaged small community” to include a county or special district that falls within the same population and per capita annual income parameters as currently required under the Act. The bill also defines a “special district” as having the same meaning as provided in s. 189.012, F.S.,⁸ and includes only those special districts whose public purpose includes water and sewer services, utility systems and services, or wastewater systems and services.

The bill appears to expand eligibility for grant assistance under the Act to two counties, Liberty and Lafayette, and six special districts, Big Bend Water Authority, Cedar Key Special Water and Sewer District, Immokalee Water and Sewer District, Eastpoint Water and Sewer District, Suwannee Water and Sewer District, and Taylor Coastal Water and Sewer District.⁹

B. SECTION DIRECTORY:

Section 1. Amends s. 403.1838(2), F.S., expanding the definition of “financially disadvantaged small community.”

Section 2. Provides an effective date.

¹ Section 403.1838(1), F.S.

² Section 403.1838(2), F.S.

³ Section 403.1838(2)-(3), F.S.

⁴ Section 403.1838(2), F.S.

⁵ Section 403.1838(3)(a), F.S.

⁶ Section 403.1838(3)(c), F.S.

⁷ Section 403.1838(3)(d), F.S.

⁸ Section 189.012(6), F.S., defines the term “special district” as a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. It does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

⁹ DEP’s 2016 Agency Legislative Bill Analysis for SB 444 on file with the Agriculture & Natural Resources Subcommittee.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill expands eligibility to include certain counties and special districts that will be eligible to receive funds under the Act. However, this expansion does not require an increase or decrease for the annual appropriation made available under the Act.

DEP's Clean Water State Revolving Fund (CWSRF) loan program collects fees that are used to fund grants under the Act.¹⁰ DEP received an appropriation of \$16 million in fiscal year 2015-2016.¹¹ DEP's current legislative budget request estimates that the CWSRF will be \$21 million in the coming year.¹²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may provide a positive fiscal impact for those counties and special districts that are eligible for grant funding assistance under the Act.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

¹⁰ DEP's 2016-2017 legislative budget request, on file with the Agriculture & Natural Resources Appropriations Subcommittee.

¹¹ DEP's analysis of SB 444 (2016), on file with the State Affairs Committee.

¹² DEP's 2016-2017 legislative budget request, on file with the Agriculture & Natural Resources Appropriations Subcommittee.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to the Small Community Sewer
3 Construction Assistance Act; amending s. 403.1838,
4 F.S.; redefining the term "financially disadvantaged
5 small community" to include counties and special
6 districts; defining the term "special district";
7 providing an effective date.

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

10
11 Section 1. Subsection (2) of section 403.1838, Florida
12 Statutes, is amended to read:

13 403.1838 Small Community Sewer Construction Assistance
14 Act.—

15 (2) The department shall use funds specifically
16 appropriated to award grants under this section to assist
17 financially disadvantaged small communities with their needs for
18 adequate sewer facilities. For purposes of this section, the
19 term "financially disadvantaged small community" means a county,
20 municipality, or special district that has a population of
21 10,000 or fewer, according to the latest decennial census, and a
22 per capita annual income less than the state per capita annual
23 income as determined by the United States Department of
24 Commerce. For purposes of this subsection, the term "special
25 district" has the same meaning as provided in s. 189.012 and
26 includes only those special districts whose public purpose

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27 | includes water and sewer services, utility systems and services,
28 | or wastewater systems and services.

29 | Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7007 PCB ANRS 16-01 Department of Agriculture and Consumer Services
SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee; Agriculture & Natural Resources Subcommittee, Raburn
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1010

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Gregory	Harrington
1) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N, As CS	Lolley	Massengale
2) State Affairs Committee		Gregory	Camechis

SUMMARY ANALYSIS

The bill addresses a number of issues relating to the powers and duties of the Department of Agriculture and Consumer Services (DACS), including, but not limited to:

- Changing the procedure to obtain and renew a pest control operator's certificate and eliminating a late charge.
- Changing the deadline to submit a recertification application for the limited certification for urban landscape commercial fertilizer application and eliminating the \$50 per month late charge for late recertification.
- Adding dietary supplements to the list of possibly adulterated foods.
- Adding allergen information labeling requirements to the list of possibly misbranded foods.
- Authorizing DACS to sponsor "events" (not just breakfasts, luncheons, or dinners) to promote agriculture and agricultural business products.
- Authorizing DACS to acquire, secure, enjoy, use, enforce, and dispose of all patents, trademarks, copyrights, and other rights or similar interests.
- Authorizing DACS to use money deposited in the Pest Control Trust Fund to carry out any of the powers of the Division of Agricultural Environmental Services.
- Removing the requirement for DACS to provide staff and meeting space for the Florida Agriculture Center and Horse Park Authority.
- Amending membership requirements for the Florida Agricultural Promotional Campaign Advisory Council.
- Removing the requirement that DACS notify a property owner that a plant infested or infected with plant pests or noxious weeds has been found on their property if the plant is infested with pests or noxious weeds that are determined to be widely established in Florida; thus, not requiring the owner to destroy or remove the plant.
- Modifying the reporting period for fertilizer tonnage sales from monthly to quarterly and changing the reporting requirement from 30 days following the reporting period instead of 15 days.
- Preempting regulatory authority for commercial feed and feedstuff to DACS.
- Changing the powers and duties of the Soil and Water Conservation Districts to reflect the district practices.
- Eliminating Watershed Improvement Districts.
- Eliminating the Florida Forest Service's power to dedicate its land for use by the public as a park.
- Adding definitions for "school breakfast program," "summer nutrition program," and "universal school breakfast program" to specify that they are the programs authorized by federal law.
- Authorizing DACS to implement the Farmer's Market Nutrition Program for Supplemental Nutrition Program for Women, Children and Infants.
- Creating a duty to provide to a "severe need school" the highest rate of reimbursement to which it is entitled under the federal school breakfast program.
- Eliminating the requirement that each grain dealer report monthly to DACS the value of grain it received from producers for which the producers have not received payment.

The bill appears to have an insignificant negative fiscal impact on the state, no fiscal impact on local governments, and a positive fiscal impact on the private sector. See Fiscal Analysis & Economic Impact Statement section.

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

STORAGE NAME: h7007b.SAC.DOCX

DATE: 1/22/2016

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Pest Control Operator's Certification Application Fee

Present Situation

Each location of each licensed pest control business must have a certified operator in charge that is registered with the Department of Agriculture and Consumer Services (DACS).¹ This person must be certified for the particular category of pest control engaged in at that location and may be in charge of one or more categories if they are certified in those categories.² A certified operator may not be in charge of the performance of pest control activities at more than one business location for a licensee except during a temporary absence.³ To become a certified operator, an individual must pass an examination and satisfy specified education and experience requirements.⁴

Each person seeking to be a certified operator must pay a \$300 application fee to take the exam.⁵ Once that person passes the exam, he or she must then receive an original certificate before engaging in pest control work.⁶ To obtain the original certificate, the individual must pay a \$150 issuance fee.⁷

Effect of Proposed Changes

The bill amends s. 482.111, F.S., to eliminate the issuance fee and associated application deadlines. Instead, DACS must issue a pest control operator's certificate to an individual who completes an application for examination, pays the examination fee, and passes the examination. DACS indicated that its online capabilities eliminated the need to have an extra step to issue an original certificate and will speed up the certification process.⁸

Limited Certification for Urban Landscape Commercial Fertilizer Application

Present Situation

The Department of Environmental Protection and the Institute of Food and Agricultural Sciences must provide training and testing programs in urban landscape best management practices.⁹ Persons who receive a certificate demonstrating successful completion of such training may apply to DACS to receive limited certification for urban landscape commercial fertilizer application.¹⁰ Individuals who hold such certification are not subject to additional local testing.¹¹

Section 482.1562, F.S., sets forth the application requirements to receive the limited certification. Beginning January 1, 2014, all persons applying commercial fertilizer to an urban landscape must be certified by DACS. Individuals who hold the limited certification must apply for recertification at least 90 days before the expiration of the certification. If the certification application is late, the applicant must pay a \$50 per month late charge in addition to the renewal fee.¹²

¹ Section 482.111(6)(a), F.S.

² Id.

³ Section 482.111(6)(c), F.S.

⁴ Section 482.132, F.S.

⁵ Section 482.141, F.S.; rule 5E-14.123(4), F.A.C.

⁶ Section 482.111, F.S.

⁷ Id.; rule 5E-14.132(3), F.A.C.

⁸ DACS FISCAL Memo (August 18, 2015).

⁹ Section 403.9338(1), F.S.

¹⁰ Section 403.9338(2), F.S.

¹¹ Id.

¹² Section 482.1562, F.S.

Effect of the Proposed Changes

The bill amends s. 482.1562(5), F.S., to change the deadline to submit a recertification application from 90 days before expiration of the current certification to every four years from the date of issuance. The bill eliminates the \$50 per month charge for late recertification. The bill also grants a grace period not to exceed 30 days after expiration for which a person can obtain recertification without having to go through the initial application process.

Florida Food Safety Act

Present Situation

The Florida Food Safety Act (act) is designed to:

- Promote public welfare by protecting the consuming public from injury by product use and the purchasing public from injury by merchandizing deceit, flowing from intrastate commerce in food;
- Provide uniform legislation so far as practical with federal regulations; and
- Promote uniform administration and enforcement of federal and state food safety laws.¹³

Under the act, individuals may not sell food that is adulterated, adulterate food, or receive food in commerce that is adulterated.¹⁴ These prohibitions are similar to federal law.¹⁵ The following are examples when food is deemed adulterated:

- Food that bears or contains any poisonous or deleterious substance which may render it injurious to health;
- Food that bears or contains any added poisonous or added deleterious substance; a food additive; or a color additive, which is unsafe;
- Food that is a raw agricultural commodity and bears or contains a pesticide chemical which is unsafe;
- Food that is or bears or contains any food additive which is unsafe;
- Food that consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance;
- Food that has been produced, prepared, packed, or held under insanitary conditions;
- Food that is the product of a diseased animal or an animal which has died other than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse;
- Food whose container is composed, in whole or in part, of any poisonous or deleterious substance;
- Food where any valuable constituent has been in whole or in part omitted or abstracted therefrom;
- Food where any substance has been substituted wholly or in part therefor;
- Food where damage or inferiority has been concealed in any manner; and
- Food where any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.¹⁶

Also under the act, individuals may not sell food that is misbranded, misbrand food, or receive food in commerce that is misbranded.¹⁷ These prohibitions are similar to federal law.¹⁸ The following are examples of food that is deemed misbranded:

- The food's label is false or misleading in any particular;
- The food is offered for sale under the name of another food;

¹³ Section 500.02, F.S.

¹⁴ Section 500.04, F.S.

¹⁵ 21 U.S.C. 331.

¹⁶ Section 500.10, F.S.

¹⁷ Section 500.04, F.S.

¹⁸ 21 U.S.C. 331.

- The food is an imitation of another food, unless its label bears, in type of uniform size and prominence, the words “imitation” and, immediately thereafter, the name of the food imitated;
- The food’s container is so made, formed, or filled as to be misleading;
- If any word, statement, or other information required by or under authority of the Food Safety Act to appear on the label or labeling is not prominently placed thereon with conspicuousness;
- Unless the food’s label bears:
 - The common or usual name of the food, if any; and
 - If it is fabricated from two or more ingredients, the common or usual name of each ingredient and, if the food purports to be a beverage containing vegetable or fruit juice, a statement placed with appropriate prominence on the information panel specifying the total percentage of such vegetable or fruit juice contained in the food;
- Food that bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact;
- Food that is offered for sale and its label or labeling does not comply with federal law pertaining to nutrition information;
- Food that is offered for sale and its label or labeling does not comply with the requirements of federal law pertaining to nutritional content claims and health claims; or
- Bottled water and its label bears a corporate name, brand name, or trademark containing the word “spring,” “springs,” “well,” “artesian well,” “natural,” or any derivative of those words without stating on the label the source of the water in typeface at least equal to the size of the typeface of the corporate name, brand name, or trademark, if the source of the water is different from the source indicated in the corporate name, brand name, or trademark.¹⁹

DACS may inspect food that may be adulterated or misbranded;²⁰ seize food that is adulterated or misbranded;²¹ suspend permits of those who sell food that is adulterated or misbranded, adulterate or misbrand food, or receive food in commerce that is adulterated or misbranded;²² and impose a fine for adulterated or misbranded food.²³

Effect of Proposed Changes

The bill amends s. 500.03, F.S., to add a definition for the term “vehicle” in order to recognize the various modes of transportation that service food establishments, and to be consistent with the federal rules implementing the Food Safety Modernization Act. Currently, the Florida Food Safety Act does not define the term.

The bill amends s. 500.03, F.S., to add “dietary supplements” as defined in 21 U.S.C. 321(ff)(1) and (2) to the definition of “food.” Under 21 U.S.C. 321(ff)(1) and (2), the term “dietary supplement” means:

- A product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:
 - A vitamin;
 - A mineral;
 - An herb or other botanical;
 - An amino acid;
 - A dietary substance for use by man to supplement the diet by increasing the total dietary intake; or
 - A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;
- A product that:
 - Is intended for ingestion

¹⁹ Section 500.11, F.S.

²⁰ Section 500.147(1), F.S.

²¹ Section 500.173, F.S.

²² Section 500.12(4), F.S.

²³ Section 500.121, F.S.

- Is not represented for use as a conventional food or as a sole item of a meal or the diet; and
- Is labeled as a dietary supplement.

The bill amends s. 500.10, F.S., to include foods transported under certain conditions to be adulterated. The change also adds dietary supplements in the list of foods that could possibly be adulterated and sets forth criteria to determine if it is adulterated. The criteria to identify a dietary supplement as adulterated are similar to the criteria in the federal Food Safety Act.²⁴

The bill amends s. 500.11, F.S., to include failing to properly label food with allergen information on the list of foods that could possibly be misbranded by referencing federal law. Under federal law, food that contains allergens must be labeled if the food is not a raw agricultural commodity and it is, or it contains an ingredient that bears or contains, a major food allergen. The label must:

- Include the word “contains,” followed by the name of the food source from which the major food allergen is derived, is printed immediately after or is adjacent to the list of ingredients (in a type size no smaller than the type size used in the list of ingredients); or
- Include the common or usual name of the major food allergen in the list of ingredients is followed in parentheses by the name of the food source from which the major food allergen is derived, except that the name of the food source is not required when:
 - The common or usual name of the ingredient uses the name of the food source from which the major food allergen is derived; or
 - The name of the food source from which the major food allergen is derived appears elsewhere in the ingredient list.²⁵

Powers and Organization of the Department of Agriculture and Consumer Services

Present Situation

The Legislature granted DACS various powers to regulate and promote Florida agriculture, protect the environment, safeguard consumers, and ensure the safety of food. Many of these powers and the organization of DACS can be found in chapter 570, F.S., such as:

- DACS may stimulate, encourage, and foster the production and consumption of agricultural and agricultural business products by sponsoring trade breakfasts, luncheons, and dinners that will assist in the promotion and marketing of Florida’s agricultural and agricultural business products to the consuming public.²⁶
- DACS’ Division of Administration possesses the power to provide electronic data processing and management information systems support for DACS.²⁷
- DACS must deposit fees and fines collected under the Structural Pest Control Act into the Pest Control Trust Fund.²⁸ DACS may use this money to carry out the provisions of the Structural Pest Control Act, educate the pest control industry, or support research or education in pest control.²⁹
- DACS’ Division of Marketing must enforce the provisions of ss. 604.15 through 604.34, F.S., (regulating dealers in agricultural products) and ss. 534.47 through 534.53, F.S. (regulating livestock markets).³⁰

DACS does not possess the authority to secure or hold a trademark. Any agency created by statute does not have the inherent power to acquire, secure, enjoy, use, enforce, or dispose of patents,

²⁴ 21 U.S.C. 342(f).

²⁵ 21 U.S.C. 343(w).

²⁶ Section 570.07(20), F.S.

²⁷ Section 570.30(5), F.S.

²⁸ Section 482.2401, F.S.

²⁹ Id.; s. 570.441, F.S.

³⁰ Section 570.53, F.S.

trademarks, copyrights, or other rights or similar interests.³¹ Rather, such powers must be granted by the Legislature, either expressly or by necessary implication.³²

Effect of Proposed Changes

The bill grants DACS certain powers and moves other powers to different divisions within DACS.

These changes include:

- Amending paragraph (20)(c) of s. 570.07, F.S., to grant DACS the power to sponsor “events,” in addition to breakfasts, luncheons, and dinners, to stimulate, encourage, and foster the production and consumption of agricultural and agricultural business products;
- Adding subsection (44) to s. 570.07, F.S., to grant DACS the power to acquire, secure, enjoy, use, enforce, and dispose of all patents, trademarks, and copyrights and other rights or similar interests (currently the Department of State may hold the patent, trademark and copyright and the Attorney General’s Office may enforce those rights). According to DACS, as the “Fresh From Florida” trademark becomes more popular, it needs the authority to take immediate action to stop its misuse;³³
- Creating s. 570.68, F.S., to create an Office of Agriculture Technology Services to provide electronic data processing and management information systems support for DACS;
- Amending s. 570.441, F.S., to authorize DACS to use money deposited in the Pest Control Trust Fund to carry out any of the powers of the Division of Agricultural Environmental Services, not just the Structural Pest Control Act (ch. 482, F.S.). The powers of the Division of Agricultural and Environmental Services include state mosquito control program coordination; agricultural pesticide registration, testing, and regulation; pest control regulation; and feed, seed, and fertilizer production inspection and testing. This authorization expires June 30, 2019; and
- Amending s. 570.53, F.S., to remove the power to enforce the provisions of ss. 604.15 through 604.34, F.S., (regulating dealers in agricultural products) and ss. 534.47 through 534.53, F.S., (regulating livestock markets) from the Division of Marketing and Development. The bill grants the power to regulate dealers in agricultural products to the Division of Consumer Services. According to DACS, moving the program to the Division of Consumer Services, which already handles a number of similar programs, will create efficiencies by streamlining department processes.³⁴

Florida Agriculture Center and Horse Park

Present Situation

In 1994, the Florida Legislature created the Florida Agriculture Center and Horse Park (Florida Horse Park) in order to provide Florida with a unique tourist experience for visitors and residents.³⁵ The Florida Horse Park is situated on 500 acres located south of Ocala. Numerous events occur at the Florida Horse Park throughout the year including rodeos, dressage, polo, obstacle challenges, dog shows, and trail rides.³⁶ A 21-member group appointed by the Commissioner of Agriculture called the Florida Agriculture Center and Horse Park Authority (Authority) oversees the management of the park.³⁷ DACS is currently required to provide administrative and staff support services for the meetings

³¹ Florida Virtual School v. K12, Inc., 148 So.3d 97, 99 (Fla. 2014).

³² Id. The following entities may hold trademarks: Department of Health, s. 20.43(8), F.S., Department of Management Services, s. 282.702(5), F.S., Department of State, s. 286.021, F.S., Department of Transportation, s. 334.049, F.S., Water Management Districts, s. 373.608, F.S., Department of Law Enforcement, s. 943.146, F.S., and State Universities, s. 1004.23, F.S.

³³ DACS Agency Analysis of 2015 PCB ANRS 15-01, p. 6 (January 19, 2015).

³⁴ Id.

³⁵ Section 570.681, F.S.

³⁶ Florida Agriculture Center and Horse Park Authority, *Welcome to the Florida Horse Park*, <http://flhorsepark.com/> (last visited September 15, 2015).

³⁷ Section 570.685, F.S.

of the Authority, and to provide suitable space in the offices of the department for the meetings and the storage of records of the Authority.³⁸

Effect of Proposed Changes

The bill amends s. 570.685, F.S., to authorize DACS to provide administrative and staff support services for the meetings of the Authority, and to provide suitable space in the offices at DACS for the meetings and the storage of records of the Authority.

Florida Agricultural Promotion Campaign

Present Situation

DACS possesses the power to establish and coordinate the Florida Agricultural Promotional Campaign (FAPC), also known as the "Fresh From Florida" campaign.³⁹ This campaign is intended to increase consumer awareness and expand the market for Florida's agricultural products.⁴⁰ Florida agricultural producers may voluntarily join FAPC. FAPC members may use the "Fresh From Florida" logos, participate in industry trade shows at a reduced cost, receive point-of-purchase materials, have access to trade leads, receive the "Fresh From Florida" magazine and industry newsletter, tie in to supermarket promotions that feature Florida products in newspaper and store circular advertisements, and receive a farm sign customized with the member's business name.⁴¹

Currently, DACS must designate an employee to serve on the Advertising Interagency Coordinating Council.⁴² This council no longer exists.

In addition, DACS is authorized to adopt rules related to the FAPC, including rules pertaining to negotiating and entering into contracts with advertising agencies.⁴³

Lastly, the Legislature created the 15-member Florida Agricultural Promotional Campaign Advisory Council to provide advice to DACS.⁴⁴ The membership must include:

- Six members representing agricultural producers, shippers, or packers;
- Three members representing agricultural retailers;
- Two members representing agricultural associations;
- One member representing a wholesaler of agricultural products;
- One member representing consumers; and
- One member representing DACS.⁴⁵

Effect of Proposed Changes

The bill amends ss. 571.24, 571.27, and 571.28, F.S., regarding the FAPC to:

- Specify that the intent of the marketing brand is to serve as a marketing program to promote Florida agriculture commodities, value added products, and agricultural related businesses and is not a food safety or traceability program. The purpose of this provision is to avoid the misconception that the brand indicates that food has been inspected by DACS for safety;
- Eliminate the requirement for DACS to designate an employee to be a member of the Advertising Interagency Coordinating Council, since this council no longer exists;

³⁸ Section 570.685(4)(b), F.S.

³⁹ Section 571.24, F.S.

⁴⁰ Section 571.22, F.S.

⁴¹ Florida Department of Agricultural and Consumer Services, *Join "Fresh From Florida,"*

<http://www.freshfromflorida.com/Divisions-Offices/Marketing-and-Development/Agriculture-Industry/Join-Fresh-From-Florida>. (last visited September 15, 2015).

⁴² Section 571.24(8), F.S.

⁴³ Section 571.27, F.S.

⁴⁴ Section 571.28(1), F.S.

⁴⁵ *Id.*

- Eliminate the power to adopt rules related to negotiating and entering into contracts with advertising agencies. Such rules are already adopted by the Department of Management Services in ch. 60A-1, F.A.C.; and
- Change the membership requirements for the Florida Agricultural Promotional Campaign Advisory Council. The bill strikes the requirement that there be a specific number of council members from each industry category while maintaining the overall number of members and staggered terms.

Reporting Requirements for Agricultural Fertilizer

Present Situation

Any person who guarantees a fertilizer and distributes fertilizer (licensee) in Florida must pay an inspection fee of \$1 per ton of fertilizer sold in the state.⁴⁶ DACS uses this fee to fund the fertilizer inspection program.⁴⁷ Before distributing a fertilizer, each licensee must apply to DACS, report monthly the tonnage of fertilizer sold, and pay the inspection fee.⁴⁸ The monthly reports and inspection fees must be made before the 15th day of the month succeeding the month covered by the report.⁴⁹ Any licensee who fails to report all fertilizer sold each month is subject to a penalty of 10 percent or \$25,⁵⁰ whichever is greater, and must secure with DACS a surety bond or certificate of deposit.⁵¹ Further, failure to make an accurate statement of tonnage or to pay the inspection fee may constitute cause for revocation of the license and also for cancellation of all registrations on file for the licensee.⁵²

Effect of Proposed Changes

The bill amends paragraph 576.041(2)(b), F.S., to change the fertilizer reporting requirement from monthly to quarterly; authorize use of DACS's website to report tonnage of fertilizer sold; and change the reporting deadline from 15 days to 30 days following the close of the reporting period.

DACS indicated these changes are necessary to take full advantage of its web-based reporting tool and align Florida's tonnage reporting requirement with other states.⁵³ Further, DACS indicated these changes will decrease the potential penalties that licensees could incur for late reporting and increase compliance.⁵⁴

Commercial Feed and Feedstuff Preemption

Present Situation

"Commercial feed" is all materials or combinations of materials that are distributed or intended to be distributed for use as feed or for mixing in a feed for animals other than humans, except:

- Unmixed whole seeds, including physically altered entire unmixed seeds, when such seeds are not chemically changed or are not adulterated;
- Unground hay, straw, stover, silage, cobs, husks, and hulls, and individual chemical compounds or substances, when such commodities, compounds, or substances are unmixed with other substances and are not adulterated; and
- Feed mixed by the consumer for the consumer's own use made entirely or in part from products raised on the consumer's farm.⁵⁵

⁴⁶ Section 576.041(1), F.S.; rule 5E-1.012(1), F.A.C.

⁴⁷ Id.

⁴⁸ Section 576.041(2), F.S.

⁴⁹ Section 576.041(2)(b), F.S.

⁵⁰ Section 576.041(4), F.S.

⁵¹ Rule 5E-1.012(4), F.A.C.

⁵² Section 576.041(5), F.S.

⁵³ DACS, *2016 Proposals—Agricultural Environmental Services (Additional Item) Short title: Modify Chapter 576.041 F.S. modification of required tonnage reporting period*, p. 1 (October 1, 2015).

⁵⁴ Id.

⁵⁵ Section 580.031(2), F.S.

“Feedstuff” is edible materials, other than commercial feed, that are distributed for animal consumption and that contribute energy or nutrients, or both, to an animal diet.⁵⁶

DACS regulates commercial feed and feedstuff for quality, safety, labeling requirements, and standards.⁵⁷ A distributor of commercial feed must obtain a master registration⁵⁸ and place on file a copy of the label for each brand of feed to be distributed in Florida.⁵⁹

Effect of Proposed Changes

The bill creates s. 580.0365, F.S., to preempt the regulatory authority for commercial feed and feedstuff to DACS.

Removal and Destruction of Infested and Infested Plants

Present Situation

The Division of Plant Industry must order the removal and destruction of any plant or plant product infested or infected with plant pests or noxious weeds.⁶⁰ A “plant pest” is any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or their reproductive parts, or viruses, or any organisms similar to or allied with any of the foregoing, including any genetically engineered organisms, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants or plant parts or any processed, manufactured, or other plant products.⁶¹ A “noxious weed” is any living stage, including, but not limited to, seeds and productive parts, of a parasitic or other plant of a kind, or subdivision of a kind, which may be a serious agricultural threat in Florida or have a negative impact on the plant species protected under s. 581.185, F.S. (endangered, threatened, or commercially exploited native plants).⁶² The Division of Plant Industry may take these actions in order to stop the introduction and dissemination of plants or pests that may threaten Florida’s agriculture industry.

The Director of the Division of Plant Industry must provide notice to the owner or the person having charge of the premises when DACS finds an infested or infected plant or plant product.⁶³ Within 10 days of the notice, the owner or person in charge must treat as directed or remove and destroy the infested or infected plant or plant product.⁶⁴ If the owner or person in charge does not, DACS may treat as directed or remove and destroy the infested or infected plant or plant product.⁶⁵

Effect of Proposed Changes

The bill amends s. 581.181, F.S., to create an exception from the destruction requirement for plant or plant products infested with pest or noxious weeds that are widely established in Florida and not regulated by DACS. According to DACS, there are times when it is unnecessary for the owner to treat or destroy the plant, but DACS lacks the discretion not to give notice to the owner that they must destroy any infested plants or plant products.⁶⁶

⁵⁶ Section 580.031(10), F.S.

⁵⁷ Section 580.036, F.S.

⁵⁸ Section 580.041, F.S.

⁵⁹ Section 580.051, F.S.

⁶⁰ Section 581.181(1), F.S.

⁶¹ Section 581.011(26), F.S.

⁶² Section 581.011(19), F.S.

⁶³ Section 581.181(1), F.S.

⁶⁴ Id.

⁶⁵ Section 581.181(2), F.S.

⁶⁶ DACS Agency Analysis of 2015 PCB ANRS 15-01, p. 9 (January 19, 2015).

Removal or Destruction of Abandoned Citrus Groves

Present Situation

Florida's citrus industry accounts for 5.5 million tons of the U.S. total production of 9.4 million tons.⁶⁷ The industry generates more than \$10 billion in annual economic impact and supports more than 62,000 jobs.⁶⁸ However, citrus greening (HLB) has caused a cumulative loss of more than \$2.9 billion in grower revenues between 2006-07 and 2013-14 resulting in an average annual loss of more than 7,500 jobs and \$975 million in industry output.⁶⁹ As a result of citrus greening, many groves no longer are productive and have been abandoned. These groves harbor disease and vectors that spread disease increasing the threat to nearby healthy groves. Research indicates that removing abandoned groves harboring citrus greening is a critical component in limiting the spread of disease and establishing an environment where the commercial production of citrus is viable.⁷⁰

Effect of Proposed Changes

The bill creates s. 581.189, F.S., to create the Grove Removal or Vector Elimination (GROVE) Program, a cost-sharing program for the removal or destruction of abandoned citrus groves to eliminate citrus greening disease and the vectors that spread the disease. The bill defines the terms for "abandoned citrus grove," "applicant," "eligible costs," "funded application, and "program."

The bill requires DACS to adopt by rule the standards to be used in reviewing and ranking applications for cost-share funding under the program based on the following factors: the length of time the citrus grove has been abandoned, whether the citrus groves are located within a Citrus Health Management Area, and the proximity of the abandoned citrus grove to other citrus groves currently in production.

An applicant may submit multiple applications, but is eligible only for a maximum of \$125,000 in program cost-share funding in a given fiscal year. DACS may award to each funded application a cost-share of up to 80 percent of eligible costs. The total amount of cost-share allocated under the program in each fiscal year may not exceed the amount specifically appropriated for the program for the fiscal year.

An applicant seeking cost-share funding under the program must submit an application to DACS by a date determined by department rule. The application must include: the applicant's plan to remove or destroy citrus trees and any citrus greening vectors in the abandoned citrus grove; an affidavit from the applicant certifying that all information contained in the application is true and correct; and all information necessary for DACS to determine eligibility for the program and rank applications. If DACS determines that an application is incomplete, it may require the applicant to submit additional information within 10 days after such determination is made.

Each fiscal year, the department shall review and rank all complete applications received in accordance with its adopted rules. Before selecting an application for funding, DACS must conduct an inspection of the abandoned citrus grove that is the subject of the application. The department may deny an application for failure to comply with this section and department rules.

If an application is selected for funding, the applicant must initiate and complete the removal or destruction of the citrus trees identified in the application within the time specified by department rule. The applicant's failure to do so within the time specified by the department will result in the forfeiture of cost-share funding approved based on the application. Upon such occurrence, DACS shall notify the

⁶⁷ USDA, *Florida Citrus Statistics 2013-2014*, http://www.nass.usda.gov/Statistics_by_State/Florida/Publications/Citrus/fcs/2013-14/fcs1314.pdf (last visited Jan. 14, 2016)

⁶⁸ UF IFAS, *Economic Impacts of the Florida Citrus Industry in 2012-13*, http://www.fred.ifas.ufl.edu/pdf/economic-impact-analysis/Economic_Impacts_Florida_Citrus_Industry_2012-13.pdf (last visited Jan. 14, 2016)

⁶⁹ *Id.*

⁷⁰ UF IFAS Extension, Horticultural Sciences Department, *Guidance for Huanglongbing (Greening) Management*, <https://edis.ifas.ufl.edu/hs1165>, Reviewed January 2014 (last visited Jan. 15, 2016)

next eligible applicant, based on its ranking of applicants for the fiscal year, of the availability of cost-share funding. Such applicant, upon acceptance, may be awarded cost-share funding, subject to available program funds.

Upon completion of the scope of work identified in the funded application, the applicant must present proof of payment of removal or destruction costs to DACS. Upon receipt of satisfactory proof of the removal or destruction of the trees identified in the funded application, DACS may issue payment to the applicant for the approved cost-share amount.

DACS is authorized to adopt rules to implement and administer the program, including an application process and requirements, a ranking process of applications that is consistent with the factors specified in the bill, and the administration of the cost-share funding.

The annual awarding of funding through the program is subject to specific legislative appropriation for this program.

Soil and Water Conservation Districts

Present Situation

Faced with the problems of the Dust Bowl in the 1930's, the federal government passed the Standard State Soil Conservation Districts Law (model law) in 1936.⁷¹ Drafters of the model law intended to decentralize federal soil erosion control efforts in a form of cooperative federalism that relied on individual districts to achieve national and local objectives.⁷² The model law proposed that state legislatures delegate broad power to the districts through the use of both "project" and "regulatory" power.⁷³ Project power granted local districts the power to carry out conservation measures with the assistance of federal funding and technical oversight.⁷⁴ Regulatory powers granted districts the power to adopt local land use regulations.⁷⁵ By 1947, all of the states enacted soil and water conservation district programs.⁷⁶ These programs favored the project powers of the soil and water conservation districts, but were reluctant to grant regulatory powers.⁷⁷ Thus, soil and water conservation districts often failed to utilize the full extent of their regulatory powers.⁷⁸

Florida adopted much of the model law in 1937.⁷⁹ The Legislature recognized farms, forests, and grazing lands as among Florida's basic assets in need of protection from improper land use techniques that cause erosion.⁸⁰ It found erosion reduced the productivity of land, harmed water resources, injured wildlife, caused flooding, and destroyed infrastructure.⁸¹ Thus, corrective measures were required to prevent erosion and converse, develop, and utilize soil and water resources.⁸² The Legislature intended for soil and water conservation districts (SWCDs) to control and prevent soil erosion; prevent floodwater and sediment damage; further conservation, development, and utilization of soil and water resources; preserve natural resources; control floods; prevent impairment of dams and reservoirs; assist in maintaining the navigability of rivers and harbors; preserve wildlife; protect the tax base; protect public lands; and protect and promote the health, safety and general welfare of the people of this state.⁸³ Currently, there are 58 SWCDs in Florida.⁸⁴

⁷¹ Jess Phelps, *A Vision Of The New Deal Unfulfilled? Soil and Water Conservation Districts and Land Use Regulation*, 11 Drake J. Agric. L. 353, 354 & 357 (2006).

⁷² Id. at 355 & 360

⁷³ Id. at 355.

⁷⁴ Id. at 355 & 361.

⁷⁵ Id. at 362.

⁷⁶ Id. at 364.

⁷⁷ Id.

⁷⁸ Id. at 368.

⁷⁹ Chapter 18144, 1937, Laws of Florida.

⁸⁰ Section 582.02, F.S.

⁸¹ Section 582.03, F.S.

⁸² Section 582.04, F.S.

⁸³ Section 582.05, F.S.

DACS oversees the SWCDs.⁸⁵ DACS may:

- Receive gifts, appropriations, materials, equipment, lands, and facilities and to manage, operate, and disburse them for the use and benefit of the SWCDs,⁸⁶
- Audit the SWCDs,⁸⁷
- Seeks assistance in implementing its powers,⁸⁸
- Offer assistance to the SWCD supervisors,⁸⁹
- Keep the SWCDs aware of the activities of the other SWCDs and facilitate the interchange of advice and experience,⁹⁰
- Coordinate the programs of the several SWCDs;⁹¹
- Secure cooperation of other governmental entities in the work of the SWCDs;⁹²
- Disseminate information throughout the state about the activities and programs of the SWCDs;⁹³ and
- Employ an administrative officer and other staff to oversee the SWCDs.⁹⁴

Within DACS, the Soil and Water Conservation Council (council) consists of seven members who have previously been involved in soil and water conservation and agriculture.⁹⁵ The council may:

- Consider and study the entire field relating to its area of responsibility;
- Consider all matters submitted to it by the commissioner or the division directors;
- Submit proposed legislation and rules to the commissioner;
- Advise and consult with the commissioner and the division directors of the department, at their request or upon its own initiative, regarding the promulgation, administration, and enforcement of all laws and rules relating to its area of responsibility; and
- Suggest policies and practices for the conduct of DACS business which shall be duly considered by the commissioner or division directors.⁹⁶

When 10 percent of land owners within a territory propose to form a SWCD, they must file a petition with DACS.⁹⁷ DACS must then publish notice of a hearing to consider the desirability and necessity of a SWCD, the appropriate boundaries of a SWCD, and all other relevant questions.⁹⁸ If DACS determines that a SWCD is necessary based on the facts presented at the hearing, it must then propose the boundaries of the district,⁹⁹ determine if operating the district is administratively practicable and feasible,¹⁰⁰ and hold a referendum of all the land owners in the proposed district whether it is appropriate to form a SWCD.¹⁰¹ DACS must publish the results of the referendum and may proceed to form the SWCD if a majority of the votes cast are in favor of creating the district.¹⁰² The Department of State must certify the formation of the SWCD and record the certification and application within its

⁸⁴ Email from DACS dated September 15, 2015.

⁸⁵ Section 582.055(1), F.S.

⁸⁶ Section 582.055(2), F.S.

⁸⁷ Section 582.055(3), F.S.

⁸⁸ Section 582.055(4), F.S.

⁸⁹ Section 582.08(1), F.S.

⁹⁰ Section 582.08(2), F.S.

⁹¹ Section 582.08(3), F.S.

⁹² Section 582.08(4), F.S.

⁹³ Section 582.08(5), F.S.

⁹⁴ Section 582.09, F.S.

⁹⁵ Section 582.06(1), F.S.

⁹⁶ Section 582.06(2), F.S.

⁹⁷ Section 582.10(1), F.S.

⁹⁸ Section 582.11, F.S.

⁹⁹ Id.

¹⁰⁰ Section 582.12, F.S.

¹⁰¹ Id.

¹⁰² Section 582.14, F.S.

records.¹⁰³ The SWCD is presumed established upon proof of the certificate filed with the Department of State.¹⁰⁴ After the district is formed, land owners may petition to add or remove territory within a SWCD in the same manner as the petition to form a district.¹⁰⁵

Each SWCD must have five supervisors.¹⁰⁶ Elections of district supervisors must be held every two years in a manner consistent with general election laws.¹⁰⁷ Supervisors serve four-year terms.¹⁰⁸ The supervisors and districts possess the power to:

- Conduct surveys, investigations, and research relating to the character of soil erosion and floodwater and sediment damages and publish its results;
- Conduct projects to demonstrate soil conservation methods, erosion prevention and control methods, works for flood prevention or the conservation, development and utilization of soil and water resources, and the disposal of water;
- Carry out flood prevention and control measures;
- Provide financial aid to carry out erosion control and prevention operations and works for flood prevention;
- Provide financial aid for the conservation, development and utilization, of soil and water resources and the disposal of water within the district's boundaries;
- Acquire real or personal property, maintain such property, receive income from such property, or sell such property to further the goals and duties of the SWCD;
- Construct, improve, operate, and maintain structures;
- Develop a comprehensive plan to conserve soil and water resources, control and prevent erosion, prevent floods, conserve and develop water resources, dispose of water, and control artesian wells;
- Takeover, by purchase, lease, or otherwise, and administer any soil-conservation, erosion-control, erosion-prevention project, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water, or act as an agent for the federal government to perform such projects; and
- Perform other administrative duties as necessary to perform its powers.¹⁰⁹

SWCDs may adopt land use regulations to conserve soil and soil resources, and to prevent and control soil erosion.¹¹⁰ The supervisors must publish notice of a referendum to adopt such regulations and make copies of such regulations available.¹¹¹ The supervisors may not adopt the proposed regulations unless a majority of the voting land owners approve.¹¹² All owners and occupiers of land within a district must obey adopted land use regulations.¹¹³ A similar referendum must be held to amend, supplement, or repeal such regulations.¹¹⁴

SWCDs may enforce their land use regulations in circuit court.¹¹⁵ The SWCD supervisors must serve on a board of adjustment to hear and consider petitions for relief from land use regulations.¹¹⁶ The board of adjustment may grant a petition for variance if it determines the petitioner is suffering a great personal difficulty or unnecessary hardship.¹¹⁷

¹⁰³ Section 582.15, F.S.

¹⁰⁴ Section 582.17, F.S.

¹⁰⁵ Section 582.16, F.S.

¹⁰⁶ Section 582.19, F.S.

¹⁰⁷ Section 582.18, F.S.

¹⁰⁸ Section 582.19(2), F.S. Two supervisors must serve a two year term when the SWCD is initially formed.

¹⁰⁹ Section 582.20, F.S.

¹¹⁰ Section 582.21(1), F.S.

¹¹¹ Id.

¹¹² Section 582.21(2), F.S.

¹¹³ Id.

¹¹⁴ Section 582.21(3), F.S.

¹¹⁵ Section 582.23, F.S.

¹¹⁶ Section 582.24, F.S.

¹¹⁷ Section 582.26, F.S.

Within each SWCD, owners may petition to form a watershed improvement district for the development and execution of plans and projects for works to control and prevent soil erosion, prevent floods, conserve, develop, and utilize soil and water resources, dispose of water, develop fish and wildlife or recreational, preserve and protect land and water resources, and protect and promote the health, safety, and general welfare of the people of this state.¹¹⁸ The SWCD supervisors must publish notice of and hold a hearing on the practicability and feasibility of the proposed watershed improvement district.¹¹⁹ If they determine there is a need for a watershed improvement district, the supervisors must define its boundaries.¹²⁰ Once approved by DACS, the supervisors must hold a referendum of land owners within the proposed watershed improvement district about whether the operation of the proposed district is administratively practicable and feasible.¹²¹ The supervisors must then consider the result of the referendum and may form the watershed improvement district if a majority of the land area voted to create the district.¹²² Once the supervisors decide to form the watershed improvement district, they must certify its formation with DACS and furnish the certification to the clerk of courts.¹²³ Land owners may petition to have the land added, removed, and transferred between watershed improvement districts.¹²⁴

Thirty days after formation of the watershed improvement district, three individuals must be elected to a board of directors.¹²⁵ Directors must own land within the district and be nominated by 10 of their fellow land owners.¹²⁶ Directors serve three year terms.¹²⁷

Watershed improvement districts may exercise powers under the supervision of the SWCD to:

- Exercise the powers of the SWCD;
- Levy ad valorem taxes for the purposes of the watershed improvement district;
- Acquire land to accomplish the goals of the district;
- Borrow money and issue bonds; and
- Construct, improve, operate, and maintain such structures and works as may be necessary to perform its duties.¹²⁸

Watershed improvement districts may not raise more taxes than necessary to fund their operations and may not exceed three mills.¹²⁹ The county property appraisers impose and assess this property tax.¹³⁰

There are currently no watershed improvement districts in Florida.

A SWCD may be discontinued or dissolved if:

- Two-thirds of the lands owners vote in a referendum to discontinue the district;¹³¹
- The Soil and Water Conservation Council determines that continued operation of the district is not administratively practicable or feasible;¹³²
- DACS' inspector general determines that the SWCD failed to comply with financial auditing and reporting requirements;¹³³ or

¹¹⁸ Sections 582.331 and 582.34, F.S.

¹¹⁹ Section 582.35, F.S.

¹²⁰ Id.

¹²¹ Section 582.36, F.S.

¹²² Section 582.37, F.S.

¹²³ Section 582.38, F.S.

¹²⁴ Section 582.40, F.S.

¹²⁵ Section 582.41(2), F.S.

¹²⁶ Section 582.41(1), F.S.

¹²⁷ Section 582.41(2), F.S.

¹²⁸ Sections 582.43 and 582.46, F.S.

¹²⁹ Section 582.44, F.S.

¹³⁰ Id.

¹³¹ Section 582.30(2), F.S.

¹³² Section 582.30(3)(a), F.S.

- The supervisors of the SWCD adopt a resolution and DACS accepts that that the continued operation of the district is not administratively practicable and feasible.¹³⁴

DACS must publish notice of dissolution in a newspaper of general circulation for two weeks and state that any comments or objections to the proposed certification, or any claims against the assets of the district, must be filed with the department clerk not later than 60 days after the date of last publication.¹³⁵

A watershed improvement district may be discontinued if owners of not less than 25 percent of the land area file a petition to discontinue the watershed improvement district, a referendum is held, and a majority of the voters vote to discontinue the district.¹³⁶

Effect of Proposed Changes

The bill amends several sections of ch. 582, F.S., to eliminate powers and duties not used by SWCDs or powers and duties exercised by other arms of government. Specifically the bill:

- Amends s. 582.01, F.S., to amend the definition of “due notice” to require notification in a newspaper of general circulation seven days in advance of an event, and eliminate the definition of “administrative officer”;
- Amends s. 582.02, F.S., to update the legislative policy to emphasize the purpose of SWCDs is to promote the appropriate and efficient use of soil and water resources, protect water quality, prevent floodwater and sediment damage, preserve wildlife, protect public lands, and to provide assistance, guidance, and education to landowners, land occupiers, the agricultural industry, and the general public in implementing land and water resource protection practices;
- Repeals ss. 582.03, 582.04, and 582.05, F.S., to recognize that many of the goals and responsibilities of SWCDs are no longer necessary because they are performed by the Department of Environmental Protection, the water management districts, and DACS;
- Amends s. 582.055, F.S., to update DACS’s powers in relation to SWCDs to reflect its current practices, ensure DACS possesses the power to work with SWCD to receive state/federal assistance, grant DACS the power to create and dissolve SWCDs, grant DACS rulemaking powers to implement the chapter, and combine this section with s. 582.08, F.S., which is being repealed;
- Amends s. 582.06, F.S., to grant the Soil and Water Conservation Council the authority to review requests to create or dissolve SWCD and the ability to review and provide a recommendation, at the request of the governor, whether a SWCD supervisor should be removed because of neglect of duty;
- Repeals s. 582.09, F.S., to eliminate the administrative officer of soil and water conservation. According to DACS, the Officer of Agricultural Water Policy performs the administrative officer’s duty;¹³⁷
- Amends s. 582.16, F.S., to change the procedure changing a boundary of the district to be the same as forming a district;
- Repeals s. 582.17, F.S., because proof of establishment of a SWCD can be demonstrated by showing compliance with the procedures of ss. 582.10 through 582.15, F.S.;
- Amends s. 582.20, F.S., to change or eliminate the powers of the SWCDs and their supervisors because they are not used by SWCDs or are powers exercised by other arms of government. The SWCDs will now emphasis research relating to soil and water resources, conducting and promoting best management practices, providing agricultural assistance in form of materials and equipment, provide training, and coordinate with other governmental entities to meet its goals and duties;

¹³³ Section 582.30(3)(b), F.S.

¹³⁴ Section 582.30(3)(c), F.S.

¹³⁵ Section 582.30(4), F.S.

¹³⁶ Section 582.48, F.S.

¹³⁷ DACS, *Supporting Information for Proposed Legislative Edits to: Chapter 582 Soil and Water Conservation*, p. 1 (August 19, 2015).

- Repeals s. 582.21, F.S., to eliminate the SWCDs' ability to adopt land use regulations. Municipalities and counties largely control land use under their authorities in Chapters 125 and 163, F.S. The Department of Environmental Protection and the water management districts do possess some regulatory authority for erosion control in s. 373.414, F.S.;
- Repeals ss. 582.22, 582.23, 582.24, 582.25, and 582.26, F.S., which set forth what must be in SWCD land use regulations, how SWCD land use regulations are enforced, and the procedure to vary from SWCD land use regulations because SWCDs will no longer have the ability to adopt land use regulations;
- Amends s. 582.29, F.S., to conform to other changes made in the bill; and
- Repeals ss. 582.331, 582.34, 582.35, 582.36, 582.37, 582.38, 582.39, 582.40, 582.41, 582.42, 582.43, 582.44, 582.45, 582.46, 582.47, 582.48, and 582.49, F.S., to eliminate watershed improvement districts. These districts performed many of the same functions as SWCDs, which as discussed above are also performed by other arms of government. Further, SWCDs will no longer be authorized to have sub-entities with the power to levy ad valorem taxes. There are currently no watershed improvement districts in Florida.

Parks on Florida Forest Service Land

Present Situation

The Florida Forest Service may dedicate its land for use by the public as a park.¹³⁸ These lands must be subject to the rules and regulations adopted by DEP's Division of Recreation and Parks.¹³⁹

Effect of Proposed Changes

The bill repeals s. 589.26, F.S., to eliminate the Florida Forest Service's power to dedicate its land for use by the public as a park. According to DACS, the Florida Forest Service does not have any state parks or manage land for "park purposes."¹⁴⁰

School Nutrition Program

Present Situation

The National School Lunch Program (NSLP) is a federally funded program that assists schools and other agencies in providing nutritious meals to children at reasonable prices. In addition to financial assistance, the NSLP provides donated commodity foods to help reduce lunch program costs.

Chapter 595, F.S., authorizes DACS to coordinate with the federal government to use federal and state funding to provide school nutrition programs. The Legislature declared that it is the policy of the state to provide standards for school food and nutrition services and to require each school district to establish and maintain an appropriate school food and nutrition service program consistent with the nutritional needs of students.¹⁴¹

Schools must apply through DACS and complete certain requirements¹⁴² prior to the operation of a school nutrition program. Once approved, DACS will reimburse schools for each lunch and breakfast meal served provided they meet established state and federal regulations.

Currently, DACS must make a reasonable effort to ensure that any school designated as a "severe need school" receives the highest rate of reimbursement to which it is entitled under the federal school breakfast program for each breakfast meal served.¹⁴³ Further, DACS may advance funds from the

¹³⁸ Section 589.26, F.S.

¹³⁹ Id.

¹⁴⁰ DACS Agency Analysis of 2015 PCB ANRS 15-01, p. 9 (January 19, 2015).

¹⁴¹ Section 595.403, F.S.

¹⁴² Requirements found in s. 595.405, F.S.

¹⁴³ Section 595.404(5), F.S.

school nutrition program's annual appropriation to sponsors in order to implement the school nutrition program.¹⁴⁴ There is no restriction on when or for which program the funds may be advanced.

Each school district must implement a school breakfast program that makes breakfast meals available to all students in each elementary school.¹⁴⁵ School districts must offer universal school breakfast programs (a no-cost program) in schools in which 80 percent or more of the students are eligible for free or reduced-price meals.¹⁴⁶ There is no exception to these requirements.

Each school must, to the maximum extent practicable, make breakfast meals available to students at an alternative site location.¹⁴⁷

The Legislature encourages school districts to provide universal free school breakfast meals to all students.¹⁴⁸ The school may approve or disapprove a universal free school breakfast only after receiving public testimony concerning the proposed policy at two or more regular meetings.¹⁴⁹

Each school district is required to sponsor a summer nutrition program that operates a site either:

- Within 5 miles of at least one elementary school at which 50 percent or more of the students are eligible for free or reduced-price school meals and for the duration of 35 consecutive days; or
- Within 10 miles of each elementary school at which 50 percent or more of the students are eligible for free or reduced-price school meals.¹⁵⁰

DACS must conduct, supervise, and administer all commodity distribution services related to the school nutrition program that will be carried on using federal or state funds, or funds from any other source, or commodities received and distributed from the United States or any of its agencies.¹⁵¹ DACS must cooperate fully with the federal government in order to assure it receives the benefit of all federal financial allotments and assistance possible to carry out the school nutrition program.¹⁵²

Effect of Proposed Changes

The bill includes the following revisions to the School Nutrition Program:

- Amends s. 595.402, F.S., to add definitions for "school breakfast program," "summer nutrition program," and "universal school breakfast program" to specify that they are the programs authorized by federal law;
- Changes the term "school district" to "district school board";
- Amends subsection 595.404(2), F.S., to authorize DACS to implement the Farmer's Market Nutrition Program (FMNP) for Supplemental Nutrition Program for Women, Children and Infants (SNAP-WIC);¹⁵³
- Amends subsection 595.404(6), F.S., to create a duty to provide to a "severe need school" the highest rate of reimbursement to which it is entitled under the federal school breakfast program

¹⁴⁴ Section 595.404(12), F.S.

¹⁴⁵ Section 595.405(2), F.S.

¹⁴⁶ Id.

¹⁴⁷ Id.

¹⁴⁸ Section 595.405(4), F.S.

¹⁴⁹ Id.

¹⁵⁰ Section 595.407(2), F.S.

¹⁵¹ Section 595.408(1), F.S.

¹⁵² Section 595.408(2), F.S.

¹⁵³ SNAP-WIC provides federal grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk. Women, infants (over 4 months old), and children that have been certified to receive WIC program benefits or who are on a waiting list for WIC certification are eligible to participate in the FMNP. State agencies may serve some or all of these categories. A variety of fresh, nutritious, unprepared, locally grown fruits, vegetables and herbs may be purchased with FMNP coupons. State agencies can limit sales to specific foods grown within state borders to encourage FMNP recipients to support the farmers in their own States. United States Department of Agriculture, Farmers' Market Nutrition Program (FMNP) FMNP Contacts, <http://www.fns.usda.gov/fmnp/fmnp-contacts>. (last visited September 10, 2015).

for each breakfast meal served. This is consistent with the federal requirement in 7 CFR 220.9. According to DACS, the department currently provides the highest rate of reimbursement to which each severe need school is entitled;¹⁵⁴

- Amends subsection 595.404(10), F.S., to authorize DACS to adopt rules for the farmer's market nutrition program;
- Amends subsection 595.404(13), F.S., to specify that funds from the school nutrition program may only be advanced to the sponsors of Summer Food Service Programs. This is consistent with the federal requirement in 7 CFR 225.9. According to DACS, the bill will have no economic or substantive effect on any interest groups or stakeholders, and will remove ambiguities from the statute that could potentially result in misinterpretation and misapplication of the law;¹⁵⁵
- Creates subsection 595.404(14), F.S., to authorize DACS to collect and publish data from multiple sources on food purchased by sponsors through the Florida Farm to School Program and other school food and nutrition service programs;
- Creates subsection 595.404(15), F.S., to authorize DACS to enter into agreements with federal or state agencies to coordinate and cooperate in the implementation of nutrition programs;
- Amends s. 595.406, F.S., to change the name of the "Florida Farm Fresh Schools Program" to "Florida Farm to School Program";
- Creates subsection 595.406(3), F.S., to authorize DACS to recognize sponsors who purchase at least 10 percent of the food they serve from the Florida Farm to School Program;
- Amends s. 595.407, F.S., to specify that each school district must provide a summer nutrition program within 5 miles of at least one school that serves any combination of grades K through 5, not just elementary schools. This provision attempts to close a loophole where some K-8 or K-12 schools claimed they were not elementary schools, and therefore, did not have to comply. According to DACS, interpretation of this statute has varied greatly.¹⁵⁶ Thus, the proposed change may require district school boards to adjust the location or increase the number of summer nutrition program sites they operate.¹⁵⁷ Since schools participating in the summer nutrition program are reimbursed directly by the federal government, the department has indicated that the proposed change will have a minimal impact on school districts and local governments;¹⁵⁸
- Amends paragraph 595.407(2)(a), F.S., to remove the requirement that each school district provide reduced-price school meals during the summer for 35 consecutive days and replace it with the requirement for each school district provide reduced-price school meals during the summer for 35 days between the end of one school year and the beginning of the next. School districts may exclude holidays and weekends;
- Amends s. 595.408, F.S., to change the term "commodity" to "food" to be consistent with federal statutes; and
- Amends s. 595.501, F.S., to remove "school district" from the phrase "any person, sponsor, or school district" because the definition of "sponsor" is inclusive of "school districts."¹⁵⁹

Financial Assurance Requirements for Dealers in Agricultural Products and Grain Dealers

Present Situation

Any individual or business entity who wishes to be a dealer in agricultural products¹⁶⁰ must receive a license from DACS and deliver a bond or certificate of deposit to DACS in favor of the Commissioner of

¹⁵⁴ DACS Agency Analysis of 2015 PCB ANRS 15-01, p. 9 (January 19, 2015).

¹⁵⁵ Id. at 10.

¹⁵⁶ DACS Agency Analysis of 2015 PCB ANRS 15-01, p. 11 (January 19, 2015).

¹⁵⁷ Id.

¹⁵⁸ Email from Jonathan Rees, Deputy Director Office of Legislative Affairs, Department of Agriculture and Consumer Services, Summer Nutrition Program/Fiscal Impact, March 26, 2015.

¹⁵⁹ Section 595.402(5), F.S.

¹⁶⁰ A "dealer in agricultural products" is any person or business entity, whether itinerant or domiciled within this state, engaged in Florida in the business of purchasing, receiving, or soliciting agricultural products from the producer or the producer's agent or representative for resale or processing for sale; acting as an agent for such producer in the sale of agricultural products for the account

Agriculture.¹⁶¹ This financial assurance requirement is essentially a third-party beneficiary contract to protect individuals who are harmed when conducting business with dealers in agricultural products who fail to pay for products.¹⁶²

Individuals claiming to be damaged by an agricultural products dealer by any breach of the conditions of a bond or certificate of deposit assignment or agreement may file a complaint with DACS.¹⁶³ DACS must investigate these complaints and determine if a complaint should be filed against the agricultural products dealer in order to seek damages.¹⁶⁴ To file the complaint, the aggrieved party must file three complaint affidavits or notarizations. If the aggrieved party files the complaint by electronic transmission or facsimile, the original affidavits and original notarizations must be filed with DACS by the close of business of the tenth business day following the electronic transmission or facsimile filing.¹⁶⁵ If the agricultural products dealer fails to respond to the complaint, it waives its point of entry into the proceeding.¹⁶⁶

Further, each grain dealer¹⁶⁷ doing business in Florida must maintain a liquid security in an amount equal to the value of grain which the grain dealer has received from grain producers and for which the producers have not received payment.¹⁶⁸ Each grain dealer must report to DACS monthly the value of grain it received from producers for which the producers have not received payment.¹⁶⁹ This report must include a statement showing the type and amount of security maintained to cover the grain dealer's liability to producers.¹⁷⁰

Effect of Proposed Changes

The bill amends subsection 604.21(1), F.S., eliminating the requirement that a complainant file three complaint affidavits or notarizations. The bill also eliminates the requirement to file an original complaint with DACS if the complaint is submitted electronically.

Further, the bill amends s. 604.33, F.S., to eliminate the requirement that each grain dealer report monthly to DACS the value of grain it received from producers for which the producers have not received payment. DACS possess the authority to request this information if a complaint is filed or if malpractice is suspected.

B. SECTION DIRECTORY:

Section 1. Amends s. 482.111, F.S., relating to a pest control operator's certificate.

Section 2. Amends s. 482.1562, F.S., relating to limited certification for urban landscape commercial fertilizer application.

Section 3. Amends s. 500.03, F.S., defining the term "vehicle."

of the producer on a net return basis; or acting as a negotiating broker between the producer or the producer's agent or representative and the buyer. Section 604.15(2), F.S.

¹⁶¹ Sections 604.17, 604.19, and 604.20, F.S.

¹⁶² In re Hallmark Builders, Inc., 205 B.R. 974, 975 (Bankr. M.D. Fla. 1996).

¹⁶³ Section 604.21(1)(a), F.S.

¹⁶⁴ Section 604.21(2), F.S.

¹⁶⁵ Section 604.21(1)(d), F.S.

¹⁶⁶ Southeast Grove Management, Inc. v. McKiness, 578 So.2d 883, 886 (Fla. 1st DCA 1991).

¹⁶⁷ A "grain dealer" is any person engaged in this state in: (a) buying, receiving, selling, exchanging, negotiating, or processing for resale, or soliciting the sale, resale, exchange, or transfer of, grain purchased from the producer or the producer's agent or representative or received from the producer to be handled on a net return basis; or (b) receiving grain for storage. Section 604.15(6), F.S.

¹⁶⁸ Section 604.33, F.S.

¹⁶⁹ Id.

¹⁷⁰ Id.

- Section 4.** Amends s. 500.10, F.S., relating to foods deemed adulterated.
- Section 5.** Amends s. 500.11, F.S., relating to foods deemed misbranded.
- Section 6.** Amends s. 570.07, F.S., relating to the powers and duties of DACS.
- Section 7.** Amends s. 570.30, F.S., relating to the powers and duties of the Division of Administration.
- Section 8.** Amends s. 570.441, F.S., relating to the Pest Control Trust Fund.
- Section 9.** Amends s. 570.53, F.S., relating to the powers of the DACS Division of Marketing and Development.
- Section 10.** Amends s. 570.544, F.S., relating to the duties of the director of the Division of Consumer Services.
- Section 11.** Creates s. 570.68, F.S., creating the Office of Agriculture Technology Services.
- Section 12.** Amends s. 570.681, F.S., relating to the Florida Agriculture Center and Horse Park.
- Section 13.** Amends s. 570.685, F.S., relating the Florida Agriculture Center and Horse Park Authority.
- Section 14.** Amends s. 571.24, F.S., relating to the FAPC and the Advertising Interagency Coordinating Council.
- Section 15.** Amends s. 571.27, F.S., removing obsolete provisions relating to the authority of DACS to adopt rules related to negotiating and entering into contracts with advertising agencies.
- Section 16.** Amends s. 571.28, F.S., revising membership requirements for the FAPC Advisory Council.
- Section 17.** Amends s. 576.041, F.S., relating to fertilizer inspection fees and records.
- Section 18.** Creates s. 580.0365, F.S., relating to preemption of regulatory authority over commercial feed and feedstuff.
- Section 19.** Amends s. 581.181, F.S., relating to plants or plant products infested with pest or noxious weeds.
- Section 20.** Creates s. 581.189, F.S., creating the Grove Removal or Vector Elimination (GROVE) Program.
- Section 21.** Amends s. 582.01, F.S., revising definitions.
- Section 22.** Amends s. 582.02, F.S., relating to legislative policy and findings and the purpose of SWCDs.
- Section 23.** Repeals s. 582.03, F.S., pertaining to consequences of soil erosion; s. 582.04, F.S., pertaining to appropriate corrective measures for soil conservation; and s. 582.05, F.S., pertaining to legislative policy for conservation.

- Section 24.** Amends s. 582.055, F.S., relating to the powers and duties of the DACS with regard to SWCDs.
- Section 25.** Amends s. 582.06, F.S., relating to the powers and duties of the Soil and Water Conservation Council.
- Section 26.** Repeals s. 582.08, F.S., pertaining to additional powers of DACS in relation to SWCDs and s. 582.09, F.S., pertaining to administrative officer of soil and water conservation.
- Section 27.** Amends s. 582.16, F.S., relating to SWCD boundaries.
- Section 28.** Repeals s. 582.17, F.S., pertaining to the establishment of SWCDs;
- Section 29.** Amends s. 582.20, F.S., relating to powers and duties of the SWCDs and supervisors.
- Section 30.** Repeals s. 582.21, F.S., pertaining to adoption of land use regulations of SWCDs; s. 582.22, F.S., pertaining to SWCD regulations and content; s. 582.23, F.S., pertaining to performance of work under the SWCD regulations; s. 582.24, F.S., pertaining to boards of adjustment for SWCDs; s. 582.25, F.S., pertaining to rules and procedures of the board; and s. 582.26, F.S., pertaining to petitions to board to vary from SWCD regulations.
- Section 31.** Amends s. 582.29, F.S., relating to state agencies cooperating with SWCDs.
- Section 32.** Repeals s. 582.331, F.S., pertaining to establishment of watershed improvement districts within SWCDs; s. 582.34, F.S., pertaining to petition for establishment of watershed improvement districts; s. 582.35, F.S., pertaining to notice and hearing on petition to establish watershed improvement districts, determination of need for a watershed improvement district, and boundaries; s. 582.36, F.S., pertaining to determination of feasibility of proposed watershed improvement district and referendum; s. 582.37, F.S., pertaining to consideration of results of referendum on establishing watershed improvement district and declaration of organization of district; s. 582.38, F.S., pertaining to organization of watershed improvement district, certification to clerks of circuit courts, and limitation on tax rate; s. 582.39, F.S., pertaining to establishment of watershed improvement district situated in more than one SWCD; s. 582.40, F.S., pertaining to changes of district boundaries, additions, detachments, transfers of land from one district to another, and change of district name; s. 582.41, F.S., pertaining to the board of directors of the watershed improvement districts; s. 582.42, F.S., pertaining to officers, agents, and employees; surety bonds; annual audits of watershed improvement districts; s. 582.43, F.S., pertaining to the status and general powers of watershed improvement districts; s. 582.44, F.S., pertaining to watershed improvement districts levying taxes; s. 582.45, F.S., pertaining to the fiscal powers of the watershed improvement district's governing board; s. 582.46, F.S., pertaining to additional powers and authorities of watershed improvement districts; s. 582.47, F.S., pertaining to watershed improvement district to coordinating work with flood control districts; s. 582.48, F.S., pertaining to discontinuing watershed improvement district; and s. 582.49, F.S., pertaining to discontinuing of soil and water conservation district.
- Section 33.** Repeals s. 589.26, F.S., relating to the authority of the Florida Forest Service to dedicate its land for use by the public as a park.
- Section 34.** Amends s. 595.402, F.S., defining terms relating to the school food and nutrition service program.

- Section 35.** Amends s. 595.404, F.S., relating to DACS's powers for the school food and nutrition service programs.
- Section 36.** Amends s. 595.405, F.S., relating to school food and nutrition program requirements.
- Section 37.** Amends s. 595.406, F.S., to change the name of the "Florida Farm Fresh Schools Program" to "Florida Farm to School Program."
- Section 38.** Amends s. 595.407, F.S., relating to children's summer nutrition program.
- Section 39.** Amends s. 595.408, F.S., to change every instance of the word "commodity" to "food" to be consistent with the federal statutes.
- Section 40.** Amends s. 595.501, F.S., relating to penalties under ch. 595, F.S.
- Section 41.** Amends s. 595.601, F.S., correcting a cross-reference.
- Section 42.** Amends s. 604.21, F.S., revising affidavit requirements for agricultural products dealers.
- Section 43.** Amends s. 604.33, F.S., relating to grain dealer report.
- Section 44.** Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Pest Control Operator's Certification Application Fee

The bill appears to have an insignificant negative fiscal impact on state government by eliminating the issuance fee to apply for a pest control operator's original certificate. DACS indicated that it expects the impact to be \$76,762 per year.¹⁷¹

Fee for Limited Certification for Urban Landscape Commercial Fertilizer Application

The bill appears to have an insignificant negative fiscal impact on state government revenues by eliminating a late fee for limited certification for urban landscape commercial fertilizer application. DACS indicated that it expects the impact to be minimal.¹⁷²

2. Expenditures:

Office of Agricultural Technology Services

The bill may have a negative fiscal impact associated with the creation of s. 570.68, F.S. This provision creates the Office of Agricultural Technology Services, under the supervision of a senior management class employee. Currently, the Chief Information Officer within the department is classified as a retiree that has been reemployed and not eligible to participate in a state administered retirement plan. The state contributes a set amount to the state retirement account for employees in these ineligible classes, despite their inability to participate. The current retirement contribution rate for an ineligible employee in a regular class is 4.31 percent, while the contribution rate for an ineligible employee in a senior management class is 17.07 percent. Changing the department's current Chief Information Officer to a senior management class would result in an additional state retirement contribution of \$12,402 from the salary and benefits appropriation category.

¹⁷¹ DACS, Agency analysis of 2016 House Bill 7007, p. 19 (November 16, 2015)

¹⁷² Id.

If the current Chief Information Officer were to leave and the position was filled at the same annual rate with an employee that was eligible to participate in state retirement, then the retirement contribution for this regular class employee would be 7.26 percent. In this scenario, changing the position to a senior management class would increase the contribution rate to 21.43 percent and result in \$13,722 in additional state retirement contributions.

In either scenario, DACS indicated it would manage these additional costs within existing salary and benefit appropriations.¹⁷³

Grove Removal or Vector Elimination Program

It is expected that funding for the Grove Removal or Vector Elimination Program will be addressed in the House proposed Fiscal Year 2016-17 General Appropriations Act.

School Nutrition Programs

The bill amends subsection (5) of s. 595.404, F.S., to create a duty to provide to a “severe need school” the highest rate of reimbursement to which it is entitled under the federal school breakfast program for each breakfast meal served. According to DACS, the department currently provides the highest rate of reimbursement to which each severe need school is entitled. Therefore, the provision will have no economic or substantive effect.

Section 595.404(12), F.S., currently authorizes DACS to advance funds to program sponsors when requested. Historically, advances have only been given to participants in the Summer Food Service Program. Furthermore, the USDA only requires the department to provide an advancement of funds for participants in the Summer Food Service Program. The proposed statutory change clarifies that DACS will only advance funds when requested by sponsors of the Summer Food Service Program. According to DACS, the provision will have no economic or substantive effect on any interest groups or stakeholders.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

The bill amends s. 595.407, F.S., to specify that each school district must provide a summer nutrition program within 5 miles of at least one school that serves any combination of grades K through 5, not just an elementary school. This provision attempts to close a loophole where some K-8 or K-12 schools claimed they were not elementary schools, and therefore, did not have to comply. According to DACS, interpretation of this statute has varied greatly. Thus, the proposed change may require district school boards to adjust the location or increase the number of summer nutrition program sites they operate. Since schools participating in the summer nutrition program are reimbursed directly by the federal government, the department has indicated that the proposed change will have a minimal impact on school districts and local governments.¹⁷⁴

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill amends s. 482.1562, F.S., to eliminate a late fee for limited certification for urban landscape commercial fertilizer application. This may have a positive impact on those who apply commercial fertilizer by eliminating a fee.

¹⁷³ Id.

¹⁷⁴ Email from Jonathan Rees, Deputy Director Office of Legislative Affairs, Department of Agriculture and Consumer Services, Summer Nutrition Program/Fiscal Impact, March 26, 2015.

The bill amends s. 581.181, F.S., to create an exception from the destruction requirement for plant or plant products infested with pest or noxious weeds that are widely established in Florida and not regulated by DACS. This may have a positive impact on those who own plant or plant products infested with pest or noxious weeds by not requiring the owners to destroy them when they are widely established in Florida and not regulated by DACS.

The bill creates s. 581.189, F.S. to create a cost-sharing program for removal or destruction of abandoned citrus groves. This may have a positive impact on citrus growers since the department may award to each funded application a cost-share of up to 80 percent of eligible costs. An applicant may submit multiple applications, but is eligible only for a maximum of \$125,000 in a given fiscal year.

The bill amends subsection 604.21(1), F.S., to eliminate the necessity for a complainant to submit three complaint affidavits or notarizations when an individual is damaged by an agricultural products dealer. This may have a positive impact on those individuals by eliminating the extra filings and speeding up the complaint process.

The bill amends s. 604.33, F.S., to eliminate monthly reports required from grain dealers. This may have a positive impact by eliminating the filing requirements.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill eliminates the authority for DACS to adopt rules related to negotiating and entering into contracts with advertising agencies. The bill authorizes DACS and SWCD to adopt rules relating to the districts' powers and duties. The bill eliminates the authority for SWCDs to adopt rules related to land use.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, the Agriculture & Natural Resources Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments made the following revisions to the bill:

- Corrects a drafting error from a subsection to a paragraph in s. 500.10, F.S., relating to conditions under which a dietary supplement or its ingredients is deemed adulterated; and

- Creates the Grove Removal or Vector Elimination (GROVE) Program, a cost-sharing program for the removal or destruction of abandoned citrus groves to eliminate citrus greening disease and the vectors that spread the disease.

This analysis is drafted to the bill as amended and passed by the Agriculture & Natural Resources Appropriations Subcommittee.

1 A bill to be entitled
 2 An act relating to the Department of Agriculture and
 3 Consumer Services; amending s. 482.111, F.S.; revising
 4 requirements for issuance of an original pest control
 5 operator's certificate; amending s. 482.1562, F.S.;
 6 revising the date by which an application for
 7 recertification of a limited certification for urban
 8 landscape commercial fertilizer application is
 9 required; removing provisions imposing late renewal
 10 charges; providing a grace period for such
 11 recertification; amending s. 500.03, F.S.; revising
 12 the definition of the term "food" and defining the
 13 term "vehicle" for purposes of the Florida Food Safety
 14 Act; amending s. 500.10, F.S.; providing that food
 15 transported under specified conditions or containing
 16 ingredients for which there is inadequate information
 17 is deemed adulterated; providing conditions under
 18 which a dietary supplement or its ingredients is
 19 deemed adulterated; amending s. 500.11, F.S.;
 20 providing that a food is deemed misbranded for
 21 noncompliance with specified allergen information;
 22 amending s. 570.07, F.S.; revising powers and duties
 23 of the department to include sponsoring events;
 24 authorizing the department to secure letters of
 25 patent, copyrights, and trademarks on work products
 26 and to engage in acts accordingly; amending s. 570.30,

27 F.S.; removing electronic data processing and
 28 management information systems support for the
 29 department as a power and duty of the Division of
 30 Administration; amending s. 570.441, F.S.; authorizing
 31 the use of funds in the Pest Control Trust Fund for
 32 activities of the Division of Agricultural
 33 Environmental Services; amending s. 570.53, F.S.;
 34 revising duties of the Division of Marketing and
 35 Development to remove enforcement of provisions
 36 relating to dealers in agricultural products; amending
 37 s. 570.544, F.S.; revising duties of the director of
 38 the Division of Consumer Services to include
 39 enforcement of provisions relating to dealers in
 40 agricultural products and grain dealers; creating s.
 41 570.68, F.S.; authorizing the Commissioner of
 42 Agriculture to create an Office of Agriculture
 43 Technology Services; providing duties of the office;
 44 amending s. 570.681, F.S.; revising legislative
 45 findings with regard to the Florida Agriculture Center
 46 and Horse Park; amending s. 570.685, F.S.;
 47 authorizing, rather than requiring, the department to
 48 provide administrative and staff support services,
 49 meeting space, and record storage for the Florida
 50 Agriculture Center and Horse Park Authority; amending
 51 s. 571.24, F.S.; providing legislative intent for the
 52 Florida Agricultural Promotional Campaign to serve as

53 a marketing program for certain purposes; removing an
 54 obsolete provision relating to the designation of a
 55 Division of Marketing and Development employee as a
 56 member of the Advertising Interagency Coordinating
 57 Council; amending s. 571.27, F.S.; removing obsolete
 58 provisions relating to the authority of the department
 59 to adopt rules for entering into contracts with
 60 advertising agencies for services which are directly
 61 related to the Florida Agricultural Promotional
 62 Campaign; amending s. 571.28, F.S.; revising
 63 provisions specifying membership criteria of the
 64 Florida Agricultural Promotional Campaign Advisory
 65 Council; amending s. 576.041, F.S.; revising the
 66 frequency of fertilizer sales reports and the payment
 67 of related inspection fees; providing for such reports
 68 and fees to be made through the department's website;
 69 revising the time by which such reports must be made
 70 and fees must be paid; creating s. 580.0365, F.S.;

71 providing legislative intent with regard to regulation
 72 of commercial feed and feedstuff; preempting
 73 regulatory authority for commercial feed and feedstuff
 74 to the department; amending s. 581.181, F.S.;

75 providing applicability of provisions requiring
 76 treatment or destruction of infested or infected
 77 plants and plant products; creating s. 581.189, F.S.;

78 creating the Grove Removal or Vector Elimination

79 (GROVE) Program within the department to provide cost-
 80 share funding for the removal or destruction of
 81 abandoned citrus groves; providing definitions;
 82 providing program procedures and requirements;
 83 directing the department to adopt rules; specifying
 84 that funding for the program is contingent upon
 85 specific legislative appropriation; amending s.
 86 582.01, F.S.; revising definitions; amending s.
 87 582.02, F.S.; revising legislative findings and intent
 88 with regard to the purpose of soil and water
 89 conservation districts; repealing s. 582.03, F.S.,
 90 relating to the consequences of soil erosion;
 91 repealing s. 582.04, F.S., relating to appropriate
 92 corrective methods for conservation, development, and
 93 use of soil and water resources; repealing s. 582.05,
 94 F.S., relating to legislative policy for the
 95 conservation, development, and use of such resources;
 96 amending s. 582.055, F.S.; revising provisions
 97 relating to powers and duties of the department with
 98 regard to soil and water conservation districts;
 99 amending s. 582.06, F.S.; revising provisions relating
 100 to powers and duties of the Soil and Water
 101 Conservation Council; repealing s. 582.08, F.S.,
 102 relating to additional powers of the department with
 103 regard to soil and water conservation districts;
 104 repealing s. 582.09, F.S., relating to the employment

105 | of an administrative officer of soil and water
 106 | conservation; amending s. 582.16, F.S.; revising
 107 | provisions for modifying soil and water conservation
 108 | district boundaries; repealing s. 582.17, F.S.,
 109 | relating to the presumption that districts are
 110 | established in accordance with specified provisions;
 111 | amending s. 582.20, F.S.; revising provisions relating
 112 | to powers and duties of soil and water conservation
 113 | districts and district supervisors; repealing s.
 114 | 582.21, F.S., relating to the adoption of land use
 115 | regulations by soil and water conservation district
 116 | supervisors; repealing s. 582.22, F.S., relating to
 117 | the content of land use regulations adopted by soil
 118 | and water conservation district supervisors; repealing
 119 | s. 582.23, F.S., relating to the performance of work
 120 | under land use regulations adopted by soil and water
 121 | conservation district supervisors; repealing s.
 122 | 582.24, F.S., relating to the board of adjustment;
 123 | repealing s. 582.25, F.S., relating to rules of
 124 | procedure of the board of adjustment; repealing s.
 125 | 582.26, F.S., relating to petitions to the board of
 126 | adjustment for land use variances; amending s. 582.29,
 127 | F.S.; revising provisions directing state agencies and
 128 | other governmental subdivisions of the state that
 129 | manage publicly owned lands to cooperate with soil and
 130 | water conservation district supervisors in

131 implementing district programs and operations;
 132 repealing s. 582.331, F.S., relating to the
 133 establishment of a watershed improvement district
 134 within a soil and water conservation district;
 135 repealing s. 582.34, F.S., relating to the petition
 136 for establishment of a watershed improvement district
 137 within a soil and water conservation district;
 138 repealing s. 582.35, F.S., relating to notice and
 139 hearing on petition for establishment of a watershed
 140 improvement district within a soil and water
 141 conservation district and determination of need for
 142 such district; repealing s. 582.36, F.S., relating to
 143 determination of feasibility and referendum for a
 144 watershed improvement district within a soil and water
 145 conservation district; repealing s. 582.37, F.S.,
 146 relating to consideration of referendum results for
 147 determination of feasibility and declaration of
 148 organization of a watershed improvement district
 149 within a soil and water conservation district;
 150 repealing s. 582.38, F.S., relating to organization of
 151 a watershed improvement district within a soil and
 152 water conservation district; repealing s. 582.39,
 153 F.S., relating to establishment of a watershed
 154 improvement district situated in more than one soil
 155 and water conservation district; repealing s. 582.40,
 156 F.S., relating to change of district boundaries

157 including additions, detachments, transfers of land
 158 from one district to another, and change of district
 159 name; repealing s. 582.41, F.S., relating to the board
 160 of directors of a soil and water conservation
 161 district; repealing s. 582.42, F.S., relating to
 162 officers, agents, and employees of a watershed
 163 improvement district within a soil and water
 164 conservation district and issuance of surety bonds by,
 165 and annual audits of, such district; repealing s.
 166 582.43, F.S., relating to the power of a watershed
 167 improvement district within a soil and water
 168 conservation district to levy taxes and to construct,
 169 operate, improve, and maintain works of improvement in
 170 such district and to obtain necessary lands or
 171 interests therein; repealing s. 582.44, F.S., relating
 172 to procedures for a watershed improvement district
 173 within a soil and water conservation district to levy
 174 taxes; repealing s. 582.45, F.S., relating to the
 175 fiscal power of the board of directors of a watershed
 176 improvement district within a soil and water
 177 conservation district to issue bonds; repealing s.
 178 582.46, F.S., relating to additional powers of the
 179 board of directors of a watershed improvement district
 180 within a soil and water conservation district;
 181 repealing s. 582.47, F.S., relating to the authority
 182 of a watershed improvement district within a soil and

183 water conservation district to coordinate work with
 184 flood control districts; repealing s. 582.48, F.S.,
 185 relating to discontinuance of a watershed improvement
 186 district within a soil and water conservation
 187 district; repealing s. 582.49, F.S., relating to
 188 discontinuance of a soil and water conservation
 189 district; repealing s. 589.26, F.S., relating to the
 190 authority of the Florida Forest Service to dedicate
 191 and reserve state park lands for public use; amending
 192 s. 595.402, F.S.; defining terms relating to school
 193 food and nutrition service programs; conforming a
 194 reference to changes made by the act; amending s.
 195 595.404, F.S.; revising powers and duties of the
 196 department with regard to school food and nutrition
 197 programs; authorizing the department to conduct,
 198 supervise, and administer a farmers' market nutrition
 199 program for certain purposes; directing the department
 200 to collect and publish data on food purchased through
 201 specified programs; authorizing the department to
 202 enter into agreements with federal and state agencies
 203 to implement nutrition programs; amending s. 595.405,
 204 F.S.; revising requirements for school nutrition
 205 programs; providing for breakfast meals to be
 206 available to all students in schools that serve
 207 specified grade levels; conforming a reference to
 208 changes made by the act; amending s. 595.406, F.S.;

209 renaming the "Florida Farm Fresh Schools Program" as
 210 the "Florida Farm to School Program"; authorizing the
 211 department to establish by rule a recognition program
 212 for certain sponsors; amending s. 595.407, F.S.;
 213 revising provisions of the children's summer nutrition
 214 program to include certain schools that serve
 215 specified grade levels; revising provisions relating
 216 to the duration of the program; authorizing school
 217 districts to exclude holidays and weekends; amending
 218 s. 595.408, F.S.; conforming references to changes
 219 made by the act; amending s. 595.501, F.S.; requiring
 220 entities to complete corrective action plans required
 221 by the department or a federal agency to be in
 222 compliance with school food and nutrition service
 223 programs; amending s. 595.601, F.S.; correcting a
 224 cross-reference; amending s. 604.21, F.S.; revising
 225 affidavit requirements for an agricultural products
 226 dealer who files a complaint against another such
 227 dealer; amending s. 604.33, F.S.; removing provisions
 228 requiring grain dealers to submit monthly reports;
 229 authorizing, rather than requiring, the department to
 230 make at least one spot check annually of each grain
 231 dealer; providing an effective date.

232
 233
 234

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

235 Section 1. Subsections (1) and (7) of section 482.111,
 236 Florida Statutes, are amended to read:

237 482.111 Pest control operator's certificate.—

238 (1) The department shall issue a pest control operator's
 239 certificate to each individual who qualifies under this chapter.
 240 Before issuance of an original certificate, an individual must
 241 complete an application for examination, pay the examination fee
 242 required under s. 482.141, and pass the examination. Before
 243 engaging in pest control work, each certified operator must be
 244 certified as provided in this section. ~~Application must be made~~
 245 ~~and the issuance fee must be paid to the department for the~~
 246 ~~original certificate within 60 days after the postmark date of~~
 247 ~~written notification of passing the examination. During a period~~
 248 ~~of 30 calendar days following expiration of the 60-day period,~~
 249 ~~an original certificate may be issued; however, a late issuance~~
 250 ~~charge of \$50 shall be assessed and must be paid in addition to~~
 251 ~~the issuance fee. An original certificate may not be issued~~
 252 ~~after expiration of the 30-day period, without reexamination.~~

253 (7) The fee for ~~issuance of an original certificate or the~~
 254 ~~renewal of a certificate thereof~~ shall be set by the department
 255 but may not be more than \$150 or less than \$75; however, until
 256 rules setting these fees are adopted by the department, the
 257 issuance fee and the renewal fee shall each be \$75.

258 Section 2. Subsections (5) and (6) of section 482.1562,
 259 Florida Statutes, are amended to read:

260 482.1562 Limited certification for urban landscape

261 commercial fertilizer application.-

262 (5) An application for recertification must be made 4
 263 years after the date of issuance ~~at least 90 days before the~~
 264 ~~expiration~~ of the current certificate and be accompanied by:

265 (a) Proof of having completed the 4 classroom hours of
 266 acceptable continuing education required under subsection (4).

267 (b) A recertification fee set by the department in an
 268 amount of at least \$25 but not more than \$75. Until the fee is
 269 set by rule, the fee for certification is \$25.

270 (6) ~~A late renewal charge of \$50 per month shall be~~
 271 ~~assessed 30 days after the date the application for~~
 272 ~~recertification is due and must be paid in addition to the~~
 273 ~~renewal fee. Unless timely recertified, a certificate~~
 274 ~~automatically expires 90 days after the recertification date.~~
 275 Upon expiration, or after a grace period that does not exceed 30
 276 days after expiration, a certificate may be issued only upon
 277 reapplying in accordance with subsection (3).

278 Section 3. Paragraph (n) of subsection (1) of section
 279 500.03, Florida Statutes, is amended, and paragraph (cc) is
 280 added to that subsection, to read:

281 500.03 Definitions; construction; applicability.-

282 (1) For the purpose of this chapter, the term:

283 (n) "Food" includes:

- 284 1. Articles used for food or drink for human consumption;
- 285 2. Chewing gum;
- 286 3. Articles used for components of any such article; ~~and~~

287 4. Articles for which health claims are made, which claims
 288 are approved by the Secretary of the United States Department of
 289 Health and Human Services and which claims are made in
 290 accordance with s. 343(r) of the federal act, and which are not
 291 considered drugs solely because their labels or labeling contain
 292 health claims; and

293 5. Dietary supplements as defined in 21 U.S.C. s.
 294 321(ff)(1) and (2).

295
 296 The term includes any raw, cooked, or processed edible
 297 substance; ice; any beverage; or any ingredient used, intended
 298 for use, or sold for human consumption.

299 (cc) "Vehicle" means a mode of transportation or mobile
 300 carrier used to transport food from one location to another,
 301 including, but not limited to, carts, cycles, vans, trucks,
 302 cars, trains and railway transport, and aircraft and watercraft
 303 transport.

304 Section 4. Paragraph (f) of subsection (1) of section
 305 500.10, Florida Statutes, is amended, and subsection (5) is
 306 added to that section, to read:

307 500.10 Food deemed adulterated.—A food is deemed to be
 308 adulterated:

309 (1)

310 (f) If it has been produced, prepared, packed,
 311 transported, or held under insanitary conditions whereby it may
 312 become contaminated with filth, or whereby it may have been

313 rendered diseased, unwholesome, or injurious to health;

314 (5) If a dietary supplement or its ingredients present a
 315 significant risk of illness or injury due to:

316 (a) The recommended or suggested conditions of use on the
 317 product labeling;

318 (b) The failure to provide conditions of use on the
 319 product labeling; or

320 (c) An ingredient for which there is inadequate
 321 information to provide reasonable assurance that such ingredient
 322 does not present a significant risk of illness or injury.

323 Section 5. Paragraph (m) of subsection (1) of section
 324 500.11, Florida Statutes, is amended to read:

325 500.11 Food deemed misbranded.—

326 (1) A food is deemed to be misbranded:

327 (m) If it is offered for sale and its label or labeling
 328 does not comply with the requirements of 21 U.S.C. s. 343(q) or
 329 21 U.S.C. s. 343(w) pertaining to nutrition or allergen
 330 information.

331 Section 6. Paragraph (c) of subsection (20) of section
 332 570.07, Florida Statutes, is amended, and subsection (44) is
 333 added to that section, to read:

334 570.07 Department of Agriculture and Consumer Services;
 335 functions, powers, and duties.—The department shall have and
 336 exercise the following functions, powers, and duties:

337 (20)

338 (c) To sponsor events, trade breakfasts, luncheons, and

339 dinners and distribute promotional materials and favors in
 340 connection with meetings, conferences, and conventions of
 341 dealers, buyers, food editors, and merchandising executives that
 342 will assist in the promotion and marketing of Florida's
 343 agricultural and agricultural business products to the consuming
 344 public.

345

346 The department is authorized to receive and expend donations
 347 contributed by private persons for the purpose of covering costs
 348 associated with the above described activities.

349 (44) The department may, in its own name:

350 (a) Perform all things necessary to secure letters of
 351 patent, copyrights, and trademarks on any work products of the
 352 department and enforce its rights therein.

353 (b) License, lease, assign, or otherwise give written
 354 consent to any person, firm, or corporation for the manufacture
 355 or use of such department work products on a royalty basis or
 356 for such other consideration as the department deems proper.

357 (c) Take any action necessary, including legal action, to
 358 protect such department work products against improper or
 359 unlawful use or infringement.

360 (d) Enforce the collection of any sums due to the
 361 department for the manufacture or use of such department work
 362 products by another party.

363 (e) Sell any of such department work products and execute
 364 all instruments necessary to consummate any such sale.

365 (f) Do all other acts necessary and proper for the
 366 execution of powers and duties conferred upon the department by
 367 this section, including adopting rules, as necessary, in order
 368 to administer this section.

369 Section 7. Subsection (5) of section 570.30, Florida
 370 Statutes, is amended to read:

371 570.30 Division of Administration; powers and duties.—The
 372 Division of Administration shall render services required by the
 373 department and its other divisions, or by the commissioner in
 374 the exercise of constitutional and cabinet responsibilities,
 375 that can advantageously and effectively be centralized and
 376 administered and any other function of the department that is
 377 not specifically assigned by law to some other division. The
 378 duties of this division include, but are not limited to:

379 ~~(5) Providing electronic data processing and management~~
 380 ~~information systems support for the department.~~

381 Section 8. Subsection (4) is added to section 570.441,
 382 Florida Statutes, to read:

383 570.441 Pest Control Trust Fund.—

384 (4) In addition to the uses authorized under subsection
 385 (2), moneys collected or received by the department under
 386 chapter 482 may be used to carry out the provisions of s.
 387 570.44. This subsection expires June 30, 2019.

388 Section 9. Subsection (2) of section 570.53, Florida
 389 Statutes, is amended to read:

390 570.53 Division of Marketing and Development; powers and

391 duties.—The powers and duties of the Division of Marketing and
 392 Development include, but are not limited to:

393 ~~(2) Enforcing the provisions of ss. 604.15-604.34, the~~
 394 ~~dealers in agricultural products law, and ss. 534.47-534.53.~~

395 Section 10. Subsection (2) of section 570.544, Florida
 396 Statutes, is amended to read:

397 570.544 Division of Consumer Services; director; powers;
 398 processing of complaints; records.—

399 (2) The director shall supervise, direct, and coordinate
 400 the activities of the division and shall, under the direction of
 401 the department, enforce the provisions of ss. 604.15-604.34 and
 402 chapters 472, 496, 501, 507, 525, 526, 527, 531, 539, 559, 616,
 403 and 849.

404 Section 11. Section 570.68, Florida Statutes, is created
 405 to read:

406 570.68 Office of Agriculture Technology Services.—The
 407 commissioner may create an Office of Agriculture Technology
 408 Services under the supervision of a senior manager exempt under
 409 s. 110.205 in the Senior Management Service. The office shall
 410 provide electronic data processing and agency information
 411 technology services to support and facilitate the functions,
 412 powers, and duties of the department.

413 Section 12. Section 570.681, Florida Statutes, is amended
 414 to read:

415 570.681 Florida Agriculture Center and Horse Park;
 416 legislative findings.—It is the finding of the Legislature that:

417 ~~(1) Agriculture is an important industry to the State of~~
 418 ~~Florida, producing over \$6 billion per year while supporting~~
 419 ~~over 230,000 jobs.~~

420 (1)(2) Equine and other agriculture-related industries
 421 ~~will~~ strengthen and benefit each other with the establishment of
 422 a statewide agriculture and horse facility.

423 (2)(3) The A Florida Agriculture Center and Horse Park
 424 provides ~~will provide~~ Florida with a unique tourist experience
 425 for visitors and residents, thus generating taxes and additional
 426 dollars for the state.

427 (3)(4) Promoting the Florida Agriculture Center and Horse
 428 Park as a joint effort between the state and the private sector
 429 allows ~~will allow~~ this facility to use ~~utilize~~ experts and
 430 generate revenue from many areas to ensure the success of this
 431 facility.

432 Section 13. Paragraphs (b) and (c) of subsection (4) of
 433 section 570.685, Florida Statutes, are amended to read:

434 570.685 Florida Agriculture Center and Horse Park
 435 Authority.—

436 (4) The authority shall meet at least semiannually and
 437 elect a chair, a vice chair, and a secretary for 1-year terms.

438 (b) The department may provide ~~shall be responsible for~~
 439 ~~providing~~ administrative and staff support services relating to
 440 the meetings of the authority and may ~~shall~~ provide suitable
 441 space in the offices of the department for the meetings and the
 442 storage of records of the authority.

443 (c) In conducting its meetings, the authority shall use
 444 accepted rules of procedure. The secretary shall keep a complete
 445 record of the proceedings of each meeting, which shows ~~record~~
 446 ~~shall show~~ the names of the members present and the actions
 447 taken. These records shall be kept on file with the department,
 448 and such records and other documents regarding matters within
 449 the jurisdiction of the authority shall be subject to inspection
 450 by members of the authority.

451 Section 14. Section 571.24, Florida Statutes, is amended
 452 to read:

453 571.24 Purpose; duties of the department.—The purpose of
 454 this part is to authorize the department to establish and
 455 coordinate the Florida Agricultural Promotional Campaign. The
 456 Legislature intends for the Florida Agricultural Promotional
 457 Campaign to serve as a marketing program to promote Florida
 458 agricultural commodities, value-added products, and
 459 agricultural-related businesses and not a food safety or
 460 traceability program. The duties of the department shall
 461 include, but are not limited to:

- 462 (1) Developing logos and authorizing the use of logos as
- 463 provided by rule.
- 464 (2) Registering participants.
- 465 (3) Assessing and collecting fees.
- 466 (4) Collecting rental receipts for industry promotions.
- 467 (5) Developing in-kind advertising programs.
- 468 (6) Contracting with media representatives for the purpose

469 of dispersing promotional materials.

470 (7) Assisting the representative of the department who
 471 serves on the Florida Agricultural Promotional Campaign Advisory
 472 Council.

473 ~~(8) Designating a division employee to be a member of the~~
 474 ~~Advertising Interagency Coordinating Council.~~

475 (8)~~(9)~~ Adopting rules pursuant to ss. 120.536(1) and
 476 120.54 to implement the provisions of this part.

477 (9)~~(10)~~ Enforcing and administering the provisions of this
 478 part, including measures ensuring that only Florida agricultural
 479 or agricultural based products are marketed under the "Fresh
 480 From Florida" or "From Florida" logos or other logos of the
 481 Florida Agricultural Promotional Campaign.

482 Section 15. Section 571.27, Florida Statutes, is amended
 483 to read:

484 571.27 Rules.—The department is authorized to adopt rules
 485 that implement, make specific, and interpret the provisions of
 486 this part, ~~including rules for entering into contracts with~~
 487 ~~advertising agencies for services which are directly related to~~
 488 ~~the Florida Agricultural Promotional Campaign. Such rules shall~~
 489 ~~establish the procedures for negotiating costs with the offerors~~
 490 ~~of such advertising services who have been determined by the~~
 491 ~~department to be qualified on the basis of technical merit,~~
 492 ~~creative ability, and professional competency. Such~~
 493 ~~determination of qualifications shall also include consideration~~
 494 ~~of the provisions in s. 287.055(3), (4), and (5).~~ The department

495 is further authorized to determine, by rule, the logos or
 496 product identifiers to be depicted for use in advertising,
 497 publicizing, and promoting the sale of Florida agricultural
 498 products or agricultural-based products in the Florida
 499 Agricultural Promotional Campaign. The department may also adopt
 500 rules consistent ~~not inconsistent~~ with the provisions of this
 501 part as in its judgment may be necessary for participant
 502 registration, renewal of registration, classes of membership,
 503 application forms, and ~~as well as~~ other forms and enforcement
 504 measures ensuring compliance with this part.

505 Section 16. Subsection (1) of section 571.28, Florida
 506 Statutes, is amended to read:

507 571.28 Florida Agricultural Promotional Campaign Advisory
 508 Council.-

509 (1) ORGANIZATION.-There is ~~hereby~~ created within the
 510 department the Florida Agricultural Promotional Campaign
 511 Advisory Council, to consist of 15 members appointed by the
 512 Commissioner of Agriculture for 4-year staggered terms. The
 513 membership shall include: 13 ~~six~~ members representing
 514 agricultural producers, shippers, ~~or~~ packers, ~~three members~~
 515 ~~representing agricultural~~ retailers, ~~two members representing~~
 516 agricultural associations, and wholesalers ~~one member~~
 517 ~~representing a wholesaler~~ of agricultural products, one member
 518 representing consumers, and one member representing the
 519 department. Initial appointment of the council members shall be
 520 four members to a term of 4 years, four members to a term of 3

521 | years, four members to a term of 2 years, and three members to a
 522 | term of 1 year.

523 | Section 17. Subsection (2) of section 576.041, Florida
 524 | Statutes, is amended to read:

525 | 576.041 Inspection fees; records.—

526 | (2) ~~Before the distribution of a fertilizer,~~ Each licensee
 527 | shall ~~make application upon a form provided by the department to~~
 528 | report to the department quarterly ~~monthly~~ the tonnage of
 529 | fertilizer sold in the state and pay ~~make payment of~~ the
 530 | inspection fee. The continuance of a license is conditioned upon
 531 | the applicant's:

532 | (a) Maintaining records and a bookkeeping system that will
 533 | accurately indicate the tonnage of fertilizer sold by the
 534 | licensee; and

535 | (b) Consent to examination of the business records and
 536 | books by the department to verify ~~for a verification of~~ the
 537 | correctness of tonnage reports and the payment of inspection
 538 | fees. Tonnage reports ~~of sales~~ and payment of inspection fees
 539 | ~~fee~~ shall be made quarterly through the department's website or
 540 | ~~monthly~~ on forms provided ~~furnished~~ by the department and
 541 | submitted within 30 days after the close of the reporting period
 542 | ~~on or before the fifteenth day of the month succeeding the month~~
 543 | ~~covered by the reports.~~

544 | Section 18. Section 580.0365, Florida Statutes, is created
 545 | to read:

546 | 580.0365 Preemption of regulatory authority over

547 commercial feed and feedstuff.—It is the intent of the
 548 Legislature to eliminate duplication of regulation over
 549 commercial feed and feedstuff. Notwithstanding any other
 550 provision of law, the authority to regulate, inspect, sample,
 551 and analyze any commercial feed or feedstuff distributed in this
 552 state and to exercise the powers and duties of regulation in
 553 this chapter, including the power to assess any penalties
 554 provided for violation of this chapter, is preempted to the
 555 department.

556 Section 19. Subsection (3) is added to section 581.181,
 557 Florida Statutes, to read:

558 581.181 Notice of infection of plants; destruction.—

559 (3) This section does not apply to plants or plant
 560 products infested with pests or noxious weeds that are
 561 determined to be widely established within the state and are not
 562 specifically regulated under rules adopted by the department or
 563 under any other provision of law.

564 Section 20. Effective upon this act becoming a law,
 565 section 581.189, Florida Statutes, is created to read:

566 581.189 Grove Removal or Vector Elimination (GROVE)
 567 Program.—

568 (1) There is created within the Department of Agriculture
 569 and Consumer Services the Grove Removal or Vector Elimination
 570 (GROVE) Program, a cost-sharing program for the removal or
 571 destruction of abandoned citrus groves to eliminate the material
 572 harboring the citrus disease Huanglongbing, also known as citrus

573 greening, and the vectors that spread the disease.

574 (2) As used in this section, the term:

575 (a) "Abandoned citrus grove" means a citrus grove that has
 576 minimal or no production value and is no longer economically
 577 viable as a commercial citrus grove.

578 (b) "Applicant" means a person who owns an abandoned
 579 citrus grove.

580 (c) "Eligible costs" means the costs, incurred after an
 581 application is selected for funding, of the removal or
 582 destruction of citrus trees and the elimination of any citrus
 583 greening vectors, as described in the removal or destruction
 584 plan in the funded application.

585 (d) "Funded application" means an application selected for
 586 cost-share funding pursuant to this section and rules adopted by
 587 the department.

588 (e) "Program" means the Grove Removal or Vector
 589 Elimination (GROVE) Program.

590 (3) The department shall adopt by rule the standards to be
 591 used in reviewing and ranking applications for cost-share
 592 funding under the program based on the following factors:

593 (a) The length of time the citrus groves have been
 594 abandoned.

595 (b) Whether the citrus groves are located within a Citrus
 596 Health Management Area.

597 (c) The proximity of the abandoned citrus groves to other
 598 citrus groves currently in production.

599 (4) An applicant may submit multiple applications for the
 600 program but is eligible only for a maximum of \$125,000 in
 601 program cost-share funding per fiscal year. The department may
 602 award to each funded application a cost-share of up to 80
 603 percent of eligible costs. The total amount of cost-share
 604 allocated under the program in each fiscal year may not exceed
 605 the amount specifically appropriated for the program for that
 606 fiscal year.

607 (5) An applicant seeking cost-share funding under the
 608 program must submit an application to the department by a date
 609 specified by department rule. The application must include, at a
 610 minimum:

611 (a) The applicant's plan to remove or destroy citrus trees
 612 and any citrus greening vectors in the abandoned citrus grove.

613 (b) An affidavit from the applicant certifying that all
 614 information contained in the application is true and correct.

615 (c) All information specified by department rule that is
 616 necessary for the department to determine eligibility for the
 617 program and to rank applications.

618 (6) If the department determines that an application is
 619 incomplete, it may require the applicant to submit additional
 620 information within 10 days after such determination.

621 (7) Each fiscal year, the department shall review all
 622 complete applications received in accordance with subsection (5)
 623 and shall rank each complete application based on the factors
 624 specified in subsection (3). Before selecting an application for

625 funding, the department must conduct an inspection of the
 626 abandoned citrus grove that is the subject of the application.

627 (8) The department may deny an application pursuant to
 628 chapter 120 for failure to comply with this section and
 629 department rules.

630 (9) If an application is selected for funding, the
 631 applicant must initiate and complete the removal or destruction
 632 of the citrus trees identified in the application within the
 633 time specified by department rule. The applicant's failure to
 634 initiate and complete the removal or destruction of the
 635 identified citrus trees within such time results in the
 636 forfeiture of his or her cost-share funding. If an applicant's
 637 cost-share funding is forfeited, the department shall notify the
 638 next eligible applicant, based on its ranking of applicants for
 639 the fiscal year, of the availability of cost-share funding. Such
 640 applicant, upon acceptance, may be awarded cost-share funding
 641 pursuant to this section, subject to available program funds.

642 (10) Upon completion of the scope of work identified in
 643 the funded application, the applicant must present proof of
 644 payment of removal or destruction costs to the department. Upon
 645 receipt of satisfactory proof of payment and satisfactory proof
 646 of the removal or destruction of the trees identified in the
 647 funded application, the department may issue payment to the
 648 applicant for the previously approved cost-share amount.

649 (11) The department may adopt rules to implement and
 650 administer this section, including an application process and

651 requirements, an application-ranking process consistent with the
 652 factors specified in subsection (3), and a cost-share funding
 653 administration process.

654 (12) The award of funds under the program for each fiscal
 655 year is subject to specific legislative appropriation.

656 Section 21. Section 582.01, Florida Statutes, is amended
 657 to read:

658 582.01 Definitions. ~~As wherever used or referred to in~~
 659 this chapter, the term unless a different meaning clearly
 660 ~~appears from the context:~~

661 ~~(3)(a) "Department" means the Department of Agriculture~~
 662 ~~and Consumer Services.~~

663 (1)(e) "Commissioner" means the Commissioner of
 664 Agriculture.

665 (2)(b) "Council" means the Soil and Water Conservation
 666 Council.

667 (3) "Department" means the Department of Agriculture and
 668 Consumer Services.

669 (4)(1) "District" or "soil conservation district" or "soil
 670 and water conservation district" means a governmental
 671 subdivision of this state, and a body corporate and politic,
 672 organized in accordance with the provisions of this chapter, for
 673 the purpose, with the powers, and subject to the provisions set
 674 forth in this chapter. The term "district" or "soil conservation
 675 district," when used in this chapter, means and includes a "soil
 676 and water conservation district." All districts heretofore or

677 ~~hereafter~~ organized under this chapter shall be known as soil
 678 and water conservation districts and shall have all the powers
 679 set out herein.

680 ~~(5)(7)~~ "Due notice," in addition to notice required
 681 pursuant to the provisions of chapter 120, means notice
 682 ~~published at least twice, with an interval of at least 7 days~~
 683 ~~before the event between the two publication dates,~~ in a
 684 newspaper or other publication of general circulation within the
 685 appropriate area ~~or, if no such publication of general~~
 686 ~~circulation be available, by posting at a reasonable number of~~
 687 ~~conspicuous places within the appropriate area, such posting to~~
 688 ~~include, where possible, posting at public places where it may~~
 689 ~~be customary to post notices concerning county or municipal~~
 690 ~~affairs generally. At any hearing held pursuant to such notice,~~
 691 ~~at the time and place designated in such notice, adjournment may~~
 692 ~~be made from time to time without the necessity of renewing such~~
 693 ~~notice for such adjourned dates.~~

694 ~~(6)(5)~~ "Land occupier" or "occupier of land" means a
 695 ~~includes any person, other than the owner, who possesses shall~~
 696 ~~be in possession of~~ any lands lying within a district organized
 697 under the provisions of this chapter, whether as lessee, renter,
 698 tenant, or otherwise.

699 ~~(7)(4)~~ "Landowner" or "owner of land" means a ~~includes any~~
 700 person who holds ~~shall hold~~ legal or equitable title to any
 701 lands lying within a district organized under the provisions of
 702 this chapter.

703 ~~(8)(6)~~ "Qualified elector" means a ~~includes any person~~
 704 qualified to vote in general elections under the constitution
 705 and laws ~~statutes~~ of this state.

706 ~~(9)(2)~~ "Supervisor" means a member ~~one of the members~~ of
 707 the governing body of a district who is, ~~is~~ elected in accordance
 708 with the provisions of this chapter.

709 ~~(8)~~ ~~"Administrative officer"~~ ~~means the administrative~~
 710 ~~officer of soil and water conservation created by s. 582.09.~~

711 Section 22. Section 582.02, Florida Statutes, is amended
 712 to read:

713 582.02 Legislative policy and findings; purpose of
 714 districts ~~lands a basic asset of state.-~~

715 (1) It is the policy of the Legislature to promote the
 716 appropriate and efficient use of soil and water resources,
 717 protect water quality, prevent floodwater and sediment damage,
 718 preserve wildlife, protect public lands, and protect and promote
 719 the health, safety, and general welfare of the people of this
 720 state.

721 (2) The Legislature finds that the farm, forest, and
 722 grazing lands; green spaces; recreational areas; and natural
 723 areas of the state are among the basic assets of the state and
 724 the conservation ~~preservation~~ of these lands is necessary to
 725 protect and promote the health, safety, and general welfare of
 726 its people and is in the public interest; ~~improper land use~~
 727 ~~practices have caused and have contributed to, and are now~~
 728 ~~causing and contributing to a progressively more serious erosion~~

729 ~~of the farm and grazing lands of this state by fire, wind and~~
 730 ~~water; the breaking of natural grass, plant, and forest cover~~
 731 ~~has interfered with the natural factors of soil stabilization,~~
 732 ~~causing loosening of soil and exhaustion of humus, and~~
 733 ~~developing a soil condition that favors erosion; the top soil is~~
 734 ~~being burned, washed and blown out of fields and pastures; there~~
 735 ~~has been an accelerated washing of sloping fields; these~~
 736 ~~processes of erosion by fire, wind and water speed up with~~
 737 ~~removal of absorptive topsoil, causing exposure of less~~
 738 ~~absorptive and less protective but more erosive subsoil; failure~~
 739 ~~by any landowner or occupier to conserve the soil and control~~
 740 ~~erosion upon her or his lands causes destruction by burning,~~
 741 ~~washing and blowing of soil and water from her or his lands onto~~
 742 ~~other lands and makes the conservation of soil and control~~
 743 ~~erosion of such other lands difficult or impossible.~~

744 (3) The Legislature further finds that to ensure the
 745 preservation of the state's farm, forest, and grazing lands;
 746 green spaces; recreational areas; and natural areas, and to
 747 conserve, protect, and use soil and water resources, it is
 748 necessary that appropriate land and water resources protection
 749 practices be implemented.

750 (4) The purpose of the soil and water conservation
 751 districts is to provide assistance, guidance, and education to
 752 landowners, land occupiers, the agricultural industry, and the
 753 general public in implementing land and water resource
 754 protection practices. The Legislature intends for soil and water

755 conservation districts to work in conjunction with federal,
 756 state, and local agencies in all matters that implement the
 757 provisions of this chapter.

758 Section 23. Sections 582.03, 582.04, and 582.05, Florida
 759 Statutes, are repealed.

760 Section 24. Subsections (5) through (9) are added to
 761 section 582.055, Florida Statutes, to read:

762 582.055 Powers and duties of the Department of Agriculture
 763 and Consumer Services; rules.—

764 (5) The department may offer such assistance as may be
 765 appropriate to the supervisors of soil and water conservation
 766 districts and facilitate communication and cooperation between
 767 districts.

768 (6) The department may seek the cooperation and assistance
 769 of any federal, state, or county agencies in the work of such
 770 districts, including the receipt and expenditure of state,
 771 federal, and other funds or contributions.

772 (7) The department may disseminate information throughout
 773 the state concerning the activities, research, and programs of
 774 the soil and water conservation districts and encourage the
 775 formation of such districts in areas where their organization is
 776 desirable.

777 (8) The department may create or dissolve a soil and water
 778 conservation district pursuant to the provisions of this
 779 chapter.

780 (9) The department may adopt rules, as necessary, to

781 implement the provisions of this chapter.

782 Section 25. Subsection (2) of section 582.06, Florida
783 Statutes, is amended to read:

784 582.06 Soil and Water Conservation Council; powers and
785 duties.—

786 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS.—

787 (a) The meetings, powers and duties, procedures, and
788 recordkeeping of the Soil and Water Conservation Council shall
789 be conducted pursuant to s. 570.232.

790 (b) The council shall accept and review requests for
791 creating or dissolving soil and water conservation districts and
792 shall, by a majority vote, recommend, by resolution, to the
793 commissioner that a district be created or dissolved pursuant to
794 the request, or that the request be denied.

795 (c) When requested by the Governor or a district, the
796 council shall provide a recommendation to the Governor whether
797 to remove a supervisor for neglect of duty or malfeasance in
798 office only after notice, hearing, and thorough review.

799 Section 26. Sections 582.08 and 582.09, Florida Statutes,
800 are repealed.

801 Section 27. Section 582.16, Florida Statutes, is amended
802 to read:

803 582.16 Change of district boundaries ~~Addition of territory~~
804 ~~to district or removal of territory therefrom.~~ Requests for
805 increasing or reducing the boundaries of ~~Petitions for including~~
806 ~~additional territory or removing territory within~~ an existing

807 district may be filed with the department ~~Department of~~
 808 ~~Agriculture and Consumer Services,~~ and the department shall
 809 follow the proceedings provided for in this chapter to create a
 810 district in the case of petitions to organize a district shall
 811 ~~be observed in the case of petitions for such inclusion or~~
 812 ~~removal. The department shall prescribe the form for such~~
 813 ~~petition, which shall be as nearly as may be in the form~~
 814 ~~prescribed in this chapter for petitions to organize a district.~~
 815 ~~If the petition is signed by a majority of the landowners of~~
 816 ~~such area, no referendum need be held. In referenda upon~~
 817 ~~petitions for such inclusions or removals, all owners of land~~
 818 ~~lying within the proposed area to be added or removed shall be~~
 819 ~~eligible to vote.~~

820 Section 28. Section 582.17, Florida Statutes, is repealed.

821 Section 29. Section 582.20, Florida Statutes, is amended
 822 to read:

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

830 (1) To conduct surveys, studies ~~investigations,~~ and
 831 research relating to ~~the character of soil~~ and water resources
 832 and erosion and floodwater and sediment damages, to the

833 ~~conservation, development and utilization of soil and water~~
 834 ~~resources and the disposal of water, and to the preventive and~~
 835 ~~control measures and works of improvement needed;~~ to publish and
 836 disseminate the results of such surveys, studies investigations,
 837 ~~or research, and related information;~~ and to disseminate
 838 ~~information concerning such preventive and control measures and~~
 839 ~~works of improvement;~~ provided, however, that in order to avoid
 840 ~~duplication of research activities, no district shall initiate~~
 841 ~~any research program except in cooperation with the government~~
 842 ~~of this state or any of its agencies, or with the United States~~
 843 ~~or any of its agencies;~~

844 (2) To conduct agricultural best management practices
 845 demonstration ~~demonstrational~~ projects and projects for the
 846 conservation, protection, and restoration of soil and water
 847 resources:

848 (a) Within the district's boundaries;

849 (b) Within another district's boundaries, subject to the
 850 other district's approval;

851 (c) In areas ~~within the district's boundaries, territory~~
 852 ~~within another district's boundaries subject to the other~~
 853 ~~district's approval, or territory not contained within any~~
 854 ~~district's boundaries on lands owned or controlled by this state~~
 855 ~~or any of its agencies, with the cooperation of the agency~~
 856 ~~administering and having jurisdiction thereof; or~~

857 (d) On, ~~and on~~ any other lands within the district's
 858 boundaries, ~~territory~~ within another district's boundaries

859 | subject to the other district's approval, or ~~territory~~ not
 860 | contained within any district's boundaries upon obtaining the
 861 | consent of the owner or occupier ~~and occupiers~~ of the such lands
 862 | or the necessary rights or interests in such lands, ~~in order to~~
 863 | ~~demonstrate by example the means, methods, and measures by which~~
 864 | ~~soil and soil resources may be conserved, and soil erosion in~~
 865 | ~~the form of soil blowing and soil washing may be prevented and~~
 866 | ~~controlled, and works of improvement for flood prevention or the~~
 867 | ~~conservation, development and utilization of soil and water~~
 868 | ~~resources, and the disposal of water may be carried out;~~

869 | ~~(3) To carry out preventive and control measures and works~~
 870 | ~~of improvement for flood prevention or the conservation,~~
 871 | ~~development and utilization of soil and water resources, and the~~
 872 | ~~disposal of water within the district's boundaries, territory~~
 873 | ~~within another district's boundaries subject to the other~~
 874 | ~~district's approval, or territory not contained within any~~
 875 | ~~district's boundaries, including, but not limited to,~~
 876 | ~~engineering operations, methods of cultivation, the growing of~~
 877 | ~~vegetation, changes in use of land, and the measures listed in~~
 878 | ~~s. 582.04 on lands owned or controlled by this state or any of~~
 879 | ~~its agencies, with the cooperation of the agency administering~~
 880 | ~~and having jurisdiction thereof, and on any other lands within~~
 881 | ~~the district's boundaries, territory within another district's~~
 882 | ~~boundaries subject to the other district's approval, or~~
 883 | ~~territory not contained within any district's boundaries upon~~
 884 | ~~obtaining the consent of the owner and the occupiers of such~~

885 ~~lands or the necessary rights or interests in such lands;~~
 886 (3)~~(4)~~ To cooperate, or enter into agreements with, ~~and~~
 887 ~~within the limits of appropriations duly made available to it by~~
 888 ~~law, to furnish financial or other aid to,~~ any special district,
 889 municipality, county, water management district, state or
 890 federal agency, governmental or otherwise, or ~~any~~ owner or
 891 occupier of lands within the district's boundaries, ~~territory~~
 892 within another district's boundaries subject to the other
 893 district's approval, or ~~territory~~ not contained within any
 894 district's boundaries in furtherance of the purposes and
 895 provisions of this chapter ~~, in the carrying on of erosion~~
 896 ~~control or prevention operations and works of improvement for~~
 897 ~~flood prevention or the conservation, development and~~
 898 ~~utilization, of soil and water resources and the disposal of~~
 899 ~~water within the district's boundaries, territory within another~~
 900 ~~district's boundaries subject to the other district's approval,~~
 901 ~~or territory not contained within any district's boundaries,~~
 902 ~~subject to such conditions as the supervisors may deem necessary~~
 903 ~~to advance the purposes of this chapter;~~
 904 (4)~~(5)~~ To obtain options upon and to acquire, by purchase,
 905 exchange, lease, gift, grant, bequest, devise or otherwise, any
 906 property, real or personal, or rights or interests therein; to
 907 maintain, administer, and improve any properties acquired, to
 908 receive income from such properties and to expend such income in
 909 carrying out the purposes and provisions of this chapter; and to
 910 sell, lease, or otherwise dispose of any of its property or

911 interests therein in furtherance of the purposes and ~~the~~
 912 provisions of this chapter;

913 (5)~~(6)~~ To make available, on such terms as it shall
 914 prescribe, to any owner or occupier of lands ~~landowners and~~
 915 ~~occupiers~~ within the district's boundaries, ~~territory~~ within
 916 another district's boundaries subject to the other district's
 917 approval, or ~~territory~~ not contained within any district's
 918 boundaries, ~~agricultural and engineering machinery and~~
 919 ~~equipment, fertilizer, seeds and seedlings,~~ and such other
 920 material or equipment, that ~~as~~ will assist such landowners and
 921 occupiers to carry on operations upon their lands for the
 922 conservation and protection of soil and water resources ~~and for~~
 923 ~~the prevention or control of soil erosion and for flood~~
 924 ~~prevention or the conservation, development and utilization, of~~
 925 ~~soil and water resources and the disposal of water;~~

926 (6)~~(7)~~ To construct, improve, operate and maintain such
 927 structures as may be necessary or convenient for the performance
 928 of any of the operations authorized in this chapter;

929 (7)~~(8)~~ To provide, or assist in providing, training and
 930 education programs that further the purposes and provisions of
 931 this chapter ~~develop comprehensive plans for the conservation of~~
 932 ~~soil and water resources and for the control and prevention of~~
 933 ~~soil erosion and for flood prevention or the conservation,~~
 934 ~~development and utilization of soil and water resources, and the~~
 935 ~~disposal of water within the district's boundaries, territory~~
 936 ~~within another district's boundaries subject to the other~~

937 ~~district's approval, or territory not contained within any~~
 938 ~~district's boundaries, which plans shall specify in such detail~~
 939 ~~as may be possible the acts, procedures, performances, and~~
 940 ~~avoidances which are necessary or desirable for the effectuation~~
 941 ~~of such plans, including the specification of engineering~~
 942 ~~operations, methods of cultivation, the growing of vegetation,~~
 943 ~~cropping programs, tillage practices, and changes in use of~~
 944 ~~land; control of artesian wells; and to publish such plans and~~
 945 ~~information and bring them to the attention of owners and~~
 946 ~~occupiers of lands within the district's boundaries, territory~~
 947 ~~within another district's boundaries subject to the other~~
 948 ~~district's approval, or territory not contained within any~~
 949 ~~district's boundaries;~~

950 ~~(9) To take over, by purchase, lease, or otherwise, and to~~
 951 ~~administer any soil conservation, erosion control, erosion-~~
 952 ~~prevention project, or any project for flood prevention or for~~
 953 ~~the conservation, development and utilization of soil and water~~
 954 ~~resources, and the disposal of water, located within the~~
 955 ~~district's boundaries, territory within another district's~~
 956 ~~boundaries subject to the other district's approval, or~~
 957 ~~territory not contained within any district's boundaries,~~
 958 ~~undertaken by the United States or any of its agencies, or by~~
 959 ~~this state or any of its agencies; to manage as agent of the~~
 960 ~~United States or any of its agencies, or of the state or any of~~
 961 ~~its agencies, any soil conservation, erosion control, erosion-~~
 962 ~~prevention, or any project for flood prevention or for the~~

963 ~~conservation, development, and utilization of soil and water~~
 964 ~~resources, and the disposal of water within the district's~~
 965 ~~boundaries, territory within another district's boundaries~~
 966 ~~subject to the other district's approval, or territory not~~
 967 ~~contained within any district's boundaries; to act as agent for~~
 968 ~~the United States, or any of its agencies, or for the state or~~
 969 ~~any of its agencies, in connection with the acquisition,~~
 970 ~~construction, operation or administration of any soil-~~
 971 ~~conservation, erosion control, erosion prevention, or any~~
 972 ~~project for flood prevention or for the conservation,~~
 973 ~~development and utilization of soil and water resources, and the~~
 974 ~~disposal of water within the district's boundaries, territory~~
 975 ~~within another district's boundaries subject to the other~~
 976 ~~district's approval, or territory not contained within any~~
 977 ~~district's boundaries; to accept donations, gifts, and~~
 978 ~~contributions in money, services, materials, or otherwise, from~~
 979 ~~the United States or any of its agencies, or from this state or~~
 980 ~~any of its agencies, or from others, and to use or expend such~~
 981 ~~moneys, services, materials or other contributions in carrying~~
 982 ~~on its operations;~~

983 (8)~~(10)~~ To sue and be sued in the name of the district; to
 984 have a seal, which seal shall be judicially noticed; to have
 985 perpetual succession unless terminated as provided in this
 986 chapter; to make and execute contracts and other instruments
 987 necessary or convenient to the exercise of its powers; upon a
 988 majority vote of the supervisors of the district, to borrow

989 money and to execute promissory notes and other evidences of
 990 indebtedness in connection therewith, and to pledge, mortgage,
 991 and assign the income of the district and its personal property
 992 as security therefor, the notes and other evidences of
 993 indebtedness to be general obligations only of the district and
 994 in no event to constitute an indebtedness for which the faith
 995 and credit of the state or any of its revenues are pledged; ~~to~~
 996 ~~make, amend, and repeal rules and regulations not inconsistent~~
 997 ~~with this chapter to carry into effect its purposes and powers.~~

998 ~~(11) As a condition to the extending of any benefits under~~
 999 ~~this chapter to, or the performance of work upon, any lands not~~
 1000 ~~owned or controlled by this state or any of its agencies, the~~
 1001 ~~supervisors may require contributions in money, services,~~
 1002 ~~materials, or otherwise to any operations conferring such~~
 1003 ~~benefits, and may require landowners and occupiers to enter into~~
 1004 ~~and perform such agreements or covenants as to the permanent use~~
 1005 ~~of such lands as will tend to prevent or control erosion and~~
 1006 ~~prevent floodwater and sediment damages thereon;~~

1007 (9) To use, in coordination with the applicable county or
 1008 counties, the services of the county agricultural agents and the
 1009 facilities of their offices, if practicable and feasible. The
 1010 supervisors may also employ additional permanent and temporary
 1011 staff, as needed, and determine their qualifications, duties,
 1012 and compensation. The supervisors may delegate to the chair, to
 1013 one or more supervisors, or to employees such powers and duties
 1014 as they may deem proper, consistent with the provisions of this

1015 chapter. The supervisors shall furnish to the department, upon
 1016 request, copies of rules, orders, contracts, forms, and other
 1017 documents that the district has adopted or used, and any other
 1018 information concerning the district's activities, that the
 1019 department may require in the performance of its duties under
 1020 this chapter;

1021 (10) To adopt rules to implement the provisions of this
 1022 chapter; and

1023 (11) To request that the Governor remove a supervisor for
 1024 neglect of duty or malfeasance in office by adoption of a
 1025 resolution at a public meeting. If the district believes there
 1026 is a need for a review of the request, the district may request
 1027 that the council, by resolution, review its request to the
 1028 Governor and provide the Governor with a recommendation.

1029
 1030 ~~(12)~~ Any provision ~~No provisions~~ with respect to the
 1031 acquisition, operation, or disposition of property by public
 1032 bodies of this state does not apply ~~shall be applicable~~ to a
 1033 district organized under this chapter unless specifically so
 1034 stated by hereunder ~~unless the Legislature shall specifically so~~
 1035 ~~state~~. The property and property rights of every kind and nature
 1036 acquired by any district organized under the provisions of this
 1037 chapter are ~~shall be~~ exempt from state, county, and other
 1038 taxation.

1039 Section 30. Sections 582.21, 582.22, 582.23, 582.24,
 1040 582.25, and 582.26, Florida Statutes, are repealed.

1041 Section 31. Section 582.29, Florida Statutes, is amended
 1042 to read:

1043 582.29 State agencies to cooperate.—Agencies of this state
 1044 that ~~which shall~~ have jurisdiction over, or are ~~be~~ charged with,
 1045 the administration of any state-owned lands, and of any county,
 1046 or other governmental subdivision of the state, that ~~which shall~~
 1047 have jurisdiction over, or are ~~be~~ charged with the
 1048 administration of, any county-owned or other publicly owned
 1049 lands, ~~lying within the boundaries of any district organized~~
 1050 ~~under this chapter, the boundaries of another district subject~~
 1051 ~~to that district's approval, or territory not contained within~~
 1052 ~~the boundaries of any district organized under this chapter,~~
 1053 shall cooperate to the fullest extent with the supervisors of
 1054 such districts in the implementation ~~effectuation~~ of programs
 1055 and operations undertaken by the supervisors under the
 1056 provisions of this chapter. The supervisors of such districts
 1057 shall be given free access to enter and perform work upon such
 1058 publicly owned lands. ~~The provisions of land use regulations~~
 1059 ~~adopted shall be in all respects observed by the agencies~~
 1060 ~~administering such publicly owned lands.~~

1061 Section 32. Sections 582.331, 582.34, 582.35, 582.36,
 1062 582.37, 582.38, 582.39, 582.40, 582.41, 582.42, 582.43, 582.44,
 1063 582.45, 582.46, 582.47, 582.48, 582.49, Florida Statutes, are
 1064 repealed.

1065 Section 33. Section 589.26, Florida Statutes, is repealed.

1066 Section 34. Subsections (4) and (5) of section 595.402,

1067 Florida Statutes, are renumbered as subsections (5) and (6),
 1068 respectively, and new subsections (4), (7), and (8) are added to
 1069 that section, to read:

1070 595.402 Definitions.—As used in this chapter, the term:

1071 (4) "School breakfast program" means a program authorized
 1072 by section 4 of the Child Nutrition Act of 1966, as amended, and
 1073 administered by the department.

1074 (7) "Summer nutrition program" means one or more of the
 1075 programs authorized under 42 U.S.C. s. 1761.

1076 (8) "Universal school breakfast program" means a program
 1077 that makes breakfast available at no cost to all students
 1078 regardless of their household income.

1079 Section 35. Section 595.404, Florida Statutes, is amended
 1080 to read:

1081 595.404 School food and other nutrition programs ~~service~~
 1082 ~~program~~; powers and duties of the department.—The department has
 1083 the following powers and duties:

1084 (1) To conduct, supervise, and administer the program that
 1085 will be carried out using federal or state funds, or funds from
 1086 any other source.

1087 (2) To conduct, supervise, and administer a farmers'
 1088 market nutrition program to provide participants in the Special
 1089 Supplemental Nutrition Program for Women, Infants, and Children
 1090 (WIC) with locally grown fruits and vegetables that will be
 1091 carried out using federal or state funds, or funds from any
 1092 other source.

1093 (3)~~(2)~~ To fully cooperate with the United States
 1094 Government and its agencies and instrumentalities so that the
 1095 department may receive the benefit of all federal financial
 1096 allotments and assistance possible to carry out the purposes of
 1097 this chapter.

1098 (4)~~(3)~~ To implement and adopt by rule, as required,
 1099 federal regulations ~~to maximize federal assistance for the~~
 1100 ~~program.~~

1101 (5)~~(4)~~ To act as agent of, or contract with, the Federal
 1102 Government, another state agency, any county or municipal
 1103 government, or sponsor for the administration of the program,
 1104 including the distribution of funds provided by the Federal
 1105 Government to support the program.

1106 (6)~~(5)~~ To provide ~~make a reasonable effort to ensure that~~
 1107 ~~any school designated as a "severe need school" receives~~ the
 1108 highest rate of reimbursement to which it is entitled under 42
 1109 U.S.C. s. 1773 for each breakfast meal served.

1110 (7)~~(6)~~ To develop and propose legislation necessary to
 1111 implement the program, encourage the development of innovative
 1112 school food and nutrition services, and expand participation in
 1113 the program.

1114 (8)~~(7)~~ To annually allocate among the sponsors, as
 1115 applicable, funds provided from the school breakfast supplement
 1116 in the General Appropriations Act based on each district's total
 1117 number of free and reduced-price breakfast meals served.

1118 (9)~~(8)~~ To employ such persons as are necessary to perform

1119 | its duties under this chapter.

1120 | (10)~~(9)~~ To adopt rules covering the administration,
 1121 | operation, and enforcement of the program and the farmers'
 1122 | market nutrition program, as well as to implement the provisions
 1123 | of this chapter.

1124 | (11)~~(10)~~ To adopt and implement an appeal process by rule,
 1125 | as required by federal regulations, for applicants and
 1126 | participants under the programs implemented pursuant to this
 1127 | chapter program, notwithstanding ss. 120.569 and 120.57-120.595.

1128 | (12)~~(11)~~ To assist, train, and review each sponsor in its
 1129 | implementation of the program.

1130 | (13)~~(12)~~ To advance funds from the program's annual
 1131 | appropriation to a summer nutrition program sponsor ~~sponsors~~,
 1132 | when requested, in order to implement the provisions of this
 1133 | chapter and in accordance with federal regulations.

1134 | (14) To collect data on food purchased through the
 1135 | programs defined and described in ss. 595.402(3) and 595.406,
 1136 | and to publish that data annually.

1137 | (15) To enter into agreements with federal or state
 1138 | agencies to coordinate and cooperate in the implementation of
 1139 | nutrition programs.

1140 | Section 36. Section 595.405, Florida Statutes, is amended
 1141 | to read:

1142 | 595.405 School nutrition program requirements ~~for school~~
 1143 | ~~districts and sponsors.~~

1144 | (1) Each ~~school~~ district school board shall consider the

1145 recommendations of the district school superintendent and adopt
 1146 policies to provide for an appropriate food and nutrition
 1147 ~~service~~ program for students consistent with federal law and
 1148 department rules.

1149 (2) Each ~~school~~ district school board shall implement
 1150 school breakfast programs that make breakfast meals available to
 1151 all students in each elementary school that serves any
 1152 combination of grades kindergarten through 5. ~~Universal school~~
 1153 ~~breakfast programs shall be offered in schools in which 80~~
 1154 ~~percent or more of the students are eligible for free or~~
 1155 ~~reduced-price meals. Each school shall, to the maximum extent~~
 1156 ~~practicable, make breakfast meals available to students at an~~
 1157 ~~alternative site location, which may include, but need not be~~
 1158 ~~limited to, alternative breakfast options as described in~~
 1159 ~~publications of the Food and Nutrition Service of the United~~
 1160 ~~States Department of Agriculture for the federal School~~
 1161 ~~Breakfast Program.~~

1162 (3) Each ~~school~~ district school board must annually set
 1163 prices for breakfast meals at rates that, combined with federal
 1164 reimbursements and state allocations, are sufficient to defray
 1165 costs of school breakfast programs without requiring allocations
 1166 from the district's operating funds, except if the district
 1167 school board approves lower rates.

1168 ~~(4) Each school district is encouraged to provide~~
 1169 ~~universal, free school breakfast meals to all students in each~~
 1170 ~~elementary, middle, and high school. Each school district shall~~

1171 ~~approve or disapprove a policy, after receiving public testimony~~
 1172 ~~concerning the proposed policy at two or more regular meetings,~~
 1173 ~~which makes universal, free school breakfast meals available to~~
 1174 ~~all students in each elementary, middle, and high school in~~
 1175 ~~which 80 percent or more of the students are eligible for free~~
 1176 ~~or reduced-price meals.~~

1177 (4)(5) Each elementary, middle, and high school operating
 1178 a breakfast program shall make a breakfast meal available if a
 1179 student arrives at school on the school bus less than 15 minutes
 1180 before the first bell rings and shall allow the student at least
 1181 15 minutes to eat the breakfast.

1182 (5) Each district school board is encouraged to provide
 1183 universal, free school breakfast meals to all students in each
 1184 elementary, middle, and high school. A universal school
 1185 breakfast program shall be implemented in each school in which
 1186 80 percent or more of the students are eligible for free or
 1187 reduced-price meals, unless the district school board, after
 1188 considering public testimony at two or more regularly scheduled
 1189 board meetings, decides not to implement such a program in such
 1190 schools.

1191 (6) To increase school breakfast and universal school
 1192 breakfast program participation, each district school board
 1193 must, to the maximum extent practicable, make breakfast meals
 1194 available to students through alternative service models as
 1195 described in publications of the Food and Nutrition Service of
 1196 the United States Department of Agriculture for the federal

1197 School Breakfast Program.

1198 ~~(7)(6)~~ Each ~~school~~ district school board shall annually
 1199 provide ~~to all students in each elementary, middle, and high~~
 1200 ~~school~~ information prepared by the district's food service
 1201 administration regarding available ~~its~~ school breakfast
 1202 programs. The information shall be communicated through school
 1203 announcements and ~~written~~ notices sent to all parents.

1204 ~~(8)(7)~~ A ~~school~~ district school board may operate a
 1205 breakfast program providing for food preparation at the school
 1206 site or in central locations with distribution to designated
 1207 satellite schools, or any combination thereof.

1208 ~~(8)~~ Each sponsor shall ~~complete all corrective action~~
 1209 ~~plans required by the department or a federal agency to be in~~
 1210 ~~compliance with the program.~~

1211 Section 37. Section 595.406, Florida Statutes, is amended
 1212 to read:

1213 595.406 Florida Farm to School ~~Fresh Schools~~ Program.—

1214 (1) In order to implement the Florida Farm to School ~~Fresh~~
 1215 ~~Schools~~ Program, the department shall develop policies
 1216 pertaining to school food services which encourage:

1217 (a) Sponsors to buy fresh and high-quality foods grown in
 1218 this state when feasible.

1219 (b) Farmers in this state to sell their products to
 1220 sponsors, school districts, and schools.

1221 (c) Sponsors to demonstrate a preference for competitively
 1222 priced organic food products.

1223 (d) Sponsors to make reasonable efforts to select foods
 1224 based on a preference for those that have maximum nutritional
 1225 content.

1226 (2) The department shall provide outreach, guidance, and
 1227 training to sponsors, schools, school food service directors,
 1228 parent and teacher organizations, and students about the benefit
 1229 of fresh food products from farms in this state.

1230 (3) The department may recognize sponsors who purchase at
 1231 least 10 percent of the food they serve from the Florida Farm to
 1232 School Program.

1233 Section 38. Subsection (2) of section 595.407, Florida
 1234 Statutes, is amended to read:

1235 595.407 Children's summer nutrition program.—

1236 (2) Each school district shall develop a plan to sponsor
 1237 or operate a summer nutrition program to operate sites in the
 1238 school district as follows:

1239 (a) Within 5 miles of at least one ~~elementary~~ school that
 1240 serves any combination of grades kindergarten through 5 at which
 1241 50 percent or more of the students are eligible for free or
 1242 reduced-price school meals ~~and~~ for the duration of 35
 1243 ~~consecutive~~ days between the end of the school year and the
 1244 beginning of the next school year. School districts may exclude
 1245 holidays and weekends.

1246 (b) Within 10 miles of each ~~elementary~~ school that serves
 1247 any combination of grades kindergarten through 5 at which 50
 1248 percent or more of the students are eligible for free or

1249 reduced-price school meals, except as operated pursuant to
 1250 paragraph (a).

1251 Section 39. Section 595.408, Florida Statutes, is amended
 1252 to read:

1253 595.408 Food ~~Commodity~~ distribution services; department
 1254 responsibilities and functions.—

1255 (1)(a) The department shall conduct, supervise, and
 1256 administer all food ~~commodity~~ distribution services that will be
 1257 carried on using federal or state funds, or funds from any other
 1258 source, or food ~~commodities~~ received and distributed from the
 1259 United States or any of its agencies.

1260 (b) The department shall determine the benefits each
 1261 applicant or recipient of assistance is entitled to receive
 1262 under this chapter, provided that each applicant or recipient is
 1263 a resident of this state and a citizen of the United States or
 1264 is an alien lawfully admitted for permanent residence or
 1265 otherwise permanently residing in the United States under color
 1266 of law.

1267 (2) The department shall cooperate fully with the United
 1268 States Government and its agencies and instrumentalities so that
 1269 the department may receive the benefit of all federal financial
 1270 allotments and assistance possible to carry out the purposes of
 1271 this chapter.

1272 (3) The department may:

1273 (a) Accept any duties with respect to food ~~commodity~~
 1274 distribution services as are delegated to it by an agency of the

1275 Federal Government or any state, county, or municipal
 1276 government.

1277 (b) Act as agent of, or contract with, the federal
 1278 government, state government, or any county or municipal
 1279 government in the administration of food ~~commodity~~ distribution
 1280 services to secure the benefits of any public assistance that is
 1281 available from the federal government or any of its agencies,
 1282 and in the distribution of funds received from the federal
 1283 government, state government, or any county or municipal
 1284 government for food ~~commodity~~ distribution services within the
 1285 state.

1286 (c) Accept from any person or organization all offers of
 1287 personal services, food ~~commodities~~, or other aid or assistance.

1288 (4) This chapter does not limit, abrogate, or abridge the
 1289 powers and duties of any other state agency.

1290 Section 40. Section 595.501, Florida Statutes, is amended
 1291 to read:

1292 595.501 Penalties.—

1293 (1) When a corrective action plan is issued by the
 1294 department or a federal agency, each sponsor is required to
 1295 complete the corrective action plan to be in compliance with the
 1296 program.

1297 (2) Any person ~~or, sponsor, or school district~~ that
 1298 violates any provision of this chapter or any rule adopted
 1299 thereunder or otherwise does not comply with the program is
 1300 subject to a suspension or revocation of their agreement, loss

1301 of reimbursement, or a financial penalty in accordance with
 1302 federal or state law, or both. This section does not restrict
 1303 the applicability of any other law.

1304 Section 41. Section 595.601, Florida Statutes, is amended
 1305 to read:

1306 595.601 Food and Nutrition Services Trust Fund.—Chapter
 1307 99-37, Laws of Florida, recreated the Food and Nutrition
 1308 Services Trust Fund to record revenue and disbursements of
 1309 Federal Food and Nutrition funds received by the department as
 1310 authorized in ss. 595.404 and 595.408 ~~s. 595.405~~.

1311 Section 42. Paragraphs (b) and (d) of subsection (1) and
 1312 subsection (2) of section 604.21, Florida Statutes, are amended
 1313 to read:

1314 604.21 Complaint; investigation; hearing.—

1315 (1)

1316 (b) To be considered timely filed, a complaint together
 1317 with any required affidavit ~~affidavits or notarizations~~ must be
 1318 received by the department within 6 months after the date of
 1319 sale by electronic transmission, facsimile, regular mail,
 1320 certified mail, or private delivery service. If the complaint is
 1321 sent by a service other than electronic mail or facsimile, the
 1322 mailing shall be postmarked or dated on or before the 6-month
 1323 deadline to be accepted as timely filed.

1324 (d) A person, partnership, corporation, or other business
 1325 entity filing a complaint shall submit to the department the
 1326 following documents: a ~~three~~ completed complaint affidavit

1327 ~~affidavits~~ on a form provided by the department with an original
 1328 signature of an owner, partner, general partner, or corporate
 1329 officer and an original notarization ~~on each affidavit~~. If the
 1330 ~~complaint is filed by electronic transmission or facsimile, the~~
 1331 ~~original affidavits and original notarizations shall be filed~~
 1332 ~~with the department not later than the close of business of the~~
 1333 ~~tenth business day following the electronic transmission or~~
 1334 ~~facsimile filing~~. Attached to the ~~each~~ complaint affidavit shall
 1335 be copies of all documents to support the complaint. Supporting
 1336 documents may be copies of invoices, bills of lading, packing or
 1337 shipping documents, demand letters, or any other documentation
 1338 to support the claim. In cases in which there are multiple
 1339 invoices being claimed, a summary list of all claimed invoices
 1340 must accompany the complaint.

1341 (2) Upon the filing of a such complaint pursuant to this
 1342 section ~~in the manner herein provided~~, the department shall
 1343 investigate the matters complained of and, ~~whereupon~~, if, in the
 1344 opinion of the department, the facts contained in the complaint
 1345 warrant such action, the department shall serve notice of the
 1346 ~~filing of~~ complaint to the dealer against whom the complaint has
 1347 been filed at the last address of record. The ~~Such~~ notice shall
 1348 be accompanied by a ~~true~~ copy of the complaint. A copy of the
 1349 ~~such~~ notice and complaint shall also be served to the surety
 1350 company, if any, that provided the bond for the dealer, which
 1351 surety company shall become party to the action. The ~~Such~~ notice
 1352 ~~of the complaint~~ shall inform the dealer of a reasonable time

1353 within which to answer the complaint by advising the department
 1354 in writing that the allegations in the complaint are admitted or
 1355 denied or that the complaint has been satisfied. The ~~Such~~ notice
 1356 shall also inform the dealer and the surety company or financial
 1357 institution of a right to a hearing on the complaint, if
 1358 requested.

1359 Section 43. Section 604.33, Florida Statutes, is amended
 1360 to read:

1361 604.33 Security requirements for grain dealers.—Each grain
 1362 dealer doing business in the state shall maintain liquid
 1363 security, in the form of grain on hand, cash, certificates of
 1364 deposit, or other nonvolatile security that can be liquidated in
 1365 10 days or less, or cash bonds, surety bonds, or letters of
 1366 credit, that have been assigned to the department and that are
 1367 conditioned to secure the faithful accounting for and payment to
 1368 the producers for grain stored or purchased, in an amount equal
 1369 to the value of grain which the grain dealer has received from
 1370 grain producers for which the producers have not received
 1371 payment. The bonds must be executed by the applicant as
 1372 principal and by a surety corporation authorized to transact
 1373 business in the state. The certificates of deposit and letters
 1374 of credit must be from a recognized financial institution doing
 1375 business in the United States. ~~Each grain dealer shall report to~~
 1376 ~~the department monthly, on or before a date established by rule~~
 1377 ~~of the department, the value of grain she or he has received~~
 1378 ~~from producers for which the producers have not received payment~~

1379 ~~and the types of transaction involved, showing the value of each~~
1380 ~~type of transaction. The report shall also include a statement~~
1381 ~~showing the type and amount of security maintained to cover the~~
1382 ~~grain dealer's liability to producers.~~ The department may shall
1383 make at least one spot check annually of each grain dealer to
1384 determine compliance with the requirements of this section.

1385 Section 44. Except as otherwise expressly provided in this
1386 act and except for this section, which shall take effect upon
1387 becoming a law, this act shall take effect July 1, 2016.



Amendment No. /

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: State Affairs Committee
2 Representative Raburn offered the following:

Amendment (with title amendment)

Between lines 234 and 235, insert:

Section 1. Effective upon this act becoming a law, section 15.0521, Florida Statutes, is created to read:

15.0521 Official state honey.— Tupelo honey is designated as the official Florida state honey.

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

Remove line 3 and insert:

Consumer Services; creating s. 15.0521, F.S.; designating tupelo honey as the official state honey; amending s. 482.111, F.S.; revising



Amendment No. *2*

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Raburn offered the following:

Amendment (with title amendment)

Between lines 330 and 331, insert:

6 Section 6. Section 500.90, Florida Statutes, is created to
7 read:

8 500.90 Regulation of Polystyrene Products Preempted to the
 9 State.- The regulation of the use or sale of polystyrene
 10 products by entities regulated under chapter 500 is preempted to
 11 the state. This preemption shall not apply to local ordinances
 12 enacted prior to January 1, 2016.

14 -----
 15 **T I T L E A M E N D M E N T**

16 Between lines 21 and 22, insert:



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7007 (2016)

Amendment No. 2

17 creating s. 500.90, F.S.; preempting the regulation of the use
18 or sale of polystyrene products by certain entities to the
19 department;



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Raburn offered the following:

3
4 **Amendment**

5 Remove lines 682-683 and insert:
 6 published at least twice, with an interval of at least 7 days
 7 between the two publication dates, in a



Amendment No. **4**

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Raburn offered the following:

3
4 **Amendment**

5 Remove line 745 and insert:
 6 conservation of the state's farm, forest, and grazing lands;



Amendment No. **5**

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Raburn offered the following:

Amendment (with title amendment)

Between lines 1310 and 1311, insert:

Section 42. Section 601.31, Florida Statutes, is amended
to read:

601.31 Citrus inspectors; employment.—The Department of
 Agriculture may in each year employ as many citrus fruit
 inspectors for such period or periods, not exceeding 1 year, as
 the Department of Agriculture shall deem necessary for the
 effective enforcement of the citrus fruit laws of this state.
 All persons authorized to inspect and certify to the maturity
 and grade of citrus fruit shall be governed in the discharge of
 their duties as such inspectors by the provisions of law and by
 the rules adopted by the Department of Citrus and the Department
 of Agriculture and shall perform their duties under the



Amendment No. **5**

18 direction and supervision of the Department of Agriculture. All
19 citrus inspectors appointed for the enforcement of this chapter
20 shall be persons who are duly licensed or certified by the
21 ~~United States~~ Department of Agriculture as citrus fruit
22 inspectors.

23

24

25



26

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

27

Remove line 224 and insert:

28

cross-reference; amending s. 601.31, F.S.; specifying that

29

certain citrus inspectors must be licensed by the state

30

Department of Agriculture and Consumer Services, rather than the

31


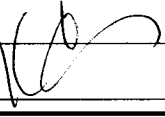
United States Department of Agriculture; amending s. 604.21,

32

F.S.; revising

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7067 OGSR/Competitive Solicitation
SPONSOR(S): Government Operations Subcommittee, Santiago
TIED BILLS: IDEN./SIM. BILLS: SB 7030

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee	13 Y, 0 N	Moore	Williamson
1) State Affairs Committee		Moore, A. 	Camechis 

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Agency procurements of commodities or contractual services exceeding \$35,000 are governed by statute and rule and require one of the following three types of competitive solicitations to be used, unless otherwise authorized by law: invitation to bid (ITB), request for proposals (RFP), or invitation to negotiate (ITN).

Current law provides general public record and public meeting exemptions associated with competitive solicitations. Sealed bids, proposals, or replies in response to an ITB, RFP, or ITN are exempt from public record requirements until a time certain. In addition, a meeting at which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation is exempt from public meeting requirements. Any portion of a team meeting at which negotiation strategies are discussed is also exempt from public meeting requirements. A complete recording must be made of an exempt meeting. The recording is exempt from public record requirements until a time certain.

The bill reenacts the public record and public meeting exemptions, which will repeal on October 2, 2016, if this bill does not become law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created⁵ then a public necessity statement and a two-thirds vote for passage are not required.

Agency Procurements

Agency⁶ procurements of commodities or contractual services exceeding \$35,000 are governed by statute and rule and require use of one of the following three types of competitive solicitations,⁷ unless otherwise authorized by law:⁸

- Invitation to bid (ITB): An agency must use an ITB when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required.⁹

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I of the State Constitution.

⁵ An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

⁶ Section 287.012(1), F.S., defines "agency" as any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.

⁷ Section 287.012(6), F.S., defines "competitive solicitation" as the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

⁸ See s. 287.057, F.S.

⁹ Section 287.057(1)(a), F.S.

- Request for proposals (RFP): An agency must use an RFP when the purposes and uses for which the commodity, group of commodities, or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables.¹⁰
- Invitation to negotiate (ITN): An ITN is a solicitation used by an agency that is intended to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors with which the agency may negotiate in order to receive the best value.¹¹

Public Record and Public Meeting Exemptions under Review

Current law provides a general public record exemption for sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation¹² and a general public meeting exemption for certain meetings conducted pursuant to a competitive solicitation.¹³ For purposes of both exemptions, a “competitive solicitation” is defined as the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.¹⁴ The exemptions have been modified over the years, with the most recent modification occurring in 2011.

Public Record Exemption for Sealed Bids, Proposals, or Replies

Current law provides that sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt¹⁵ from public record requirements until the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or replies, whichever is earlier.¹⁶ If an agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt until the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation.¹⁷ A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.¹⁸

According to the public necessity statement, “[t]emporarily protecting such information ensures that the process of responding to a competitive solicitation remains fair and economical for vendors, while still preserving oversight after a competitive solicitation decision is made or withdrawn.”¹⁹

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2016, unless reenacted by the Legislature.²⁰

Public Meeting Exemption for Certain Vendor Discussions and Team Meeting Negotiations, and Associated Public Record Exemption

The public meeting exemption provides that any portion of a meeting at which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral

¹⁰ Section 287.057(1)(b), F.S.

¹¹ Section 287.057(1)(c), F.S.

¹² Section 119.071(1)(b), F.S.

¹³ Section 286.0113(2), F.S.

¹⁴ Sections 119.071(1)(b)1. and 286.0113(2)(a)1., F.S.

¹⁵ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

¹⁶ Section 119.071(1)(b)2., F.S.

¹⁷ Section 119.071(1)(b)3., F.S.

¹⁸ *Id.*

¹⁹ Section 3, ch. 2011-140, L.O.F.

²⁰ Section 119.071(1)(b)4., F.S.

presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation is exempt from public meetings requirements.²¹ In addition, any portion of a team meeting at which negotiation strategies are discussed is exempt from public meeting requirements.²² A "team" is defined as a group of members established by an agency for the purpose of conducting negotiations as part of a competitive solicitation.²³

A complete recording must be made of any portion of an exempt meeting.²⁴ The recording of, and any records presented at, the exempt meeting are exempt from public record requirements until the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier.²⁵ If the agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recording and any records presented at the meeting remain exempt until the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation.²⁶ A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.²⁷

The 2011 public necessity statement for the exemptions provided that:

Protecting such meetings and temporarily protecting the recording and any records presented by a vendor at such meetings, ensures that the process of responding to a competitive solicitation remains fair and economical for vendors, while still preserving oversight after a competitive solicitation decision is made or withdrawn. It is unfair and inequitable to compel vendors to disclose to competitors the nature and details of their proposals during such meetings or through the minutes or records presented at such meetings. Such disclosure impedes full and frank discussion of the strengths, weaknesses, and value of a bid, proposal, or response, thereby limiting the ability of the agency to obtain the best value for the public.²⁸

The public necessity statement further provided that:

Team members often meet to strategize about competitive solicitations and the approach to take as part of the evaluation process. Without the public meeting exemption and the limited public record exemption, the effective and efficient administration of the competitive solicitation process would be hindered.²⁹

Pursuant to the Open Government Sunset Review Act, the exemptions will repeal on October 2, 2016, unless reenacted by the Legislature.³⁰

Staff Review of the Exemptions

During the 2015 interim, subcommittee staff held meetings with affected persons tasked with implementing the public record and public meeting exemptions, as well as vendors who participate in the competitive solicitation process. These parties recommended reenactment of the public record and public meeting exemptions under review.

²¹ Section 286.0113(2)(b)1., F.S.

²² Section 286.0113(2)(b)2., F.S.

²³ Section 286.0113(2)(a)2., F.S.

²⁴ Section 286.0113(2)(c)1., F.S.

²⁵ Section 286.0113(2)(c)2., F.S.

²⁶ Section 286.0113(2)(c)3., F.S.

²⁷ *Id.*

²⁸ Section 3, ch. 2011-140, L.O.F.

²⁹ *Id.*

³⁰ Section 286.0113(2)(d), F.S.

Effect of the Bill

The bill removes the scheduled repeal of the public record and public meeting exemptions, thereby reenacting:

- The public record exemption for sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation;
- The public meeting exemption for any portion of a meeting at which a vendor participates in a negotiation, makes an oral presentation, or answers questions as part of a competitive solicitation or at which negotiation strategies are discussed; and
- The public record exemption for the recording of, and any records presented at, exempt meetings.

B. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., to reenact the public record exemption for competitive solicitations.

Section 2 amends s. 286.0113, F.S., to reenact the public record and public meeting exemptions for competitive solicitations.

Section 3 provides an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled

2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 119.071, F.S., relating
 4 to an exemption from public records requirements for
 5 bids, proposals, or replies submitted to an agency in
 6 response to a competitive solicitation; removing the
 7 scheduled repeal of the exemption; amending s.
 8 286.0113, F.S., relating to an exemption from public
 9 meeting requirements for portions of meetings at which
 10 a vendor participates in a negotiation, makes an oral
 11 presentation, or answers questions as part of a
 12 competitive solicitation or at which negotiation
 13 strategies are discussed, and which provides an
 14 exemption from public records requirements for the
 15 recording of, and any records presented at, exempt
 16 meetings; removing the scheduled repeal of the
 17 exemptions; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Paragraph (b) of subsection (1) of section
 22 119.071, Florida Statutes, is amended to read:

23 119.071 General exemptions from inspection or copying of
 24 public records.—

25 (1) AGENCY ADMINISTRATION.—

26 (b)1. For purposes of this paragraph, "competitive

27 solicitation" means the process of requesting and receiving
28 sealed bids, proposals, or replies in accordance with the terms
29 of a competitive process, regardless of the method of
30 procurement.

31 2. Sealed bids, proposals, or replies received by an
32 agency pursuant to a competitive solicitation are exempt from s.
33 119.07(1) and s. 24(a), Art. I of the State Constitution until
34 such time as the agency provides notice of an intended decision
35 or until 30 days after opening the bids, proposals, or final
36 replies, whichever is earlier.

37 3. If an agency rejects all bids, proposals, or replies
38 submitted in response to a competitive solicitation and the
39 agency concurrently provides notice of its intent to reissue the
40 competitive solicitation, the rejected bids, proposals, or
41 replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of
42 the State Constitution until such time as the agency provides
43 notice of an intended decision concerning the reissued
44 competitive solicitation or until the agency withdraws the
45 reissued competitive solicitation. A bid, proposal, or reply is
46 not exempt for longer than 12 months after the initial agency
47 notice rejecting all bids, proposals, or replies.

48 ~~4. This paragraph is subject to the Open Government Sunset~~
49 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
50 ~~on October 2, 2016, unless reviewed and saved from repeal~~
51 ~~through reenactment by the Legislature.~~

52 Section 2. Subsection (2) of section 286.0113, Florida

53 Statutes, is amended to read:

54 286.0113 General exemptions from public meetings.—

55 (2)(a) For purposes of this subsection:

56 1. "Competitive solicitation" means the process of
 57 requesting and receiving sealed bids, proposals, or replies in
 58 accordance with the terms of a competitive process, regardless
 59 of the method of procurement.

60 2. "Team" means a group of members established by an
 61 agency for the purpose of conducting negotiations as part of a
 62 competitive solicitation.

63 (b)1. Any portion of a meeting at which a negotiation with
 64 a vendor is conducted pursuant to a competitive solicitation, at
 65 which a vendor makes an oral presentation as part of a
 66 competitive solicitation, or at which a vendor answers questions
 67 as part of a competitive solicitation is exempt from s. 286.011
 68 and s. 24(b), Art. I of the State Constitution.

69 2. Any portion of a team meeting at which negotiation
 70 strategies are discussed is exempt from s. 286.011 and s. 24(b),
 71 Art. I of the State Constitution.

72 (c)1. A complete recording shall be made of any portion of
 73 an exempt meeting. No portion of the exempt meeting may be held
 74 off the record.

75 2. The recording of, and any records presented at, the
 76 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I
 77 of the State Constitution until such time as the agency provides
 78 notice of an intended decision or until 30 days after opening

79 | the bids, proposals, or final replies, whichever occurs earlier.


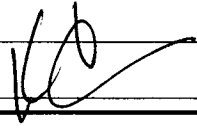
80 | 3. If the agency rejects all bids, proposals, or replies
 81 | and concurrently provides notice of its intent to reissue a
 82 | competitive solicitation, the recording and any records
 83 | presented at the exempt meeting remain exempt from s. 119.07(1)
 84 | and s. 24(a), Art. I of the State Constitution until such time
 85 | as the agency provides notice of an intended decision concerning
 86 | the reissued competitive solicitation or until the agency
 87 | withdraws the reissued competitive solicitation. A recording and
 88 | any records presented at an exempt meeting are not exempt for
 89 | longer than 12 months after the initial agency notice rejecting
 90 | all bids, proposals, or replies.

91 | ~~(d) This subsection is subject to the Open Government~~
 92 | ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 93 | ~~repealed on October 2, 2016, unless reviewed and saved from~~
 94 | ~~repeal through reenactment by the Legislature.~~

95 | Section 3. This act shall take effect October 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7069 PCB GVOPS 16-06 OGSR/Regional Autism Centers
SPONSOR(S): Government Operations Subcommittee, Narain
TIED BILLS: **IDEN./SIM. BILLS:** SB 7048

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee	13 Y, 0 N	Toliver	Williamson
1) State Affairs Committee		Toliver 	Camechis 

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Legislature has established seven regional autism centers (centers) throughout the state. The centers are tasked with providing nonresidential resources and training services to persons of all ages and all levels of intellectual functioning who have autism, an autistic-like disability, a dual sensory impairment, a sensory impairment with other handicapping conditions, or a pervasive developmental disorder that is not otherwise specified. Each center must provide services within its geographical region of the state, be operationally and fiscally independent, and coordinate services within and between state agencies, local agencies, and school districts.

Current law provides two public record exemptions for the centers. The first exemption provides that all records relating to a client of a center who receives the services of a center or participates in center activities, and all records relating to the client's family, are confidential and exempt from public record requirements. Confidential and exempt client records may be released in certain instances. The second exemption provides that personal identifying information of a donor or prospective donor to the center who desires to remain anonymous is confidential and exempt from public record requirements.

The bill reenacts the public record exemptions, which will repeal on October 2, 2016, if this bill does not become law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal and the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created⁵ then a public necessity statement and a two-thirds vote for passage are not required.

Regional Autism Centers

In 2002 the Legislature established six regional autism centers⁶ (center) throughout the state, adding a seventh in 2005.⁷ The seven centers are located at the:

- College of Medicine at Florida State University;⁸
- College of Medicine at the University of Florida;⁹
- University of Florida Health Science Center at Jacksonville;¹⁰
- Louis de la Parte Florida Mental Health Institute at the University of South Florida;¹¹

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I, FLA. CONST.

⁵ An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

⁶ Chapter 2002-387, L.O.F.

⁷ Chapter 2005-49, L.O.F.

⁸ The College of Medicine at Florida State University serves Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties. Section 1004.55(1)(a), F.S.

⁹ The College of Medicine at the University of Florida serves Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Levy, Marion, Putnam, Suwannee, and Union Counties. Section 1004.55(1)(b), F.S.

¹⁰ The University of Florida Health Science Center at Jacksonville serves Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties. Section 1004.55(1)(c), F.S.

¹¹ The Louis de la Parte Florida Mental Health Institute at the University of South Florida serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. Section 1004.55(1)(d), F.S.

- Mailman Center for Child Development and the Department of Psychology at the University of Miami;¹²
- College of Health and Public Affairs at the University of Central Florida;¹³ and
- Department of Exceptional Student Education at Florida Atlantic University.¹⁴

Current law requires the centers to provide nonresidential resources and training services to persons of all ages and all levels of intellectual functioning who have autism,¹⁵ an autistic-like disability, a dual sensory impairment, a sensory impairment with other handicapping conditions, or a pervasive developmental disorder that is not otherwise specified.¹⁶ Each center must be operationally and fiscally independent and provide services within its geographical region of the state.¹⁷ Additionally, each center must coordinate services within and between state agencies, local agencies, and school districts. However, services offered by the center may not be duplicative of those offered by the agencies or school districts.¹⁸

Each center must provide expertise in autism, autistic-like behaviors, and sensory impairments; individual and direct family assistance; technical assistance and consultation services; professional training programs; public education programs; coordination and dissemination of local and regional information regarding available resources; and support to state agencies in the development of training for early child care providers and educators with respect to developmental disabilities.¹⁹

Public Record Exemptions under Review

In 2011, the Legislature created public record exemptions for the centers.²⁰ All records that relate to the client of a center who receives the center's services or participates in center activities are confidential and exempt²¹ from public record requirements. The public record exemption also applies to records that relate to the client's family.²² In addition, personal identifying information of a donor or prospective donor to a center who desires to remain anonymous is confidential and exempt from public record requirements.²³

Upon request, the center must provide a copy of the client's individual record to the client, if he or she is competent, or to the client's parent or legal guardian, if he or she is incompetent.²⁴

¹² The Mailman Center for Child Development and the Department of Psychology at the University of Miami serves Broward, Miami-Dade, and Monroe Counties. Section 1004.55(1)(e), F.S.

¹³ The College of Health and Public Affairs at the University of Central Florida serves Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia Counties. Section 1004.55(1)(f), F.S.

¹⁴ The Department of Exceptional Student Education at Florida Atlantic University serves Palm Beach, Martin, St. Lucie, Okeechobee, and Indian River Counties. Section 1004.55(1)(g), F.S.

¹⁵ Section 393.063(3), F.S., defines "autism" as a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.

¹⁶ Section 1004.55(1), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 1004.55(4), F.S.

²⁰ Chapter 2011-22, L.O.F.; codified as s. 1004.55(6), F.S.

²¹ There is a difference between records the Legislature designates exempt from public records requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991) *review denied*, 589 So. 2d 289 (Fla. 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See *WFTV, Inc. v. Sch. Bd. of Seminole Cnty*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So. 2d 1015 (Fla. 2004); Op. Att'y Gen. Fla. 85-692 (1985).

²² Section 1004.55(6)(a)1., F.S.

²³ Section 1004.55(6)(b), F.S.

²⁴ Section 1004.55(6)(a)2., F.S.

A center may release the confidential and exempt records relating to a client or the client's family as follows:

- To physicians, attorneys, or governmental entities having need of the confidential and exempt information to aid a client, as authorized by the client, if competent, or the client's parent or legal guardian if the client is incompetent.²⁵
- In response to a subpoena or to persons authorized by order of the court.²⁶
- To the State Board of Education or the Board of Governors of the State University System when the director of the center deems it necessary for the treatment of a client, maintenance of adequate records, compilation of treatment data, or evaluation of programs.²⁷

The center may release information contained in the confidential and exempt records in the following instances, provided that personal identifying information of the client or the client's family is removed:

- To a person engaged in bona fide research if that person agrees to sign a confidentiality agreement with the center, maintain the confidentiality of the information received, and, to the extent permitted by law and after the research has concluded, destroy any confidential and exempt information obtained.²⁸
- By the director of the center or the director's designee for statistical and research purposes provided that any confidential and exempt information is removed in the reporting of such statistical or research data.²⁹

The 2011 public necessity statement provides that the public record exemption for records relating to a client or the client's family is a public necessity because:

- Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private health care sectors. For these reasons, the individual's expectation of and right to privacy in all matters regarding his or her personal health necessitates this exemption.³⁰

The public necessity statement further provides that release of records relating to a client or the client's family could be defamatory or could cause unwarranted damage to the name or reputation of the client or the client's family. It also provides that:

- Protecting such records ensures an environment in which the discussion of the condition of autism or related disorders can be conducted in a free and open manner, thus enabling individuals with autism and their families to receive appropriate diagnostic and treatment information and cope more effectively with the enormous challenges posed by neurodevelopmental disorders and sensory impairments.³¹

With regard to the public record exemption for personal identifying information of a donor or prospective donor to the center, the 2011 public necessity statement provides that:

If the identity of a prospective or actual donor who desires to remain anonymous is subject to disclosure, there is a chilling effect on donations because donors are

²⁵ Section 1004.55(6)(a)3.a., F.S.

²⁶ Section 1004.55(6)(a)3.b., F.S.

²⁷ Section 1004.55(6)(a)3.c., F.S.

²⁸ Section 1004.55(6)(a)4.a., F.S.

²⁹ Section 1004.55(6)(a)4.b., F.S.

³⁰ Section 2, ch. 2011-221, L.O.F.

³¹ *Id.*

concerned about disclosure of personal information leading to theft and, in particular, identity theft, including personal safety and security.³²

Pursuant to the Open Government Sunset Review Act, the public record exemptions will repeal on October 2, 2016, unless reenacted by the Legislature.³³

Staff Review of the Exemptions

During the 2015 interim, subcommittee staff sent questionnaires to each center as part of the Open Government Sunset Review process.³⁴ All respondents recommended reenactment of the exemption without changes.³⁵ The centers indicated that the public record exemption for records relating to a client or the client's family provides the clients of the centers with the security of knowing that sensitive information about themselves or their child is protected from a public records request. This ensures the integrity of the relationship between the client and the center.³⁶ In addition, a center's response provided that the public record exemption for donor information is important because many of the donors are clients or are family member of clients.³⁷

Effect of the Bill

The bill removes the scheduled repeal of the public record exemptions, thereby reenacting:

- The public record exemption for all records relating to a client of the center or the client's family; and
- The public record exemption for personal identifying information of a donor or prospective donor to the center who desires to remain anonymous.

The bill also clarifies that the director of a center, or his or her designee, may release information for statistical and research purposes, so long as any confidential and exempt information is removed in the reporting of the data.

B. SECTION DIRECTORY:

Section 1 amends s. 1004.55, F.S., to save from repeal the public record exemptions for regional autism centers.

Section 2 provides an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

³² *Id.*

³³ Section 1004.55(6)(c), F.S.

³⁴ Open Government Sunset Review of s. 1004.55(6), F.S., relating to regional autism centers, questionnaire by House and Senate staff. Responses are on file with the Government Operations Subcommittee.

³⁵ *Id.* at question 11.

³⁶ *Id.* at question 12.

³⁷ *Id.* at question 20.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

27 and exempt records as follows:

28 a. To physicians, attorneys, or governmental entities
 29 having need of the confidential and exempt information to aid a
 30 client, as authorized by the client, if competent, or the
 31 client's parent or legal guardian if the client is incompetent.

32 b. In response to a subpoena or to persons authorized by
 33 order of court.

34 c. To the State Board of Education or the Board of
 35 Governors of the State University System when the director of
 36 the center deems it necessary for the treatment of the client,
 37 maintenance of adequate records, compilation of treatment data,
 38 or evaluation of programs.

39 4. Provided that personal identifying information of a
 40 client or the client's family has been removed, a regional
 41 autism center may release information contained in the
 42 confidential and exempt records ~~as follows:~~

43 ~~a.~~ to a person engaged in bona fide research if that
 44 person agrees to sign a confidentiality agreement with the
 45 regional autism center, agrees to maintain the confidentiality
 46 of the information received, and, to the extent permitted by law
 47 and after the research has concluded, destroy any confidential
 48 information obtained.

49 ~~5.b.~~ The director of the center or his or her designee may
 50 release information for statistical and research purposes ~~by the~~
 51 ~~director of the center or designee~~, provided that any
 52 confidential and exempt information is removed in the reporting

53 of such statistical or research data.

54 (b) Donor information.—Personal identifying information of
55 a donor or prospective donor to a regional autism center who
56 desires to remain anonymous is confidential and exempt from s.
57 119.07(1) and s. 24(a), Art. I of the State Constitution.

58 ~~(c) Review and repeal. This subsection is subject to the~~
59 ~~Open Government Sunset Review Act in accordance with s. 119.15~~
60 ~~and shall stand repealed on October 2, 2016, unless reviewed and~~
61 ~~saved from repeal through reenactment by the Legislature.~~

62 Section 2. This act shall take effect October 1, 2016.