

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

AGRICULTURE
Senator Siplin, Chair
Senator Bullard, Vice Chair

MEETING DATE: Monday, March 28, 2011
TIME: 1:00 —3:00 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Siplin, Chair; Senator Bullard, Vice Chair; Senators Alexander, Garcia, Hays, Montford, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation by Future Farmers of America		
2	SB 1312 Siplin	School Nutrition Programs; Transfers and reassigns functions and responsibilities, including records, personnel, property, and unexpended balances of appropriations and other resources for the administration of the school food and nutrition programs from the Department of Education to the Department of Agriculture and Consumer Services. Requires the Department of Agriculture and Consumer Services to conduct, supervise, and administer all school food and nutrition programs, etc.	
		AG 03/28/2011 ED BC	

Consideration of proposed committee bill:

3	SPB 7218	Department of Agriculture and Consumer Services; Deletes provisions related to per diem and travel expenses for members of the Florida Commission on the Status of Women. Deletes the Division of Dairy within the Department of Agriculture and Consumer Services (DOACS). Exempts certain direct-support organizations and citizen support organizations for the DOACS from obtaining an independent audit. Deletes provisions related to per diem and travel expenses for members of the Off-Highway Vehicle Recreation Advisory Committee within the Division of Forestry, etc.	
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Clay Sapp

Florida FFA President

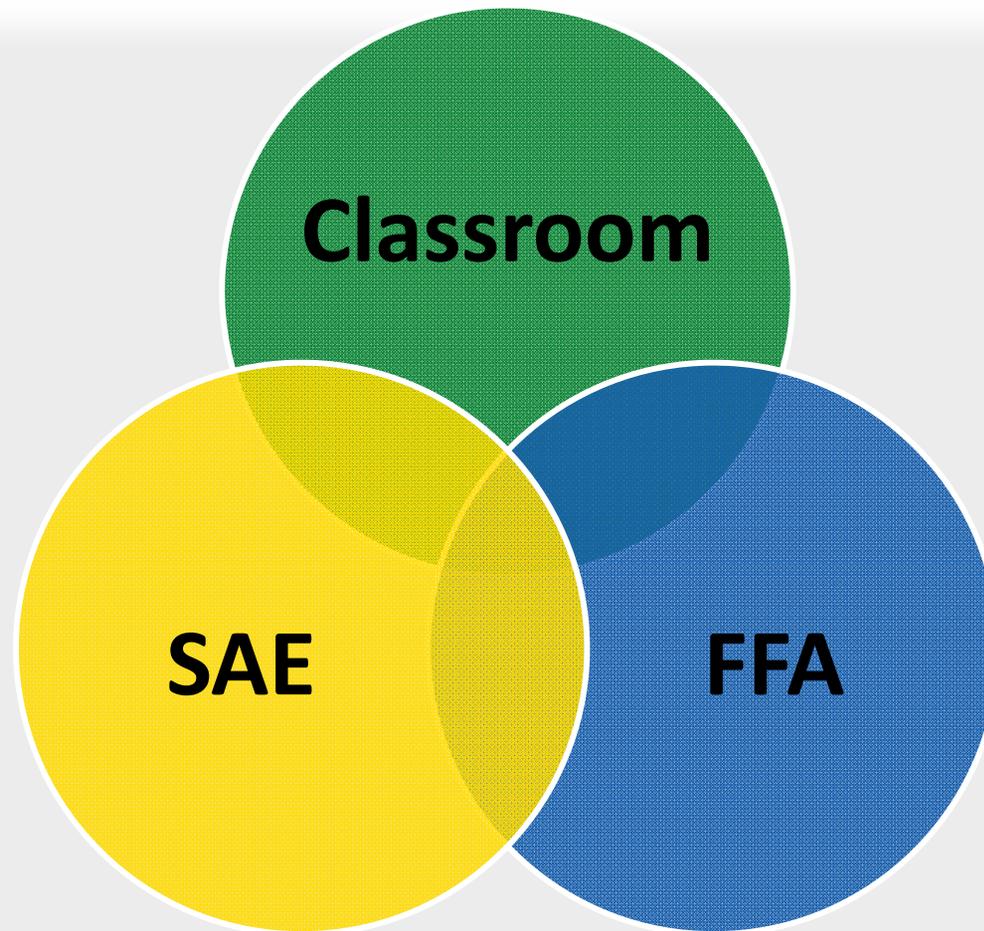
Agriscience Education

Agriscience Education

- **Classroom/Laboratory Instruction**
- **Work-based Learning (Supervised Agricultural Experience)**
- **Leadership Development (FFA)**



Total Agriscience Program



Classroom/Laboratory Instruction



- Integrates academic concepts with technical agriculture skills
- Prepares students for work and postsecondary education in more than 300 careers
 - Animal Systems
 - Plant Systems
 - Food Products and Processing Systems
 - Power, Structural and Technical Systems
 - Natural Resource Systems
 - Environmental Service Systems
 - Agribusiness Systems



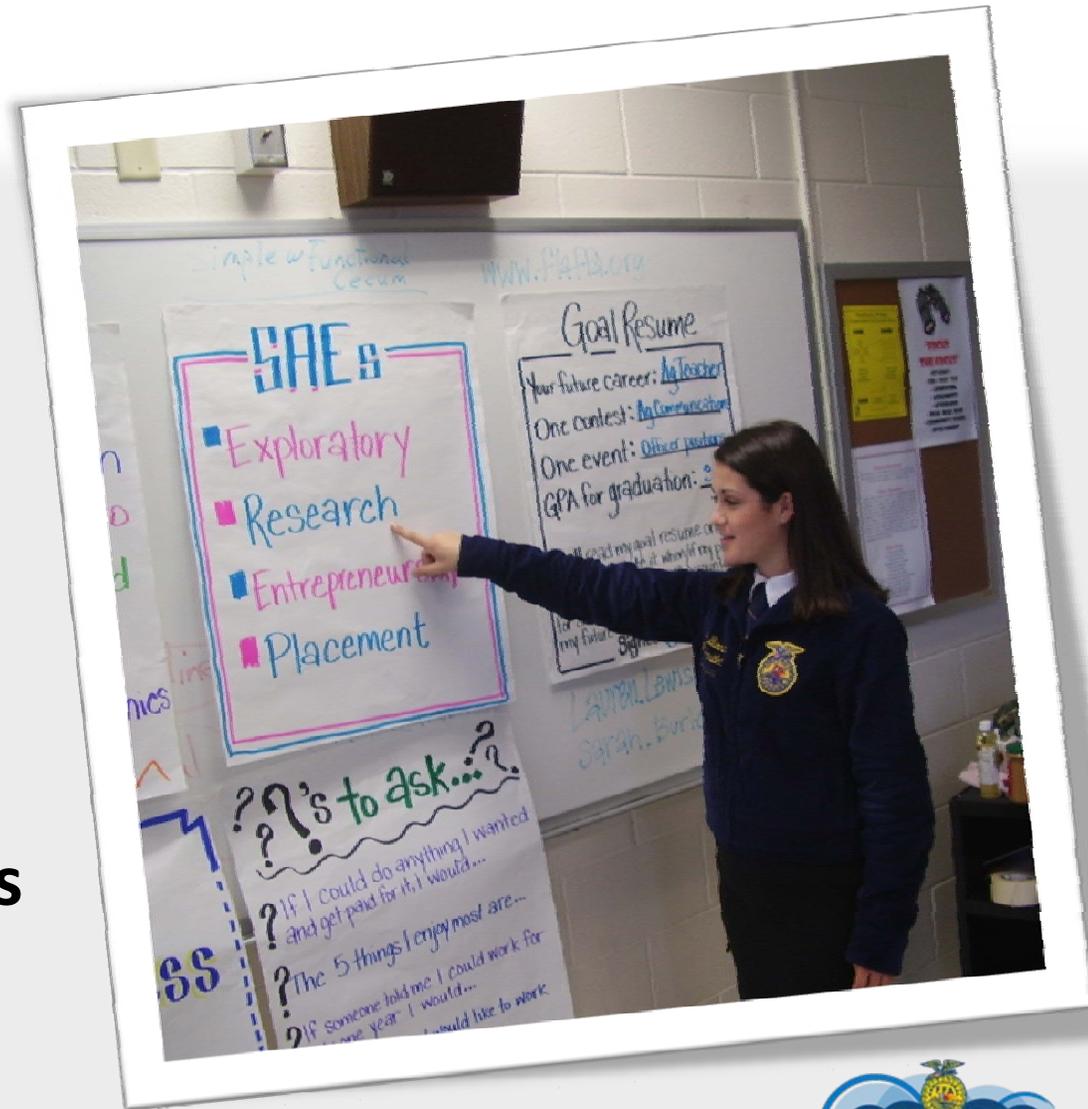
Supervised Agricultural Experience

- **Practical application of classroom/laboratory concepts conducted outside of class time**
- **Explore careers**
 - Research
 - Placement
 - Ownership
- **Earn money**
- **Learn work place skills**
 - Team work
 - Responsibility
 - Communication skills



National FFA Organization

- Founded in 1928
- Chartered by U.S. Congress
- Approximately 500,000 members nationwide
 - 34% Urban and Suburban
 - 39% Rural, Non-Farm
 - 27% Rural, Farm
- Integral part of a school's agricultural education program



FFA



- Builds leadership skills for life
- Reinforces instruction
- Recognizes excellence
- Gives students opportunities to make a positive difference in their schools and communities

FFA Mission

FFA makes a positive difference in the lives of students by developing their potential for *premier leadership, personal growth, and career success* through agricultural education.



Florida FFA

- **Over 15,000 middle and high school members**
- **In 320 chapters**
- **With 450 teachers**



Thank You

On behalf of every Florida FFA member and agriscience student, thank you for all that you do for Florida FFA and agriscience education.





340894

LEGISLATIVE ACTION

Senate

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House

The Committee on Agriculture (Siplin) recommended the following:

Senate Amendment (with title amendment)

Between lines 279 and 280
insert:

Section 8. (1) Each school district shall implement and administer a policy for the care of students who are at risk for anaphylaxis based on guidelines developed by the State Surgeon General in consultation with a task force appointed by the State Surgeon General.

(2) The guidelines described in subsection (1) do not supersede a school district's plan regarding the care of students who are at risk for anaphylaxis which was implemented before the development of the guidelines to the extent the



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14 school district's plan is consistent with the guidelines.

15 (3) (a) By October 1, 2011, the State Surgeon General shall
16 appoint members to serve on a task force to consult with the
17 State Surgeon General on developing guidelines for the care of
18 students who are at risk for anaphylaxis. The State Surgeon
19 General, or his or her designee, shall be a nonvoting, ex
20 officio member of the task force and shall act as chair. The
21 Department of Health shall provide staff support for the task
22 force. The task force shall consist of the following members:

23 1. One member from the Department of Health;

24 2. One member from the Department of Education;

25 3. One member from the Florida Association of School
26 Nurses;

27 4. One member from the Food Allergy Initiative;

28 5. One member from the Food Allergy and Anaphylaxis
29 Network;

30 6. One physician who is licensed to practice medicine in
31 this state and is a member of the American Academy of Allergy,
32 Asthma, and Immunology; and

33 7. Two persons who are parents of a child that attends a
34 public school and is at risk for anaphylaxis.

35 (b) Members of the task force shall serve without
36 compensation, but are entitled to reimbursement for per diem and
37 travel expenses as provided in s. 112.061, Florida Statutes.

38 (c) The task force shall meet at least twice a year or upon
39 the call of the chair.

40 (4) The purpose of the task force is to develop guidelines
41 for the care of students who are at risk for anaphylaxis.

42 (5) By June 30, 2012, the task force shall provide a report



43 to the Governor, the President of the Senate, the Speaker of the
44 House of Representatives, and the Commissioner of Education
45 which contains a summary of the work of the task force during
46 the year and the recommendations and guidelines developed in
47 accordance with the task force's purpose as provided in
48 subsection (4). Upon submission of its report, the task force is
49 abolished and this section expires.

50
51 ===== T I T L E A M E N D M E N T =====

52 And the title is amended as follows:

53 Delete lines 2 - 35

54 and insert:

55 An act relating to the health of public-school
56 students; providing a short title; transferring and
57 reassigning functions and responsibilities, including
58 records, personnel, property, and unexpended balances
59 of appropriations and other resources for the
60 administration of the school food and nutrition
61 programs from the Department of Education to the
62 Department of Agriculture and Consumer Services;
63 creating s. 570.98, F.S.; requiring the Department of
64 Agriculture and Consumer Services to conduct,
65 supervise, and administer all school food and
66 nutrition programs; requiring the department to
67 cooperate fully with the United States Government;
68 authorizing the department to act as agent of, or
69 contract with, the Federal Government, other state
70 agencies, or any county or municipal government for
71 the administration of the school food and nutrition



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72 programs; transferring, renumbering, and amending s.
73 1006.06, F.S., relating to school food service
74 programs; conforming provisions to changes made by the
75 act; deleting obsolete provisions; transferring,
76 renumbering, and amending ss. 1006.0606 and 1010.77,
77 F.S., relating to the children's summer nutrition
78 program and the Food and Nutrition Services Trust
79 Fund, respectively; conforming provisions to changes
80 made by the act; deleting obsolete provisions;
81 amending s. 1003.453, F.S.; requiring each school
82 district to send an updated copy of its wellness
83 policy and physical education policy to the Department
84 of Education and the Department of Agriculture and
85 Consumer Services; deleting obsolete provisions;
86 requiring certain information to be accessible from
87 the website of the Department of Agriculture and
88 Consumer Services; requiring each school district to
89 implement and administer a policy for the care of
90 students who are at risk for anaphylaxis based on
91 guidelines developed by the State Surgeon General in
92 consultation with a task force appointed by the State
93 Surgeon General; providing that, under certain
94 circumstances, such guidelines do not supersede a
95 school district's plan implemented before the
96 development of the guidelines; requiring the State
97 Surgeon General to appoint members to a task force to
98 consult with the State Surgeon General on developing
99 guidelines for the care of students who are at risk
100 for anaphylaxis; providing for membership,



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101 reimbursement, meeting times, and purpose of the task
102 force; requiring the task force to submit a report by
103 a specified date to the Governor, the Legislature, and
104 the Commissioner of Education; providing for
105 termination of the task force; providing an effective
106 date.



940328

LEGISLATIVE ACTION

Senate

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House

The Committee on Agriculture (Siplin) recommended the following:

1 **Senate Substitute for Amendment (340894) (with title**
2 **amendment)**

3
4 Between lines 279 and 280
5 insert:

6 Section 8. (1) There is created within the Department of
7 Agriculture and Consumer Services the Healthy Schools for
8 Healthy Lives Council, which shall consist of 11 members
9 appointed by the Commissioner of Agriculture. The council shall
10 advise the department on matters relating to nutritional
11 standards and the prevention of childhood obesity, nutrition
12 education, anaphylaxis, and other needs to further the
13 development of the various school nutrition programs.



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14 (2) The meetings, powers, duties, procedures, and
15 recordkeeping of the Healthy Schools for Healthy Lives Council
16 shall be governed by s. 570.0705, Florida Statutes, relating to
17 advisory committees established within the department.

18

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

20 And the title is amended as follows:

21 Delete line 35

22 and insert:

23 Consumer Services; creating the Healthy Schools for
24 Healthy Lives Council within the Department of
25 Agriculture and Consumer Services; requiring the
26 Commissioner of Agriculture to appoint members of the
27 council; providing duties of the council; providing
28 requirements for the meetings, powers, duties,
29 procedures, and recordkeeping of the council;
30 providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Agriculture Committee

BILL: SB 1312

INTRODUCER: Senator Siplin

SUBJECT: School Nutrition Programs

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhvein	Spalla	AG	Pre-meeting
2.	_____	_____	ED	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the “Healthy Schools for Healthy Lives Act.” It provides for a type two transfer of the administration of school food and nutrition programs from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACS). It provides for the administration of the United States Department of Agriculture child food and nutrition programs by DACS.

This bill substantially amends section 1003.453 of the Florida Statutes.

This bill substantially amends, transfers and renumbers:

- s. 1006.06, F.S., to s. 570.981, F.S.
- s. 1006.0606, F.S., to s. 570.982, F.S.
- s. 1010.77, F.S., to s. 570.983, F.S.

This bill creates section 570.98 of the Florida Statutes.

II. Present Situation:

There is a direct correlation between good nutrition and student development and learning. Due to this relationship, both the federal and state governments have adopted policies for local school districts to operate school nutrition programs.¹ Federal regulations implementing the Richard B. Russell National School Lunch Act (7 C.F.R. § 210.3(b)) provide for the programs to be

¹ The National School Lunch Act, as amended (42 U.S.C. 1751-1769), and the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773) and s. 1006.06, F.S.

administered by a state's educational agency. This is the case in all but two of the 50 states. In Florida, DOE and DACS have roles in administering school food and nutrition programs. As such, Florida's school food and nutrition programs are spread across DOE and DACS, creating challenges, inconsistencies and inefficiencies. For instance, the School Lunch, Breakfast, and Summer Programs are administered by DOE, while the commodity Food Distribution, Disaster Feeding, and EFAP are managed by DACS. The Healthy Schools for Healthy Lives Act will consolidate school food and nutrition programs under one state agency.

The Commissioner of Agriculture feels that DACS is the most experienced and best positioned to manage Florida's school food and nutrition programs. It is the Commissioner's position that the transfer will foster increased coordination between Florida farmers and the school programs that provide food for Florida's children. With its year-round growing season, the state of Florida is uniquely capable to serve produce during the school year. DACS can connect schools with nearby farms, enabling the schools to tap into the abundance of nutritious and wholesome foods that Florida has to offer and serve locally-grown fresh fruits and vegetables at school meals. The Commissioner of Agriculture also believes that DACS can apply its expertise and capabilities to help instill a value and appreciation for fresh and nutritious foods in students, leading to a lifetime of healthy eating habits. Through existing programs in DACS' Marketing Division, like Fresh From Florida Kids and Xtreme Cuisine, DACS currently works to educate families and children about healthy eating. Combining these efforts with the programs currently at DOE will enable schools to more effectively reach Florida's students with the valuable lessons and practices of healthy eating. DACS also has a culinary program, led by a certified executive chef, which can develop and offer nutritious recipes with "kid appeal" to serve in cafeterias and classrooms. The culinary staff can share proven techniques with school foodservice assistants.

Further, the Commissioner of Agriculture believes that moving school food and nutrition programs to DACS will not only allow for increased coordination, but will also create efficiencies. DACS has stated that it can absorb some of the programs' administrative needs and bring other services in house, which should yield about \$400,000 in savings annually. Additional savings can be realized from DACS' relationship with the agriculture industry. For example, with access to Florida's farmers, agribusinesses and agricultural market data, DACS can help the programs save in the areas of food, training and distribution. In addition, DACS' food recovery initiatives identify Florida produce that can be distributed to the needy at a reduced cost. Methods from these initiatives may be applied to provide more nutritious and wholesome foods to schools at a reduced cost.

Below is a description of the state-level organizational placement of school nutrition programs administered by DOE and DACS.

Florida Department of Education:

The DOE is responsible for the administration, review, and evaluation of seven United States Department of Agriculture (USDA) funded child nutrition programs. During the 2009-10 fiscal year, the following programs generated \$745 million in reimbursements to program sponsors, which include all of Florida's 67 public school districts, 78 charter schools, 3 university schools, 49 private schools, and 49 residential facilities.

National School Lunch, School Breakfast, and After School Snack Programs – \$718.6 Million in Reimbursements

The National School Lunch Program (NSLP) and School Breakfast Program (SBP) provide non-profit school lunch programs with reimbursement for nutritious meals served to school children. Participating schools may also receive USDA commodity food through an agreement with DACS. Section 1006.06, F.S., requires Florida public school districts to offer the breakfast program in all elementary public schools. Reimbursement is based on student income eligibility.

The After School Snack Program (ASSP) provides a snack to students who are served in an afterschool educational or enrichment program that is provided at the end of the school day. The school district must operate the NSLP before ASSP can be offered.

Special Milk Program – \$31,295 in Reimbursements

The Special Milk Program (SMP) provides milk to children in schools, child care institutions and eligible camps that do not participate in other federal child nutrition meal service programs. The program reimburses schools and institutions for the milk they serve. Schools in the NSLP or SBP may also participate in the SMP to provide milk to children in half-day pre-kindergarten and kindergarten programs through which children do not have access to the school meal programs.

Summer Food Service Program – \$22.7 Million in Reimbursements

The Summer Food Service Program (SFSP) provides reimbursement for sponsors to serve free meals to all children at participating sites located in areas of low-income children during the summer months when schools are closed. The reimbursement rates for the SFSP are slightly higher than the National School Lunch Program. Children who are 18 years of age or younger, or over 18 when determined to be mentally or physically handicapped, are eligible for the program. Sponsors of this program include school districts, community-based organizations, and county governments.

Seamless Summer Option – \$1.8 Million in Reimbursements

School districts participating in the NSLP or SBP are eligible to apply for the Seamless Summer Option (SSO) to serve free meals to low-income children, 18 years old and under. This option reduces paperwork and administrative burdens, and reimbursement rates are the same as with NSLP and SBP. Sponsors of this program are school districts.

Fresh Fruit and Vegetable Program – \$2.7 Million in Reimbursements

The Fresh Fruit and Vegetable Program (FFVP) provides all children in participating schools with a variety of free fresh fruits and vegetables outside of the breakfast and lunch service. It is an effective and creative way of introducing fresh fruits and vegetables as healthy snack options. In 2010-11, the FFVP operates in 26 districts and 133 schools throughout Florida. The allocation for each school is between \$50 and \$75 per student. National allocations have not yet been released, but Florida anticipates receiving approximately \$6 million for the 2011-2012 FFVP. Unlike the other child nutrition programs which are reimbursed by meals served, FFVP sponsors

are reimbursed for operating and administrative costs in addition to the funds received for the purchase of fruits and vegetables.

DOE Administration of Child Nutrition Programs

The DOE employs 45 staff with an administrative budget of \$6,461,745 for the 2010-11 fiscal year to administer the school and child nutrition programs for the following sponsors:

- 248 NSLP sponsors, including 3,578 breakfast sites, 3,651 lunch sites, and 1,655 snack sites;
- 135 SFSP and SSO sponsors;
- 18 SMP sponsors; and
- 133 elementary schools that are participating in the 2010-2011 Fresh Fruit and Vegetable Program.

Administrative services provided by the DOE include:

- Operating and maintaining a web-based computer application to process \$745 million of claims reimbursements, sponsor applications, administrative program reviews, and federal reports.
- Providing sponsor training and technical assistance in child nutrition, food safety, and administrative services for all sponsors.
- Conducting on-site monitoring and administrative reviews of program administration and meal services for all sponsors.
- Evaluating and providing nutrient analysis of breakfast and lunch menus for all sponsors.
- Providing outreach throughout the state to attract potential sponsors for the SFSP and increase participation in the breakfast program.

To provide the services listed above in an efficient and effective manner, DOE works with the Florida Atlantic University to administer two grants: (1) \$700,000 to deliver on-site training in a variety of areas, including producing and maintaining appropriate food service records, food preparation and safety, preparing and serving fresh fruits and vegetables, and the production of training videos; and (2) \$900,000 to observe and evaluate the scope of difficulties related to compliance, provide technical assistance to individual sponsors, provide technical assistance to companies that contract to deliver food products and services, assist sponsors with completing paperwork and taking the steps necessary to achieve and maintain regulatory compliance related to Provision 2 (program in schools with a high proportion of students who are eligible for free and reduced-price meals that allows all students to receive free meals), and the maintenance and technical support of DOE's "FUNDamental" financial software; which is used to measure critical indicators of the financial effectiveness of a sponsor's child nutrition program.

Alliances and Initiatives

The DOE established the Farm to School (F2S) Alliance to combat childhood obesity and meet the HealthierUS School Challenge criteria, which is a statewide training initiative for school food service professionals on how to prepare and serve meals that comply with the 2005 Dietary Guidelines for Americans. DOE coordinates F2S training, serves as the lead on the National F2S Network Regional Steering Committee, and commits staff time to the HealthierUS School

Challenge and First Lady Michelle Obama's Let's Move Campaign. In January of 2011, an F2S Alliance meeting was held to "Build a Framework" for Florida F2S Programs. The Florida-Grown School Lunch Week is being planned for October 2011, to highlight products grown in Florida.

The F2S Alliance meetings have been attended by representatives from the United States Department of Agriculture, Farm Bureau, University of Florida Extension Offices, Florida Agriculture in the Classroom, Florida Fruit and Vegetable Association, Florida School Nutrition Association, R.C. Hatton Farms, U.S. Foodservice Food Distribution, Florida Action for Healthy Kids, Florida Dairy Council, Sustainable Agriculture Research and Education, Whole Foods, and organic growers.

The DOE provides outreach, guidance, and information to approximately 800 small farmers, their families, and the communities they serve about how to become involved and form business relationships with schools. DOE has garnered support from R.C. Hatton Farms, one of Florida's larger farmers, to assist with bringing smaller farmers into the discussion regarding food safety and distribution of their products.

The DOE provides guidance and training to Florida school food service directors, their staff, and parent-teacher organizations about the benefits of using locally grown products, procurement of local produce, and the use of local products in the NSLP to meet the HealthierUS School Challenge menu criteria. For the past three years, FNM has conducted presentations at the Florida School Nutrition Association Conference on procurement, distribution, and applications of food safety principles associated with local farm-grown produce.

The DOE actively supports interagency participation and coordination with the USDA, Florida Department of Health, Florida Department of Children and Families, Florida Coordinated School Health Partnership, Coordinated School Health Initiatives, the Florida Food and Nutrition Advisory Council, and various other entities.

Integration into the Curriculum and Classroom

Nutrition education is provided through collaboration with the Office of Healthy Schools (OHS) within DOE. DOE's school food and nutrition programs partner with the OHS to assess and respond to the nutrition education and resource needs of school districts across the state. The OHS is partially funded with DOE school food and child nutrition administrative expense funds and employs a program director and nutrition coordinator. Through this partnership, DOE is able to integrate nutrition education into core subject areas like language arts and science. Examples of initiatives from this collaboration include:

- Participation in Celebrate Literacy Week - OHS works in partnership with the Just Read, Florida! Office to promote literacy throughout the state by raising awareness of the nutrition-related programs and projects offered by the DOE, including the importance of school breakfast and school gardens. In January 2011, volunteers across 28 school districts and 1,100 classrooms read "Our Super Garden: Learning the Power of Healthy Eating by Eating What We Grow" by Anne Nagro.

- In February 2011, OHS in partnership with the DOE's Language Arts Coordinator, Just Read, Florida!, and the Florida Department of Health's Comprehensive Cancer Control Program provided Seed Folks kits, containing lesson plans and activities challenging language arts benchmarks, to middle school students.
- Gardening for Grades Regional Trainings - Through a partnership with DOE's Science Coordinator, OHS has collaborated with Florida Agriculture in the Classroom to serve science teachers through nine regional Gardening for Grades training sessions in the spring of 2011. Note: Gardening for Grades is a program funded by specialty crop grants, awarded by DACS.
- Foods of the Month Kits - In March 2011, OHS provided approximately 550 nutrition education resources specifically designed for the school cafeteria through the Foods of the Month (FoM) kits. FoM kits help schools enhance the nutrition education programming and improve dietary offerings in school meals by using the cafeteria as a learning laboratory.
- Healthy School District Trainings - Five regional Healthy School District Trainings will be conducted in March 2011, using the Coordinated School Health approach to provide district teams with the tools necessary to improve the health and wellness of their district's students and staff through Wellness Policy Committees and School Health Advisory Committees (SHACs).

The Florida Department of Agriculture and Consumer Services:

The Department of Agriculture and Consumer Services administers the Commodity Program portion of the National School Lunch Program and the Summer Food Service Program. Section 6(e) of the Richard B. Russell National School Lunch Act (NSLA), requires that no less than 12% of the federal support received by schools pursuant to the NSLA each year must be in the form of USDA food (commodities). Every year, DACS receives an allocation from the US Department of Agriculture based on the number of meals served the previous year. As the state agency responsible for ordering the commodities for the schools, DACS provides information to the schools on which foods USDA intends to acquire, determines from the schools how much, if any, of each of the commodities available they would like to requisition and orders the foods. USDA is responsible for procuring and purchasing these commodities.

During school year 2010, DACS provided over 69 million pounds of USDA food valued at approximately \$55,516,427 to about 193 participating schools (public school districts, private schools, residential child care institutions, etc.) throughout the state. An additional \$4,442,500 in fresh fruits and vegetables was also provided.

In 2011, DACS will provide over 75 million pounds of USDA food, valued at over \$66 million, in addition to another \$3,077,000 in fresh fruits and vegetables to participating Florida schools.

DACS developed and maintains the Florida Farm to School Program website to bring schools and farmers together to determine each other's needs and how to best meet them. As a founding member of the Farm to School Alliance, DACS participates and provides input at Alliance meetings. For the last three years, DACS has participated in various panel presentations and

exhibitions promoting the consumption of fresh produce at the Florida Small Farms and Alternative Enterprises Conference.

For years, DACS has been an active participant in the Florida School Nutrition Association annual conference. In addition to conducting workshops on the administration of the USDA foods, DACS, in conjunction with the Department of Defense, is an exhibitor at the conference, promoting the consumption of fresh produce in schools and Florida fresh fruits and vegetables in particular. At the 2011 conference, DACS' chef will be in attendance demonstrating ways to entice students to consume more Florida fruits and vegetables.

In keeping with DACS' mission of providing healthy nutrition from the time children are young, DACS has developed the Fresh From Florida Kids. The program is designated to help parents instill healthy eating habits in their children who are just beginning to eat solid food and beyond. Research suggests that taste preferences and eating habits are fully developed by the time a child is three years old, so starting early is essential.

As children get older, DACS introduces them to good nutrition through Xtreme Cuisine. Xtreme Cuisine Cooking School teaches children about nutrition and introduces children to the variety of fresh, nutritious foods available in Florida. The program can be used by teachers, extension agents, health and family services professionals, and many others who work with Florida youth to teach children the nutritional attributes and other pertinent information about Florida agricultural commodities while providing basic cooking skills.

Office of Program Policy and Government Accountability (OPPAGA), Report No. 09-03

OPPAGA reviewed Florida's school nutrition programs in January 2009. In the report, *No Changes Are Necessary to the State's Organization of School Nutrition Programs*, OPPAGA found:

- The current structure aligns key program activities with the core missions of state agencies.
- There is no compelling reason to change the current structure of Florida's school nutrition programs.
- Changing the structure would not produce identifiable cost savings or other substantial benefits.
- Transferring programs and functions from one agency to another would likely result in short-term disruptions in services to school districts.

In the same report, OPPAGA outlines advantages of consolidating the school nutrition and commodity programs in Florida, including:

- Potential efficiencies;
- Improved coordination;
- Increased program visibility and administrative support; and
- Programs could take advantage of DACS' food and nutrition mission and expertise.

School Nutrition Program Transfers Experienced in Other States

Federal regulations implementing the Richard B. Russell National School Lunch Act (7 C.F.R. § 210.3(b)) provide for the NSLP to be administered by a state's educational agency. In all but two of the 50 states this is the case. In Texas and New Jersey, it was the desire of the state educational agencies to seek alternate agencies and to discontinue their administration. In 34 states, the commodity food program, which makes agricultural commodities available to sponsors, is administered by the education agency. The administration of the NSLP by an agency other than the state education agency requires a waiver by the Secretary of the USDA. USDA staff has been contacted for information regarding a potential waiver. At this time, it is unknown if a waiver would be approved or if a transfer could be accomplished by the bill's effective date of July 1, 2011.

Officials in Texas and New Jersey indicated that consolidating the federal programs into their agriculture departments had two primary benefits. First, it improved coordination between the various programs. Second, the officials said that consolidating the programs within the agriculture agency had increased program visibility and administrative support by functioning with a smaller agency, rather than as a no-curriculum program within the larger state education agency.

Officials in both Texas and New Jersey indicated that the primary disadvantage of consolidation was that it created transitional issues during the transfer. For example, when consolidation was being discussed, several DOE staff became concerned about the future of their positions. Another challenge to consolidation is that it could create either data sharing and/or duplicate data reporting issues.²

DACS has reached out to their counterparts in Texas and New Jersey to learn the progress of the programs since the transition and both states report success. Though they encountered issues during the transition, school food and nutrition programs in the agriculture departments of both Texas and New Jersey are making a positive impact on the health curriculum in the classrooms and the nutrition in the cafeterias. DACS feels it can apply lessons learned by both states to support a smooth transition of the school food and nutrition programs in Florida.

III. Effect of Proposed Changes:

Section 1 provides that this act may be cited as the "Healthy Schools for Healthy Lives Act."

Section 2 transfers and reassigns the National School Lunch Program and related school food and child nutrition programs by a type two transfer, as defined in s. 20.06(2), F.S., from DOE to DOACS.

Section 3 creates s. 570.98, F.S., to require DACS to conduct, supervise and administer all school food and nutrition programs, to cooperate with the United States Government and its agencies and instrumentalities to receive the benefit of federal financial allotments, and to act as

² Office of Program Policy Analysis & Government Accountability Report No. 09-03

an agent of or contract with, the federal government, another state agency, or any county or municipal government for the administration of the school food and nutrition programs.

Section 4 transfers and renumbers s. 1006.06, F.S., school food service programs, to s. 570.981, F.S., and makes conforming provisions required by the act. It also deletes obsolete provisions.

Section 5 transfers and renumbers s. 1006.0606, F.S., children's summer nutrition program, cited as the "Ms. Willie Ann Glenn Act," to s. 570.982, F.S., and makes conforming provisions required by the act. It also deletes obsolete provisions.

Section 6 transfers and renumbers s. 1010.77, F.S., Food and Nutrition Services Trust Fund, to s. 570.983, F.S., and makes conforming provisions required by the act.

Section 7 amends s. 1003.453, F.S., to require each school district to send an updated copy of its wellness policy and physical education policy to the DOE and DACS. It deletes obsolete provisions. It also requires a link from DACS' website to each school district's wellness policy and physical education policy.

Section 8 provides that this act shall take effect July 1, 2011.

Other Potential Implications:

The DOE has indicated the following impacts of the type two transfer in Section 2.

Impact on the Coordination of Resources

The Commissioner of Education, Dr. Eric Smith, is constantly interacting with school superintendents across Florida to provide DOE resources to enhance student learning. Student learning takes place within an educational framework that provides student transportation, healthy nutritious meals, and a safe learning environment, followed by excellent classroom teaching and assessment programs. Florida has been a national leader in student achievement over the last several years. According to Education Week's 2011 Quality Counts report, Florida was ranked fifth in the nation for education. This ranking is based on performance and policies in six distinct education areas: the Teaching Profession; Standards, Assessments, and Accountability; Chance for Success; School Finance; Transitions and Alignment; and K-12 Achievement. Florida's fifth place ranking was based on the average score for all six categories. The consolidation of all resources necessary to provide the full spectrum of student services has proven to be the most efficient and effective delivery model in which to maximize student learning.

Impact on the Curriculum and Classroom

The loss of funding to the OHS will result in a loss of resources that provide access to the Bureau of Curriculum and Instruction and will affect the integration of nutrition education into the classroom. The initiatives discussed in the Current Situation, including reading child nutrition books in the classroom, Seed Folks kits containing lesson plans, gardening training sessions, and using the cafeteria as a training laboratory will be severely curtailed or eliminated.

Disruption and Changes in Program Services

As with any change, there will be a disruption in services that DOE currently provides. For example, the distribution of monthly Direct Certification information of students who are eligible for free or reduced price meals because of eligibility for the Supplemental Nutrition Assistance Program through the Department of Children and Families will require changes in multiple agencies. All Memorandums of Understanding and grants will need to be revised and updated to reflect the transfer. The Dietetic Internship Program will require a recertification by the Commission on Accreditation for Dietetics Education and amended contracts with the various entities that provide instruction to the interns. The coordination with the Florida School Choice Program to increase the number of charter schools sponsoring NSLP would be impacted.

Physical Relocation of the Program

There would be a financial cost to the State Administrative Fund for program operation to physically move the program from DOE to DACS. A physical program move could result in additional facilities renovation expenses to provide needed offices and technical support for the program. A relocation would likely result in short-term disruptions in services to school districts and additional workload relative to the moving process. Millions of dollars of program reimbursements could be delayed, causing fiscal concerns to sponsors. It is possible the program could remain housed in the Turlington Building, which would seem to negate any fiscal or policy benefit to transferring the program.

Federal Indirect Cost Rate Revenue

Indirect earnings revenue is derived from assessments on federal grants based on the DOE's current approved Indirect Cost Rate Agreement with the United States Department of Education, dated May 5, 2010, for the period July 1, 2010, through June 30, 2013. The assessment is a percentage of total direct expenditures excluding capital expenditures, flow-through appropriations, and unallowable costs. Indirect earnings are used to support management activities that are department-wide in nature and include activities such as purchasing, accounting, human resources, grants management, and legal services. The amount of \$631,410 is attributed to indirect earnings from school and child nutrition programs in the 2009-10 fiscal year.

Information at the Federal Level for School and Child Nutrition Program Administration

Federal regulations implementing the Richard B. Russell National School Lunch Act (7 C.F.R. § 210.3(b)) provide for the NSLP to be administered by the state educational agency. In all but two of the 50 states this is the case. In the other two states, Texas and New Jersey, it was the desire of the state educational agencies to seek alternate agencies and to discontinue their administration. In 34 states, the commodity food program, which makes agricultural commodities available to sponsors, is administered by the education agency. The administration of the NSLP by an agency other than the state education agency requires a waiver by the Secretary of the USDA. USDA staff has been contacted for information regarding a potential waiver. At this time, it is unknown

if a waiver would be approved or if a transfer could be accomplished by the bill's effective date of July 1, 2011.

Historical Information on Past Mergers of Former Child Nutrition Programs in Florida

On October 1, 1997, the Child and Adult Care Food Program (CACFP) was split and transferred from DOE. Chapter 97-260, Laws of Florida, transferred the Child Care Food Program (CCFP) from DOE to the Department of Health (DOH). The Adult Care Food Program (ACFP) was transferred from FDOE to the Department Elder Affairs (DOEA) as a result of a type two transfer under Section 20.06(2) Florida Statutes. As a result of the transfer of ACFP to DOEA, it was realized that ACFP, when separated from the Child Care Food Program, could not earn sufficient State Agency Expenditure funds to administer the program. Therefore, on July 23, 1998, a cooperative agreement was established between DOE and DOEA to transfer funds from DOE to DOEA in the amount determined to be needed by DOEA to operate the State Administrative Expense Plan in excess of the amount determined by formula to operate ACFP. This agreement was established as temporary assistance until ACFP program generated sufficient funding to independently administer the program. The ACFP was not able to generate sufficient USDA funding. Therefore, it has obtained \$200,000 in recurring general revenue to subsidize the administrative cost to operate ACFP. Currently, all states with the exception of Illinois and Florida operate ACFP and CCFP within the same agency, which is predominately the education agency.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Department of Education:

According to DOE, contracting for the administration of a program adds another layer of management with associated costs and may compromise the direction and effectiveness of the program. Because the program applications, administrative reviews, and reimbursements for all school and child nutrition programs are processed through a central web-based application, it is unknown how a contractor would have sufficient resources to manage this computer application, or how the contractor could be accountable for administering reimbursements. Such a division or splitting off of administrative responsibilities would be confusing at best to program sponsors. In any event, additional program oversight would be required to ensure that all program resources, including reimbursements, are managed according to regulations.

Department of Agriculture and Consumer Services:

As required by federal regulations, DACS will enter into written agreements with program participants. DACS has no intention to further contract or add another layer of administration unnecessarily.

	Trust Fund	FY 11-12	FY 12-13	FY 13-14
REVENUES:				
Recurring revenues from USDA for the School Nutrition Program	Food and Nutrition Services TF	810,614,671	810,614,671	810,614,671
	General Revenue	16,886,046	16,886,046	16,886,046
	Federal Grants TF	2,532,907	2,532,907	2,532,907
TOTAL:		\$830,033,624	\$830,033,624	\$830,033,624

EXPENDITURES:

Recurring –

Rent for 10,000 sq. ft. office/support space		160,000	160,000	160,000
Data circuit requirements		8,400	8,400	8,400

Non-Recurring –

Telephone/network wiring, Microsoft license, telephone devices, network switches	64,242	0	0
TOTAL:	\$232,642	\$168,400	\$168,400

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Agriculture Committee

BILL: SPB 7218

INTRODUCER: For consideration by the Agriculture Committee

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 25, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhvein	Spalla		Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

This Senate Proposed Bill addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). It:

- Deletes statutory references to the Division of Dairy Industry;
- Deletes the powers and duties for the Division of Dairy Industry;
- Adds powers and duties related to the regulation of dairy products to the Division of Food Safety;
- Allows the lead land manager, instead of the Department of Environmental Protection, to receive the proceeds from the sale of easements for the construction of electric transmission and distribution facilities on Board of Trustees-owned lands;
- Allows the department to enter into agreements for the exploration and sale of oil, gas, and/or other mineral interests on Board of Trustee lands managed by the department;
- Sets the annual financial audit threshold for the department’s direct-support organizations and citizen support organizations to match those citizen organizations of the Department of Environmental Protection;
- Establishes a Certified Pile Burner program in statute;
- Provides civil liability protection for the Certified Pile Burner Program;
- Allows the department to be cost-effective in the utilization of surplus funds for the purchase of firefighting equipment;
- Allows the department to obtain building permits to build wildfire equipment storage facilities using an alternate regulatory process;
- Specifies who shall be present on burn sites for authorized, non-certified burns;

- Requires payment for registration fees of anyone who produces, harvests, packs or repacks tomatoes and does not hold a food permit;
- Authorizes the Commissioner of Agriculture to create an Office of Energy and Water and designates the bureaus and positions that report to that office with regard to energy and water policy issues that affect agriculture;
- Deletes provisions that allow department advisory committee members to receive reimbursement for per diem and travel costs;
- Increases the minimum requirements for certificates of insurance for pest control licensees;
- Establishes a new statutory section that allows a licensed pest control business to operate a centralized customer service center for multiple business locations owned by the same owner;
- Establishes a limited certification category authorizing persons to use nonchemical methods for controlling rodents in lieu of licensure;
- Increases minimum requirements for certificates of insurance for pest control licensees that provide wood destroying organism protection;
- Provides that late fees for pesticide registrations are not capped at \$250;
- Requires that changes to pesticide labels submitted for registration be clearly marked, and that effective January 1, 2013, all pesticide registration fees be paid through the department's electronic commerce portal.
- Adds the appointment of a non-voting youth member who is active in the Future Farmers of America or a 4-H Club to the Florida State Fair Authority; and
- Provides criminal charges for the theft of bee colonies owned by registered beekeepers.

This Senate Proposed Bill amends sections 14.24, 20.14, 215.981, 253.02, 261.04, 482.051, 482.071, 482.226, 482.243, 487.041, 487.0615, 500.70, 527.22, 559.9221, 570.07, 570.0705, 570.074, 570.23, 570.38, 570.382, 570.42, 570.50, 570.543, 571.28, 573.112, 576.091, 580.151, 581.186, 586.161, 589.101, 590.015, 590.02, 590.125, 590.14, 599.002, 616.252, 812.014, and 812.015 of the Florida Statutes.

This Senate Proposed Bill creates sections 482.072 and 482.157 of the Florida Statutes.

This Senate Proposed Bill repeals sections 472.007(5), 570.29(6), 570.40, 570.41, 570.954(3), and 597.005(4) of the Florida Statutes.

II. Present Situation:

Division of Dairy Industry

The Division of Dairy Industry is currently a separate entity within the Department of Agriculture and Consumer Services. It ensures that dairy products purchased by Florida consumers are wholesome, produced under sanitary conditions, and correctly labeled. The division regulates the production, transporting, processing, distribution, and labeling of milk and milk products. It establishes standards for these products, whether they originate in Florida or other states. The division enforces laws and rules that regulate standards for milk, milk products, ice cream and frozen desserts, and the interstate shipment of milk. This bill would merge the Division of Dairy Industry into the Division of Food Safety.

Tomato Food Safety

Legislation enacted in 2007,¹ which amended chs. 500 and 570, F.S., authorized the department to regulate food safety at tomato farms and packing houses. In 2010, the Legislature enacted legislation² creating s. 500.70, F.S., authorizing the department to adopt rules establishing food safety standards to safeguard the public health and promote the public welfare by protecting the consuming public from injury caused by the adulteration or the microbiological, chemical, or radiological contamination of tomatoes. The law also required the rules to apply to the producing, harvesting, packing, and repacking of tomatoes for sale for human consumption by a tomato farm, tomato greenhouse, or tomato packinghouse or repacker in this state. The law specifically authorized the rules to establish standards for:

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

Tomato farms are required to register with the department. There are currently 28 registered farms, some of which are multiple locations of the same company name. The department has the statutory authority to establish standards for registration and to set registration costs for the tomato food safety program, but it does not have statutory authority to require registration or payment of said registration costs.

Board of Trustees Lands

The Florida Department of Environmental Protection's (DEP) Division of State Lands serves as staff to the Board of Trustees of the Internal Improvement Trust Fund (Governor and Cabinet). Currently, the proceeds of the sale of easements encumbering Board of Trustees lands managed by the Department of Agriculture and Consumer Services go to DEP. This proposed legislation would allow the particular state agency that is the lead managing agency to receive the proceeds.

The Department of Agriculture and Consumer Services may currently lease the Board of Trustees' 25 percent interest in oil, gas, and minerals in Blackwater River State Forest. Since the last legislative update of this issue, the state of Florida has acquired the remaining 75 percent interest from the federal government on most Board of Trustees owned lands leased to the

¹ Chapter 2007-067, L.O.F.

² Chapter 2010-25, L.O.F.

Department of Agriculture and Consumer Services, giving the Board of Trustees 100 percent interest. This proposed legislation would allow the Department of Agriculture and Consumer Services to enter into oil, gas, and other mineral leases on Board of Trustee owned lands leased to the Department of Agriculture and Consumer Services.

Prescribed Fire

Prescribed fire in Florida is a very important and valuable land management tool. The Florida Division of Forestry through the Forest Protection Bureau oversees one of the most active prescribed fire programs in the country. In an average year the division will issue 120,000 authorizations allowing people and agencies to prescribe burn their land. Currently, the power to authorize certain types of burning is preempted to the department, and people seeking to burn are often required to obtain an authorization to burn from both the department and a local government. Prescribed fire in Florida is governed by ch. 590, F.S., and Florida Administrative Code Chapter 5I-2.

In 2005 and 2006, the Division of Forestry, in cooperation with University of Florida's Institute of Food and Agricultural Sciences, developed a certification program for Florida Pile Burners. Florida Administrative Code Chapter 5I-2 outlines the steps necessary to become certified and also what is necessary to keep that certification. The purpose behind the development and implementation of the program was to raise the overall quality of the open burning program in Florida. Currently, the statutes do not specify who must be present on a burn site for authorized, non-certified burns. There is also not provision for civil liability protection for the program. In addition, there is no statutory authority for the department to delegate its burn authorization authority for issuance of open burning authorizations to local governments. Some local governments have the interest and ability to implement a burn authorization program with guidance from the department.

Florida Building Code

With certain exceptions, each local government and each legally constituted enforcement district with statutory authority regulates building construction.³ Therefore, the department must obtain building permits through local governments. The Florida Building Code has been revised several times in recent years and, according to the department, this has created confusion among local governments regarding code interpretation and led to a cumbersome and costly process for the department as they construct facilities for wildfire equipment in different parts of the state. The proposed legislation would allow the department to obtain building permits using an alternative regulatory process that is a more efficient method of obtaining building permits in a shorter timeframe and at a lesser cost. Agencies currently using the alternate regulatory process are the Department of Corrections, the Department of Transportation, the Department of Children and Families, and the Department of Juvenile Justice.

³ s.553.80(1), F.S.

Firefighting Equipment

Prior to 2006, when the law⁴ was changed, the department had the authority to use monies acquired from the disposition of surplus firefighting equipment to reinvest in other firefighting equipment. Since 2006, the department has had to seek a special appropriation before the funds can be reinvested in other equipment. Also, current law⁵ requires that all replaced equipment be reported for disposal within 45 days of being replaced. Additionally, current law⁶ requires the Department of Management Services to approve the disposal of any motor vehicles or aircraft. Due to the very nature of emergency response, the department's equipment needs vary from year to year. Because funding for replacement equipment is inadequate, the department has requested the flexibility to retain replaced equipment to meet future emergency needs and for use as backup for the frontline equipment. The bill allows the department to retain the monies acquired from the sale of state-owned firefighting equipment and vehicles. The monies received would be used for the acquisition of exchange and surplus equipment, and for necessary operating cost related to the equipment.

Agricultural Water Policy

The Commissioner of Agriculture has the authority to create an Office of Water Coordination⁷ and to designate the bureaus and positions that report to that office regarding water policy and water issues that affect agriculture and are within the department's jurisdiction. The department established the Office of Agricultural Water Policy (OAWP) in 1995. The OAWP facilitates communication and coordination among federal, state, and local agencies, environmental representatives, and the agriculture industry on agricultural water resource issues, related to both quality and quantity. A primary function of the OAWP is to develop and assist with the implementation of Best Management Practices (BMPs), in order for agricultural producers to meet their obligation under the Florida Watershed Restoration Act to reduce agricultural pollutant loadings to impaired waters within a basin for which the Department of Environmental Protection has adopted a Basin Management Action Plan. The OAWP also facilitates and assists in the development of other watershed protection plans throughout the state, including the Lake Okeechobee, St. Lucie Watershed, and Caloosahatchee Watershed protection plans, among others. The OAWP is also very involved in Everglades restoration efforts and in other federal matters, such as the discussion/debate over EPA numeric nutrient criteria for Florida.

Florida's "Farm to Fuel" initiative seeks to enhance the market for and promote the production, and distribution of, renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass. In the process, it is designed to give Florida agricultural producers alternative crops to grow to keep their farms and ranches viable. Current statute requires the department to coordinate with and solicit the expertise of the state energy office within the Department of Environmental Protection (DEP) when developing and implementing this initiative. Because the state energy office is no longer in DEP, this requirement is no longer necessary in statute. The proposed legislation would change the Office of Agricultural Water

⁴ Chapter 2006-122, s. 40, L.O.F.

⁵ s. 287.16, F.S.

⁶ s. 273.055, F.S.

⁷ s. 570.074, F.S.

Policy to the Office of Energy and Water, expanding the duties of the office to include energy matters that affect agriculture.

Per Diem and Travel Expenses for Advisory Committees

Section 112.061, F.S., establishes standard travel reimbursement rates, procedures, and limitations applicable to all public officers, employees, and authorized persons whose travel is authorized and paid by a public agency. This allows members of select statutorily created advisory councils to receive compensation for per diem and travel expenses. They organize and host the meetings of the councils, and have in the past been provided with per diem and travel expenses in accordance with these provisions. According to a September 11, 2007, response to a Joint Legislative Sunset Committee request, the department indicated that it had approximately 50 advisory boards, councils, or committees in Fiscal Year 2006-07 that incurred travel, staff, and other expenses totaling \$220,067. Eliminating the requirement to pay for travel and per diem costs for the members of these numerous select advisory committees would provide the department with a reduction in costs.

Pest Control

For structural pest control, the law provides that each pest control business location must be licensed by the department and that a Florida certified operator must be in charge of the pest control operations of the business location. Some pest control companies operate regional customer contact centers that solicit business and receive calls for the appropriate state/area in the region. Florida law currently requires pest control businesses doing business in the state to register and obtain a license to operate, but does not address pest control contact centers. Therefore, a customer contact center must obtain a pest control license, even though they are only receiving telephone calls and soliciting business. Allowing a licensed pest control business to operate a centralized customer service center for multiple business locations owned by the same owner would allow licensees a more efficient means of providing service to customers while still protecting customers through specific requirements for licensure and accountability.

A pest control business licensee may not operate a pest control business without carrying the required insurance coverage and furnishing the department with a certificate of insurance that meets the requirements for minimum financial responsibility for bodily injury: \$100,000 each person and \$300,000 each occurrence; and property damage: \$50,000 each occurrence and \$100,000 in the aggregate.⁸ These minimum requirements for insurance coverage to conduct pest control business have not been increased since 1992. These minimums need to be increased to reflect current levels of insurance offered by liability insurers and to provide better protection to Florida consumers.

Currently, there is no provision for a limited certification for commercial wildlife trapper personnel to use nonchemical method to control rodents. For several years, the Florida Fish and Wildlife Conservation Commission has issued permits for persons engaged in the control of nuisance wildlife. Interest in the permitting system dwindled over the years, resulting in permitting being discontinued in 2008. Several persons still engaged in the control of nuisance

⁸ s. 482.071(4), F.S.

wildlife have contacted the department asking to have a certification process reinstated to assure that the nuisance animals are being handled humanely and the public is protected. This bill clarifies that certificate holders who practice accepted pest control methods would be immune from liability for violating laws prohibiting cruelty to animals.

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

Pesticide Registration

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

Florida Fair Authority

The Florida State Fair Authority (authority) is an instrument of the state, under the supervision of the Commissioner of Agriculture (Commissioner). The authority, composed of 21 members, is responsible for staging an annual fair to serve the entire state. The Commissioner, or his/her designee, serves as a voting member. There is also a member who serves as a member of the Board of County Commissioners of Hillsborough County, the district where the state fairgrounds are located. The Commissioner appoints the remaining members of the authority. Each member serves a 4-year term and may be appointed for more than one term. The bill provides for the membership of the authority to be increased to 22 members, with the appointment of a non-voting youth member who is active in the Florida Future Farmers of America or a 4-H Club. The youth member's term is for one year.

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

¹⁰ Per 40 C.F.R., part 180

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

Apiary

Florida law currently provides criminal charges¹² for the theft of any commercially farmed animal, such as horses, cows, sheep, swine, or other grazing animals, including aquaculture. The bill amends current law to include the theft of bee colonies of registered beekeepers. Current law defines "farm theft" as the unlawful taking possession of any items that are grown or produced on land, owned, rented, or leased by another person. The proposed legislation amends the definition of "farm theft" to include the equipment and associated materials used to grow or produce the farm products as defined in the Florida Right to Farm Act.¹³ The definition of "farmer" is also amended to include those persons who produce honey.

III. Effect of Proposed Changes:

Section 1 amends s. 14.24, F.S., to delete provisions that authorize members of the Florida Commission on the Status of Women to be reimbursed for per diem and travel expenses incurred when meeting.

Section 2 amends s. 20.14, F.S., to delete a reference to the Dairy Industry.¹⁴

Section 3 amends s. 215.981, F.S., to exempt certain direct-support organizations and citizen support organizations for the department from obtaining an independent audit if they are not for profit and have annual expenditures of less than \$300,000.

Section 4 amends s. 253.02, F.S., to require a grantee of easements for electrical transmission to pay the lead manager of a state owned land or, when there is no lead manager, the Department of Environmental Protection if suitable replacement uplands cannot be identified. The proceeds must be deposited into the managing agency's designated fund benefitting state conservation land management.

Section 5 amends s. 261.04, F.S., to delete provisions that authorize members of the Off-Highway Vehicle Recreation Advisory Committee to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory committee.

Section 6 repeals subsection 472.007(5), F.S., which authorizes the members of the Board of Professional Surveyors and Mappers to be reimbursed for per diem and travel expenses incurred while participating in business involving the board.

Section 7 amends s. 482.051, F.S., to authorize a rule change. In the event of an emergency requiring fumigation, pest control operators may provide emergency notice of the fumigation location to the department by facsimile or other form of electronic means.

Section 8 amends s. 482.071, F.S., to increase the minimum bodily injury and property damage insurance coverage required for a pest control business.

¹² Grand theft of the third degree and a felony of the third degree, punishable by imprisonment not exceeding 5 years, \$5,000 fine or, for habitual offenders, for a term of imprisonment not exceeding 10 years.

¹³ s. 823.14(3)(c), F.S.

¹⁴ Division of the Department of Agriculture and Consumer Services

Section 9 creates s. 482.072, F.S., to allow the establishment, inspection and regulation of centralized pest control customer contact centers. This would allow licensed centers to solicit pest control business and to provide service to customers for one or more business locations. It provides for the biennial renewal of the license. It also establishes a licensure fee of at least \$600, but not more than \$1,000 and renewal fees of at least \$600, but not more than \$1,000. This section also provides for the expiration of a license not renewed within 60 days of a renewal deadline. A license automatically expires if a licensee changes its customer contact center business location and requires issuance of a new license upon payment of a \$250 fee. It authorizes the department to adopt rules establishing requirements and procedures for recordkeeping and monitoring customer contact center operations. It provides for disciplinary action for violations of chapter 482, F.S., or any rule adopted hereunder.

Section 10 creates s. 482.157, F.S., to establish a limited certification category for individual commercial wildlife trapper personnel engaged in the nonchemical control of wildlife to also control rodents, as defined in chapter 482, F.S. It requires an exam and establishes certification fees of at least \$150, but not to exceed \$300. This section also provides for recertification fees, classes, and late fees. The proposed legislation limits the scope of work permitted by certificate holders and clarifies that licensees and certificate holders who practice accepted pest control methods are immune from liability for violating animal cruelty laws. It also provides that this section does not exempt any person from the rules, orders, or regulations of the Florida Fish and Wildlife Conservation Commission.

Section 11 amends s. 482.226, F.S., to increase the minimum insurance requirements for a pest control licensee that performs wood-destroying organism inspections from \$50,000 to \$500,000 in the aggregate and from \$25,000 to \$250,000 per occurrence. This change reflects the current levels of insurance offered by liability insurers.

Section 12 amends s. 482.243, F.S., to delete provisions that authorize the members of the Pest Control Enforcement Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 13 amends s. 487.041, F.S., to provide that fees relating to the registration of pesticide brands are non-refundable. When a currently registered pesticide brand undergoes a label revision, the registrant must submit to the department a copy of the revised label along with a cover letter detailing the changes that were made to the label. It provides requirements for label revisions that must be reviewed by the U.S. Environmental Protection Agency. It also allows payments of pesticide registration fees to be submitted electronically, effective January 1, 2013.

Section 14 amends s. 487.0615, F.S., to delete provisions that authorize the members of the Pesticide Review Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 15 amends s. 500.70, F.S., to require persons who produce, harvest, pack, or repack tomatoes, but who do not hold a food permit, to register and submit an address for each company location annually by August 1. It authorizes the department to set by rule an annual registration

fee not to exceed \$500. It also requires that registration fees be deposited into the General Inspection Trust Fund.

Section 16 amends s. 527.22, F.S., to delete provisions that authorize the members of the Florida Propane Gas Education, Safety, and Research Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 17 amends s. 559.9221, F.S., to delete provisions that authorize the members of the Motor Vehicle Repair Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 18 amends s. 570.07, F.S., to revise the powers and duties of the department regarding pollution control and the prevention of wildfires, in order to regulate open burning connected with land-clearing, agricultural, or forestry operations.

Section 19 amends s. 570.0705, F.S., to delete provisions that authorize the members of advisory committees appointed by the Commissioner of Agriculture to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory committees.

Section 20 amends s. 570.074, F.S., to rename the Office of Water Coordination to the Office of Energy and Water.

Section 21 amends s. 570.23, F.S., to delete provisions that authorize the members of the State Agricultural Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory councils.

Section 22 repeals subsection 570.29(6), F.S., relating to a reference to the Division of Dairy Industry in the Department of Agriculture and Consumer Services' list of departmental divisions.

Section 23 amends s. 570.38, F.S., to delete provisions that authorize the members of the Animal Industry Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 24 amends s. 570.382, F.S., to delete provisions that authorize the members of the Arabian Horse Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 25 repeals s. 570.40, F.S., relating to the powers and duties of the Division of Dairy Industry.

Section 26 repeals s. 570.41, F.S., relating to the qualifications and duties of the director of the Division of Dairy Industry.

Section 27 amends s. 570.42, F.S., to delete provisions that authorize the members of the Dairy Industry Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

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

Section 29 amends s. 570.543, F.S., to delete provisions that authorize the members of the Florida Consumers' Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 30 repeals subsection 570.954(3), F.S., relating to the requirement that the department coordinate with and solicit the expertise of the state energy office within the Department of Environmental Protection when developing and implementing its farm-to-fuel initiative.

Section 31 amends s. 571.28, F.S., to delete provisions that authorize the members of the Florida Agricultural Promotional Campaign Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 32 amends s. 573.112, F.S., to delete provisions that authorize the members of marketing order advisory councils appointed by the department to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 33 amends s. 576.091, F.S., to delete provisions that authorize the members of the Fertilizer Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 34 amends s. 580.151, F.S., to delete provisions that authorize the members of the Commercial Feed Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 35 amends s. 581.186, F.S., to delete provisions that authorize the members of the Endangered Plant Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 36 amends s. 586.161, F.S., to delete provisions that authorize the members of the Honeybee Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 37 amends s. 589.101, F.S., to authorize the department to enter into gas, oil, and other mineral leases on Board of Trustees owned lands leased to the department. It authorizes the Board of Trustees of the Internal Improvement Trust Fund to review proposed leases.

Section 38 amends s. 590.015, F.S., to delete a definition for "division," meaning the Division of Forestry, and inserting "department." It amends the definition of fire management to include prescribed burning assistance and provides definitions for "open burning" and "broadcast burning."

Section 39 amends s. 590.02, F.S., to change the name of the Division of Forestry to the Florida Forest Service. It provides that the Florida Forest Service has the following power, authority, and duty to:

- Provide firefighting crews, who shall be under its control and direction;
- Authorize forest operations administrators to be certified as forestry firefighters; and
- Employ aviation managers, Florida Forest Service training coordinators, and deputy chiefs of field operations who shall have Selected Exempt Service status.

The bill authorizes the department to:

- Enforce the Florida Building code as it pertains to wildfire and law enforcement facilities under the jurisdiction of the department;
- Retain, transfer, warehouse, bid, destroy, scrap or otherwise dispose of surplus wildland firefighting equipment and vehicles;
- Retain all moneys received from the disposition of state-owned wildland firefighting equipment and vehicles. Moneys received may be used to acquire exchange and surplus wildland firefighting equipment and for operating expenditures related to the equipment.

The bill gives the Florida Forest Service exclusive authority to require and issue authorizations for broadcast burning, and agricultural and silvicultural pile burning. It preempts other governmental entities from adopting laws, regulations, rules, or policies pertaining to broadcast burning, or agricultural or silvicultural pile burning unless an emergency order has been declared. It authorizes the department to delegate its authority to a county or municipality to issue authorizations for the burning of yard trash and debris from land clearing operations.

Section 40 amends s. 590.125, F.S., to:

- Revise terminology for open burning authorizations; It adds definitions for “certified pile burner,” “land-clearing operation,” “pile burning,” “prescribed burning,” “prescription,” and “yard trash.”
- Specify purposes of certified prescribed burning;
- Require the authorization of the Florida Forest Service for certified pile burning;
- Provide pile burning requirements;
- Limit the liability of property owners or their agents engaged in pile burning;
- Provide penalties for violations by certified pile burners;
- Authorize the Florida Forest Service to adopt rules regulating certified pile burning;
- Revise notice requirements for wildfire hazard reduction treatments;
- Provide for approval of local government open burning authorization programs and program requirements;
- Authorize the Florida Forest Service to close local government programs under certain circumstances and assume administration of those open burning authorization programs; and
- Provide penalties for violations of local government open burning requirements.

Section 41 amends s. 590.14, F.S., to authorize an administrative fine, not to exceed \$1,000 per violation for violation of any Florida Forest Service rule. It provides penalties for failure to comply with any rule or order adopted by the Florida Forest Service and for knowingly making any false statement or representation on applications, records, plans, or any other required documents. It also provides legislative intent that a penalty imposed by a court be of a severity that ensures immediate and continued compliance with this section.

Section 42 repeals subsection 597.005(4), F.S., relating to provisions that authorize the members of the Aquaculture Review Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 43 amends s. 599.002, F.S., to delete provisions that authorize the members of the Viticulture Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 44 amends s. 616.252, F.S., to provide for appointment of a youth member who is an active member of the Florida Future Farmers of America or of a 4-H Club to serve on the Florida State Fair Authority as a non-voting member. It provides a term of one year for a youth member of the Authority and excludes youth members from compensation for special or full-time service performed on behalf of the Authority.

Section 45 amends s. 812.014, F.S., to provide penalties for the theft of bee colonies of registered beekeepers.

Section 46 amends s. 812.015, F.S., to amend the definitions of “farmer” and “farm theft.”

Section 47 provides that this act shall take effect October 1, 2011.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Please refer to Private Sector Impact and Government Sector Impact.

B. Private Sector Impact:

There are currently 28 registered tomato farms; some with multiple locations of the same company name. This proposed legislation authorizes the department to set by rule an annual registration fee not to exceed \$500.

Pest control businesses that choose to obtain the license for a customer service center would incur the fees established by the bill. Pest control businesses that do not currently have the proposed minimum insurance requirements will have to increase their insurance coverage and will incur additional costs. Most insurance available today already exceeds the 1992 limits.

Individuals who conduct wildlife management services and wish to obtain limited certification to control rodents will incur the fees associated with the limited certification.

Persons and companies registering pesticides will be required to pay fees using the electronic commerce site. Some firms may have to adjust their registration processing to accommodate this change. Ultimately, the reduction in postage and paperwork should reduce their costs.

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

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

C. Government Sector Impact:

	2010-11	2011-12	2012-13
REVENUES:			
<u>Food Safety:</u>			
Registration of Tomato Farms	0	2,500	3,000
<u>Pest Control Registration:</u>			
Customer Contact Center License*	6,000	0	6,000
Limited Certification Wildlife –			

Limited Certification Exam**	15,000	7,500	7,500
Limited Certification Renewal***	0	7,500	7,500
TOTAL:	\$21,000	\$16,359	\$21,000

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

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

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

	2010-11	2011-12	2012-13
EXPENDITURES:			
<u>Food Safety:</u>			
Registration of Tomato Farms*	0	150	175
<u>Pest Control Registration:</u>			
Inspections*	15,860	15,860	15,860
License Issuance**	1,097	499	1,595
TOTAL	\$16,957	\$16,359	\$ 17,455

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
