

STORAGE NAME: H4051.grr

DATE: April 2, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES AND REGULATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 4051

RELATING TO: Florida Agricultural Development Act

SPONSOR(S): Committee on Agriculture and Representative Ziebarth

COMPANION BILL(S): SB 1994 (I) by Senator Cowin

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE YEAS 8 NAYS 0
 - (2) GOVERNMENTAL RULES AND REGULATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 4051 creates the Florida Agricultural Development Act (act), establishing the Florida Agricultural Development Authority (authority). The purpose of the authority is to manage programs which assist farmers, beginning farmers, and agribusinesses in acquiring land, improvements, technology, and depreciable agricultural property for the purpose of farming, and soil and water conservation practices, and manage programs which provide financial support to farmers who have transitioned out of existing agricultural activities into new or alternative agricultural crops or that emphasize value-added commodity ventures.

The bill establishes beginning farmer loan programs and alternative agriculture assistance programs in which the authority operates as a facilitator between farmers and financial institutions. The authority is given power to issue tax exempt "aggie bonds" to lending institutions to fund agricultural loans and to participate in any federal programs designed to assist beginning farmers. In effect, the authority will identify and coordinate the mechanisms by which beginning farmers and agribusinesses may obtain financing necessary to fund agricultural endeavors and enter into any agreements necessary to accomplish these purposes.

Additionally, the authority is to develop programs to assist qualified producers, processors, and manufacturers of agriculture products and support organizations within the state with financing research and development and other capital requirements or operating expenses.

The act directs the authority to function as a public entity and requires that it be composed of nine members, including the Commissioner of Agriculture or a designee who will act in an ex-officio, non-voting capacity. Five standing members will have four-year terms, and three members appointed by the Commissioner of Agriculture will have three-year terms. The authority must prepare an annual report to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

There is no funding source identified in the bill for start-up activities of the authority.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The National Council of State Agricultural Finance Programs reports that there is no state agricultural loan program available in Florida. According to the United States Department of Agriculture National Commission on Small Farms, there are approximately 30 states that have some type of state agriculture loan program. The federal government has two agricultural loan programs available to state farmers: the United States Department of Agriculture's Farm Services Agency program and the Farm Credit System. Farmers meeting specific criteria may apply for this assistance, as provided in the Federal Agriculture Improvement and Reform Act of 1996.

Currently, the Department of Agriculture and Consumer Services (department) operates a program (AgVenture Services) designed to provide assistance in areas such as planning, marketing, research, facilities and equipment discounts, and resource network referrals for start-up agribusinesses and fledgling enterprises. There is a 1998 legislative budget request for funds intended to be used to provide monetary assistance to farmers and agricultural entrepreneurs meeting specific criteria.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Florida Agricultural Development Act, establishing the Florida Agricultural Development Authority (authority). The purposes of the authority are to undertake the following:

- * programs within the state which assist farmers, beginning farmers (including first-time farmers, family farmers, or farmers who are transitioning into a new or alternative crop), and agribusinesses in acquiring agricultural land, improvements, technology, and depreciable agricultural property for the purpose of farming;
- * programs which provide financing to farmers for soil and water conservation practices;
- * programs that promote diversification through the growth and development of new crops or livestock not customarily grown or produced in this state or that emphasize a vertical integration of state-produced agricultural products into a finished agricultural product or byproduct for consumption or use;
- * programs to assist in financing operating expenses and cash flow requirements of farming;
- * programs to assist qualified producers, processors, and manufacturers of agricultural products; and
- * provisions for support to organizations within the state with financing research and development and other capital requirements or operating expenses.

The authority will be set up as a facilitator between farmers and the lending institutions, will coordinate communication, ascertain qualifications of applicants, and determine the

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best market lending rates. While the authority will not be functioning in a lending capacity, the authorization to do so in the future is built into the language of the bill. Tax exempt "aggie bonds" or notes will be issued by the authority to lending institutions to finance loans for qualified farmers and the authority is to function as a USDA-certified lender.

The bill establishes the agricultural development bond pool, and directs the Division of Bond Financing to reserve a \$10,000,000 annual volume cap allocation for the aggregate amount of the bonds in the bond pool. It provides for yearly increases under specific circumstances and expands some of the language to include the agricultural pool when referring to other pools. In effect, section 159.804, F.S., specifies the actual dollar amount (\$10,000,000) for bonds that may be issued with tax exemptions. On November 16th of each year, any unused portion of the initial allocation is to be diverted to the state allocation pool.

The bill creates provisions to use loans in conjunction with federal programs (such as United States Department of Agriculture-backed Farm Service Agency loans) that are provided for in the Federal Agriculture Improvement and Reform Act of 1996. Specific financial processes and powers are detailed in sections 570.255, F.S., through 570.2815, F.S.

The authority is given the power to make agreements or contract with any public or private entity and to apply for any trust assets being held by the federal government for the Florida Rural Rehabilitation Corporation (section 570.276, F.S.) or the Bankhead-Jones Farm Tenant Act (section 570.277, F.S.). The bill provides in section 570.273, F.S., that the act shall be "liberally construed to effect its purposes."

The authority is to be composed of nine members, including the Commissioner of Agriculture or a designee who will function in an ex-officio non-voting capacity. Standing members will be representatives from the following entities: Florida Farm Bureau Federation, the Institute of Food and Agricultural Sciences at the University of Florida, Florida Agricultural and Mechanical University, Florida Agricultural Resources and Mobilization Foundation, Inc., and the Technological Research and Development Authority. Terms for standing members will be four years. Three other memberships will be appointed by the Commissioner of Agriculture for three-year terms.

Members are directed to elect a chair and a vice chair and to appoint an executive director, whose duties include advising the authority on matters relating to agricultural land and property and finance, carrying out all directives from the authority, and hiring and supervising staff.

The authority is required under section 570.257, F.S., to prepare an annual report for the Governor, the President of the Senate, and the Speaker of the House to be presented by February 15th of every year. It is to include the authority's operations and accomplishments, accounting and financial records, proposed and projected activities, recommendations to the Legislature, an analysis of the needs of Florida's beginning farmers and agribusinesses, and performance goals of the authority.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Section 570.255(15), F.S., provides a broad grant of rulemaking authority to the Authority so that it may effectuate the purpose of the bill. Additionally, there are several specific grants of rulemaking authority

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Division of Bond Financing already regulates volume caps for the Internal Revenue Service (IRS) tax exemptions for other types of bonds. This bill directs the Division of Bond Financing to allocate \$10,000,000 to the agricultural development bond pool for IRS tax exemptions on agricultural bonds and to regulate the volume cap for this pool.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced: **Not applicable.**

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes: **Not applicable.**

a. Does the bill increase anyone's taxes?

b. Does the bill require or authorize an increase in any fees?

- c. Does the bill reduce total taxes, both rates and revenues?
- d. Does the bill reduce total fees, both rates and revenues?
- e. Does the bill authorize any fee or tax increase by any local government?

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

In section 570.255 (8), F.S., the bill gives the authority the power to fix and collect fees and charges for its services. The sources have not yet been determined, but it is likely that the financial institutions will be the entities paying the fees and charges.

4. Individual Freedom: **Not applicable.**

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

5. Family Empowerment: **Not applicable.**

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

The bill creates sections 570.251-570.2815 and section 159.8082, Florida Statutes, and amends sections 159.804 and 159.809, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Creating sections 570.251-570.2815, F.S.

Creating s. 570.251, F.S.; establishing that sections 570.251-570.2815, F.S., shall be known as the "Florida Agricultural Development Act."

Creating s. 570.252, F.S.; providing legislative findings regarding the need to facilitate access to capital by the agricultural community and the need to encourage scientific and agricultural improvement across the state.

Creating s. 570.253, F.S.; providing definitions.

Creating s. 570.254, F.S.; establishing the Florida Agricultural Development Authority; stating purposes; creating board of nine members and establishing terms; providing for the election of a chair and vice chair; establishing a quorum of five voting members; providing for per diem and traveling expenses.

Creating s. 570.255, F.S.; establishing general powers.

Creating s. 570.256, F.S.; providing for a board-appointed executive director who shall advise the authority on matters relating to agricultural land and property and finance, carry out all directives from the authority, and hire and supervise staff.

Creating s. 570.257, F.S.; requiring the authority to submit an annual report to the Governor, President of the Senate, and Speaker of the House of Representatives.

Creating s. 570.258, F.S.; providing for the use of surplus moneys by the authority.

Creating s. 570.259, F.S.; providing for combination of state and federal programs to facilitate the purposes of the program.

Creating s. 570.260, F.S.; establishing a beginning farmer loan program to facilitate the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers; providing for participation in federal programs; requiring the authority to provide loan criteria; authorizing the authority to provide loan requirements.

Creating s. 570.261, F.S.; authorizing the authority to make loans to beginning farmers to provide financing for agricultural land and improvements or depreciable agricultural property.

Creating s. 570.262, F.S.; authorizing the authority to make loans to mortgage lenders and other lenders.

Creating s. 570.263, F.S.; authorizing the authority to purchase mortgage loans and secured loans from mortgage lenders.

Creating s. 570.264, F.S.; providing for powers of the authority relating to loans.

Creating s. 570.265, F.S.; authorizing the authority to issue bonds and notes and providing that they must be authorized by a resolution of the authority; specifying that bonds and notes are payable solely and only out of the moneys, assets, or revenues of the authority; mandating that the authority publish intent to issue bonds or notes; exempting bonds and notes issues for financing the beginning farmer loan program from taxation by the state; exempting interest earned on bonds and notes from corporate income tax.

Creating s. 570.266, F.S.; providing for the establishment of bond reserve funds.

Creating s. 570.267, F.S.; providing for remedies of bondholders and noteholders.

Creating s. 570.268, F.S.; providing for the pledging of bonds by the state.

Creating s. 570.269, F.S.; stating that bonds and notes shall be considered legal investments.

Creating s. 570.270, F.S.; providing requirements for authority funds, including banking and accounting requirements; requiring that the authority submit to the Governor, the

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Auditor General, the President of the Senate, and the Speaker of the House copies of reports of external examinations of the authority's books and accounts.

Creating s. 570.271, F.S.; providing limitation of liability for members of the authority and persons acting in its behalf.

Creating s. 570.272, F.S.; requiring the assistance of state officers, departments, and agencies, within their respective functions.

Creating s. 570.273, F.S.; providing that the act shall be liberally construed to effect its purposes.

Creating s. 570.274, F.S.; requiring written disclosure of conflicts of interests to the authority; prohibiting participation in action for such interest(s) by the disclosing member or employee of the authority; specifying conflicts of interest with respect to the executive director of the authority.

Creating s. 570.275, F.S.; exempting the authority from competitive bid laws.

Creating s. 570.276, F.S.; providing for the transfer of all trust assets held by the federal government in trust for the now dissolved Florida Rural Rehabilitation Corporation.

Creating s. 570.277, F.S.; authorizing the authority to enter into agreements and accept, administer, expend and use all or any part of the trust assets or other funds which have been appropriated for the Bankhead-Jones Farm Tenant Act.

Creating s. 570.278, F.S.; providing for freedom from liability.

Creating s. 570.279, F.S.; authorizing an additional beginning farmer loan program; providing for the issuance of bonds by the authority.

Creating s. 570.280, F.S.; requiring the authority to establish an agricultural loan assistance program; providing that grants shall be made to lending or educational institutions.

Creating s. 570.2815, F.S.; requiring the authority to create and develop alternative agriculture assistance programs; directing that included shall be such programs as insurance or loan guarantees, interest buy-down, cost-sharing, and management assistance and training.

Section 2: Creating s. 159.8082, F.S.; establishing the agricultural development bond pool.

Section 3: Amending s. 159.804, F.S.; providing specific allocations of state volume limitations to the agricultural development pool.

Section 4: Amending s. 159.809, F.S.; specifying provisions for bond issuance reports not received.

Section 5: Providing that the act shall take effect on July 1 of the year in which enacted or upon becoming a law, whichever is earlier.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None apparent.

2. Recurring Effects:

None apparent.

3. Long Run Effects Other Than Normal Growth:

None apparent.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Undetermined.

2. Direct Private Sector Benefits:

Lending institutions are expected to profit from an increase in tax-exempt or federally-backed loans. The programs will enable farmers and agribusinesses to support their own enterprises, which should augment rural economic development in the state.

3. Effects on Competition, Private Enterprise and Employment Markets:

Facilitation of access to capital may encourage the production of alternative crops or value-added commodities, resulting in accelerated private enterprise and increased global competition.

D. FISCAL COMMENTS:

There is no source of start-up funding for such activities as marketing and educating the public about the authority and the services it provides, salary expenses for staff, procuring office space and equipment and other costs associated with creating a new authority.

Proponents of the bill expect the authority to become self-sufficient after initial start-up costs (which have not yet been determined), and thereby not require state funding.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

Representatives of the Department of Agriculture and Consumer Services testified at the Agriculture Committee meeting on March 24, 1998, that their concern with the bill would be a possible duplication of services between the authority and the department. They questioned whether some of the services provided by the authority will be similar to those provided by the incubator program currently being initiated by the department.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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On March 24, 1998, the Committee on Agriculture adopted a committee substitute for HB 4051. The language differed from the original bill by

- * correcting the title of a membership representative on the board,
- * changing the three non-standing members of the board from being appointed by the Governor to being appointed by the Commissioner of Agriculture,
- * deleting a provision that the staff of the authority would be employees of the state,
- * removing the transfer of funds from the Rural Community Development Revolving Loan Fund,
- * establishing the agricultural development bond pool,
- * providing specific allocations of state volume limitations (\$10,000,000 the first year) to the agricultural development pool, and
- * directing that, on November 16th of each year, any unused portion of the initial allocation to the agricultural development pool is to be diverted to the state allocation pool.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Legislative Research Director:

Shari Z. Whittier

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