

STORAGE NAME: h4165.gg
DATE: April 20, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4165

RELATING TO: Department of Agriculture and Consumer Services

SPONSOR(S): Committee on Agriculture and Representative Bronson

COMPANION BILL(S): 1ST ENG/SB 734 (c), 1ST ENG/SB 1944 (c)

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

- (1) AGRICULTURE YEAS 4 NAYS 2
- (2) FINANCE AND TAXATION YEAS 14 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

This bill addresses a variety of issues pertaining to the powers and duties of the Department of Agriculture and Consumer Services (department). The bill allows the department to award bonuses to eligible employees in single lump-sum payments, rather than in biweekly paychecks. It allows the department to create an employees' benefit fund to be generated by voluntary employee donations.

The bill authorizes the department's food and residue laboratories to perform certain analytical services relating to food safety and to establish and collect fees to recover the costs of providing these services. The bill repeals a law that could eliminate permitting processes and disciplinary procedures for violators of the Food Safety Act.

The bill requires that the department post a "closed-for-operation" sign on any food establishment operating without a permit or with a suspended or revoked permit. It provides a penalty for defacing or removing such signs from food establishments in violation.

The bill authorizes registered meter mechanics to break the seal on the meter adjustment of petroleum fuel measuring devices or containers when repairing and adjusting the devices in the absence of a department inspector.

The Florida Agriculture Center and Horse Park Authority is composed of 23 members, appointed by the commissioner. This bill proposes to change the description of three of these memberships.

The bill changes the expiration date of membership in the Florida Agricultural Promotional Campaign to one year after issuance rather than July 1 of each year.

With the support of the industry, the bill raises the fee limit from \$460 to \$600 for nursery and nursery stock dealer certificates of registration. This would provide \$0.3 million to the Plant Industry Trust Fund.

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See section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES for amendments to the bill as described above adopted by the Committee on Finance & Taxation.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Department of Management Services' rules provide criteria for implementing and administering lump-sum bonuses for eligible employees; however, section 216.181(10)(b), F.S., has prohibited agencies from using such payments, unless specifically appropriated, resulting in bonuses being disbursed in biweekly paychecks.

The department's food and residue laboratories do not currently contract out and conduct analyses for outside entities requesting analyses from a government laboratory. Some foreign countries - Korea, for example - require an inspection certificate in addition to a food permit in order to accept foreign imports.

Food establishments must apply for or renew annual permits, in accordance with section 500.12, F.S. The department reports that between 1,000 and 1,300 food establishments do not pay their permit fees in a timely manner, and department inspectors spend a great deal of time attempting to collect these fees on a face-to-face basis. The department's only current legal remedy, injunctive powers, is cost-prohibitive, based on the large number of delinquent accounts.

Section 525.07, F.S., prohibits the breaking, cutting, or removal of the seal applied by the department on the meter adjustment of petroleum fuel measuring devices or containers. This prevention poses a problem when it is necessary for non-departmental meter mechanics to make repairs or adjustments to the devices in the absence of a department inspector.

Currently, the department has no official vehicle to fund various activities for employees' benefits, such as sending flowers in the event of a death in the family.

In accordance with section 570.952, F.S., the Florida Agriculture Center and Horse Park Authority has 23 members, appointed by the Commissioner of Agriculture. One representative specifically is from the Department of Commerce. In 1996, the Department of Commerce was abolished. Two other memberships, "Appaloosa" and "paint" horse breeders, do not have a large representation in Florida; whereas, Paso Fino horses are prevalent in Florida and are not represented in the membership.

Section 571.25(1), F.S., requires persons participating in the Florida Agricultural Promotional Campaign to register with the department and renew their membership by July 1 of each year. This requirement may prevent some new members from receiving a full year of benefits.

In accordance with section 531.181, F.S., nursery and nursery stock dealer certificate of registration fees are capped at \$460. Normally, the industry contributes approximately 60% of the program costs associated with the department's inspection services. Currently, the department needs to recover approximately an additional \$300,000 to cover the industry portion.

Sections 500.12 and 500.121, F.S., dealing with permitting processes and disciplinary procedures against violators of the Food Safety Act, are scheduled for repeal by October 1, 1998, unless reenacted.

B. EFFECT OF PROPOSED CHANGES:

Although section 216.181(10)(b), F.S., has prohibited agencies from using lump-sum bonuses to reward employees, it is the department's position that an amount of money awarded at one time makes a larger impact than minuscule amounts added to each biweekly paycheck. In addition, this payment would not be a recurring cost to the state.

The department's food and residue laboratories will be allowed to perform certain analyses relating to food safety for any person or public agency that requests those services. The department will also be authorized to establish and collect fees that will be used solely to recover the costs of the services provided. These fees will be deposited into the department's General Inspection Trust Fund.

This bill authorizes the department to post a "closed-for-operation" sign on any food establishment operating without a permit or with a revoked or suspended permit and establishes that it is a second degree misdemeanor to deface or remove such sign from any food establishments in violation. In addition, it is a second degree misdemeanor for any food establishment to open for operation without a permit or with a revoked or suspended permit. It is predicted that utilization of posted signs will prove a deterrent for delinquent permit renewals.

The bill authorizes registered meter mechanics, in the absence of department inspectors, to break the department's seal on the meter adjustment of petroleum fuel measuring devices or containers when repairing or making adjustments. Upon completion of repairs and adjustments, mechanisms must be immediately resealed with a seal clasp bearing the name of the company or the name or initials of the mechanic. The department shall be immediately notified of this action.

The bill allows the department to adopt policies creating and providing for the operation of an employees' benefit fund, which will be funded through voluntary employee donations. The purpose of the fund is to provide a reserve from which to pay for such activities as sending flowers in the event of a death in the family.

The membership of the Florida Agriculture and Horse Park Authority is revised to require the appointment of a representative from Enterprise Florida, Inc., instead of the now dissolved Department of Commerce. The bill combines the "Appaloosa" and "paint" breeds category into an encompassing "color breeds" category and creates representation for the Paso Fino breeders.

The bill provides that membership in the Florida Agricultural Promotional Campaign will expire one year after issuance instead of on July 1 of each year. The provision allows new members of the Florida Agricultural Promotional Campaign to receive a full year of benefits instead of a possible partial year.

The bill raises the cap on nursery and nursery stock dealer certificate of registration fees from \$460 to \$600 per year. The department reports that the industry contributes approximately 60% of the program costs associated with inspection services, and the department needs to recover, approximately, an additional \$300,000 to cover the industry portion. Raising the cap to \$600 will be sufficient to cover this cost for the next five years and has been approved by the Florida Nurserymen and Growers Association.

[An amendment was adopted to this provision by the Committee on Finance & Taxation. See section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]

The bill repeals section 102, chapter 92-291, Laws of Florida which provides for review and repeal of the permitting process for food permits and food establishment building permits and the enforcement of disciplinary measures for violations of the Food Safety Act (sections 500.12 and 500.121, F.S.). Repeal of the repealer is needed to maintain the existing regulation over individuals operating retail food establishments.

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?

No.

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

The bill authorizes meter mechanics, who have registered with the department, to reseal petroleum fuel measuring devices upon completion of repairs and adjustments. They are also required to immediately notify the department of this action.

(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:

- a. Does the bill increase anyone's taxes?

No.

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

The bill authorizes a service fee to cover the costs of food and residue laboratory analyses performed for outside entities. It also raises the cap for nursery and nursery stock dealer certificate of registration and renewal fees from \$460 to \$600. **[An amendment was adopted to this provision by the Committee on Finance & Taxation. See section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]**

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

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?

Requests by the private sector or other agencies for analyses made by the department's food and residue laboratories will be charged a service fee to be used solely to recover the costs of performing the analyses. Also, the employees' benefit fund will consist of voluntary donations by employees of the department.

The increase in fee cap for nursery and nursery stock dealer certificates will provide the extra funding necessary for the department to continue to conduct inspections for the industry.

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?

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D. STATUTE(S) AFFECTED:

Sections 216.181, 500.09, 500.12, 500.121, 525.07, 570.07, 570.952, 571.25, and 581.131, Florida Statutes. Also, section 102, Chapter 92-291, Laws of Florida.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 216.181, F.S.; exempts the department from certain restrictions regarding lump-sum salary bonus disbursement.

Section 2. Amends s. 500.09, F.S.; authorizes the department to perform laboratory services relating to food safety or the compliance of food with the requirements of chapter 500, F.S., for any person or public agency; authorizes the department to establish and collect fees to be used solely for the recovery of costs for the services provided. Such fees shall be deposited into the department's General Inspection Trust Fund.

Section 3. Amends s. 500.121, F.S.; authorizes the department to post closed-for-operation signs on any food establishment operating without a permit or with a suspended or revoked permit; establishes that it is a second degree misdemeanor to deface or remove such closed-for-operation signs from those establishments in violation or to open for operation without a permit or while a permit is suspended or revoked; provides that the department may impose administrative sanctions for violations of section 500.121(5), F.S.

Section 4. Amends s. 525.07, F.S., authorizes registered meter mechanics to break the seal on the meter adjustment of petroleum fuel measuring devices or containers when repairing and adjusting the devices in the absence of a department inspector.

Section 5. Amends s. 570.07, F.S.; authorizes the creation and operation of an employees' benefit fund.

Section 6. Amends s. 570.952, F.S.; revises membership of the Florida Agriculture Center and Horse Park Authority.

Section 7. Amends s. 571.25, F.S.; changes the registration date for membership in the Florida Agricultural Promotional Campaign from July 1 to the anniversary date of the original membership.

Section 8. Amends s. 581.131, F.S.; raises the cap for the nursery and nursery stock dealer certificate of registration fee from \$460 to \$600. **[An amendment was adopted to this provision by the Committee on Finance & Taxation. See section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]**

Section 9. Repeals s. 102, ch. 92-291, Laws of Florida, which provides for review and repeal of the permitting process for food permits and food establishment building permits and the enforcement of disciplinary measures for violations of the Food Safety Act (ss. 500.12 & 500.121, F.S.).

Section 10. Provides that the act shall take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

	Amount Year 1 <u>FY 98-99</u>	Amount Year 2 <u>FY 99-00</u>	Amount Year 3 <u>FY 00-01</u>
<u>Revenues:</u>			
Plant Industry Trust Fund (nursery/nursery stock dealer fees)	\$299,077	\$299,077	\$299,077

Expenditures:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

	<u>FY 98-99</u>	<u>FY 99-00</u>	<u>FY 00-01</u>
<u>Revenues:</u>			
Plant Industry Trust Fund (nursery/nursery stock dealer fees)	\$299,077	\$299,077	\$299,077

Expenditures:

None.

[An amendment was adopted by the Committee on Finance & Taxation that would eliminate this positive fiscal impact. See section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The raise in cap for nursery and nursery stock dealer certificate of registration fees will be borne by the industry. According to the department, the industry contributes about 60% of the program costs associated with the inspection services, and the department needs to recover approximately an additional \$300,000 to cover the industry portion. Raising the cap to \$600 will be sufficient to cover this cost for the next five years. **[An amendment was adopted to this provision by the Committee on Finance & Taxation. See section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]**

2. Direct Private Sector Benefits:

Raising the cap of the nursery and nursery stock dealer certificate of registration fee will allow the department to continue to conduct the inspection services for the industry. The industry desires the inspection because it enables them to move their crops both intrastate and interstate. **[An amendment was adopted to this provision by the Committee on Finance & Taxation. See section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]**

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

By allowing the department's food and residue laboratories to contract out and perform requested food safety analysis for the industry, private enterprise will be in a position to compete globally.

D. FISCAL COMMENTS:

In regard to lump-sum bonuses, the department states that "Lump-sum bonuses provide a way to reward employees with dollars that do not become a recurring cost to the State. A nominal bonus payment given at one time makes a larger impact than putting a few dollars biweekly into an employee's salary rate."

However, chapter 216.181, F.S., prohibits agencies from giving lump-sum bonuses to employees unless such bonuses are specifically identified and provided in the General Appropriations Act. This bill would provide an exception only for the department.

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:

The Florida Nurserymen & Growers Association has approved the cap increase for the nursery and nursery stock dealer certificate of registration fee. **[An amendment was adopted to this provision by the Committee on Finance & Taxation. See section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]**

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 26, 1998, the Committee on Finance & Taxation adopted five amendments.

Amendment One:

Authorizes the department to deem an animal product misbranded if it is not labeled with the official USDA inspection legend.

Deletes duties of the Division of Food Safety for enforcement of the provisions of chapter 585, F.S. Deletes references to chapter 585, F.S.

Deletes references to chapter 585, F.S., from duties of the director of the Division of Food Safety.

Repeals several sections relating to the state's Meat Inspection Program which was abolished in 1997.

Amendment two:

Prohibits a person from administering medications to any thoroughbred horse offered for sale to the public at a thoroughbred horse sale within 72 hours of the start of a sale session. Provides an exception if the person is a licensed veterinarian and the medication is therapeutic or necessary for the treatment or prevention of an illness or injury. Requires any

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medications administered to be reported to the sales organization on a form signed by the attending veterinarian.

Defines "horse show," "horse exhibition," or "horse sale" as any event in which horses compete for awards, prizes, points, ribbons, or money or are made available for public sale other than through a public sale of thoroughbred horses that requires licensing under s. 535.01, F.S.

Amendment three:

Authorizes the department to conduct, assist, or cooperate with others in conducting a commercial citrus inventory and to expend funds which are deposited into the Plant Industry Trust Fund for such purposes.

Amendment four:

Removes the provision that raises the nursery and nursery stock dealer certificate of registration fee cap.

Amendment five:

Requires a permit to transport or haul any dead, dying, disabled, or diseased animal, any product of an animal that died other than by slaughter, or any inedible animal product not meant for human consumption. Requires vehicles used in the transportation of carcasses or refuse on public highways to be constructed to prevent seepage or residue from escaping. Requires all barrels or other containers used for transportation and storage of carcasses or refuse to be clearly marked "INEDIBLE" with letters not less than 2 inches in height.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Legislative Research Director:

Shari Z. Whittier

Susan D. Reese

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

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AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT
APPROPRIATIONS:

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