

**STORAGE NAME:** h0907.ag  
**DATE:** February 25, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
AGRICULTURE  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 907

**RELATING TO:** Department of Agriculture and Consumer Services

**SPONSOR(S):** Representative Spratt

**STATUTE(S) AFFECTED:** Chapters 501, 581, 590, 601, 602, and 604, Florida Statutes, and Chapter 92-153, Laws of Florida

**COMPANION BILL(S):** SB 1104 (s) by Senator Dantzler

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

- (1) AGRICULTURE
  - (2) LAW ENFORCEMENT & PUBLIC SAFETY
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

This bill contains a portion of the Department of Agriculture and Consumer Services (department) legislative package for 1997. Laws relating to plant industry, forestry, the Florida Citrus Code, and dealers in agricultural products are revised in this legislation.

Plant Industry - Revisions include expanding the definition of "noxious weed," changing the name of the Citrus Budwood Registration Committee to the Citrus Budwood Technical Advisory Committee, and repealing section 3 of chapter 92-153, Laws of Florida, reestablishing the Endangered Plant Advisory Council.

Forestry - The Division of Forestry is authorized to prohibit any activities on state lands that "interfere with management objectives, create a nuisance or pose a threat to public safety." The division is also allowed to lease to telecommunication companies antenna space on existing structures and properties. This bill clarifies that the division has primary responsibility for forest and wild land fire protection. Finally, the bill exempts the department from the appropriation process when building, from existing resources, structures costing less than \$50,000 per structure.

Florida Citrus Code - Revisions include allowing the department to refuse to issue a citrus fruit dealer's license to an applicant who is either under investigation for action violating chapter 601, F.S., or has civil action pending. The department may impose a fine not exceeding \$50,000 per violation against someone operating as a citrus fruit dealer without a current license. The department may also order a person in violation to cease operation.

Citrus Canker Funding -The bill provides that all reimbursed funds from the federal government to the state for citrus canker eradication shall be deposited in the Plant Industry Trust Fund and used solely for the eradication of citrus canker.

Agricultural products - The definition is expanded to include "the fruit of the saw palmetto."

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Plant Industry:

- ▶ Section 581.011, F.S., defines “noxious weed” as any living stage of a plant which may be a serious agricultural threat in Florida. The potential impact of noxious weeds on native plant species is not addressed in existing law.
- ▶ Section 581.182, F.S., provides the duties of the Citrus Budwood Registration Committee.
- ▶ Chapter 92-153, Laws of Florida, establishes the Endangered Plant Advisory Council and sets a repeal date of October 10, 1997. The council advises the department concerning issues related to regulated and endangered plant species and provides a public forum for individuals to voice their concerns related to such species.

Forestry:

- ▶ Section 589.011, F.S., provides for the use of state forest lands and fees that may be charged; it grants the department authority to adopt and enforce rules necessary for protection, utilization, occupancy and development of certain lands, including state forest lands.
- ▶ Section 590.01, F.S., allows the Division of Forestry to create special protection districts in areas needing special protection from fire.
- ▶ Section 590.02(2), F.S., exempts the department from the requirements of chapter 255, F.S., when constructing from existing resources, buildings valued at less than \$50,000 per structure.
- ▶ Section 590.026(5), F.S., outlines the requirements to be followed for prescribed burns and the liability that may result from such burns.

Citrus:

- ▶ Section 601.58(1), F.S., provides that each citrus fruit dealer's license application be processed and issued by the Bureau of Citrus License and Bond in the department's Division of Fruit and Vegetables.
- ▶ Section 601.60(1), F.S., requires the issuance of a citrus fruit dealer's license as long as the individual has met the conditions outlined, including approved endorsement of the Department of Citrus, satisfaction of conditions of approval, and payment of the appropriate fee to the department.
- ▶ Section 601.67, F.S., allows the department to take disciplinary action against a citrus fruit dealer for violation of the provisions of the chapter. Existing fines range from \$10,000 to \$100,000.

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Citrus Canker Funding:

- ▶ Section 602.065, F.S., provides that any funds received by the state from the federal government as reimbursement for the federal government's share of costs arising from the eradication of citrus canker shall be divided equally between the General Revenue Fund and the Citrus Advertising Trust Fund.

Agricultural Products:

- ▶ Section 604.15(3), F.S., defines "agricultural products" to include the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary; livestock; milk and milk products; poultry and poultry products; and limes, produced in the state, except tobacco, tropical foliage, sugarcane, and citrus other than limes. Sale or use of saw palmetto fruit is not currently regulated. A significant market has developed for saw palmetto fruit. Problems occur when persons trespass on private property to harvest the fruit.

**B. EFFECT OF PROPOSED CHANGES:**

Plant Industry:

The bill expands the definition of "noxious weed" to include "plants which have a negative impact on the plant species protected under s. 581.185, F.S.;" Section 581.185 F.S., provides for native plants to be protected if they are endangered, threatened or commercially exploited.

The name of the Citrus Budwood Registration Committee to the Citrus Budwood Technical Advisory Committee to truly reflect the duties and responsibilities of the council.

Chapter 92-153, Laws of Florida, is repealed and the Endangered Plant Advisory Council is reestablished.

Forestry:

The bill allows the Division of Forestry to prohibit activities "that interfere with management objectives, create a nuisance or pose a threat to public safety." Prohibited activities must be clearly posted in the area affected. The division may impose fines upon any violator committing a misdemeanor of the second degree.

The department is allowed to contract out to telecommunications companies, antenna space on existing properties and structures under division control, for a just, reasonable, non-discriminatory fee based upon the fair market value of the space used. According to the department, allowing antenna space to be leased prevents telecommunications companies from having to construct new towers, and revenue is generated for the division.

The bill clarifies that the division has primary responsibility for forest and wild land fire protection in the state. The division is required to provide leadership and

direction in the evaluation, coordination, and monitoring of wildfire management and protection, thus reducing threats to life and property, forest and wild land resources, and other related values. The department is allowed to establish a "special protection district" where there is a need for special fire protection.

The bill exempts the department from the appropriations process when building a structure, using existing resources, that is under \$50,000 in total cost.

Prescribed burning requirements and liability provisions are extended to include all of s. 590.026, F.S., relating to prescribed burning.

**Citrus:**

The bureau and division references are deleted from provisions describing procedures for obtaining a citrus fruit dealer's license. All applications shall be forwarded to the department.

The department may refuse to issue a citrus fruit dealer's license to a person who is under investigation for a violation of chapter 601, F.S., or has a proceeding pending against them for a violation of chapter 601, F.S.

A fine of up to \$50,000 may be assessed by the department for anyone operating as a citrus fruit dealer without a citrus fruit dealer's license.

**Citrus Canker Funding:**

All reimbursed monies received from the federal government for the eradication of citrus canker shall be deposited into the department's Plant Industry Trust Fund and used only towards the eradication of citrus canker.

**Agricultural Products:**

The definition of agricultural products is expanded to include the "fruit of the saw palmetto." Adoption of this provision will require all growers and/or brokers of this product to be licensed and bonded, including those who harvest the fruit from wild or public lands.

**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?

No

(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?

No.

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?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

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. SECTION-BY-SECTION ANALYSIS:**

Section 1 amends s. 581.011, F.S., expanding the definition of “noxious weed.”

Section 2 amends s. 581.182, F.S., changing the name of the Citrus Budwood Registration Committee to Citrus Budwood Technical Advisory Committee.

Section 3 repeals section 3 of chapter 91-153, Laws of Florida, reestablishing the Endangered Plant Advisory Council.

Section 4 amends s. 589.011, F.S., authorizing the Division of Forestry to prohibit certain activities on lands managed by the division and requiring prohibited activities to be posted. The division is also allowed to contract telecommunications antenna space on property and structures under division control.

Section 5 amends s. 590.01, F.S., clarifying that the Division of Forestry has primary responsibility for forest and wild land fire protection in the state.

Section 6 amends s. 590.02, F.S., 1996 Supplement, excluding the department from having to go through the appropriations process to construct, from existing resources, buildings costing less than \$50,000.

Section 7 amends s. 590.026, F.S., expanding liability requirements associated with prescribed burning.

Section 8 amends s. 601.58, F.S., removing statutory reference to a specific bureau and division within the department.

Section 9 amends s. 601.60, F.S., allowing the department to refuse to issue a citrus fruit dealer's license under certain conditions.

Section 10 amends s. 601.67, F.S., specifying that the department may assess a fine not to exceed \$50,000 for a person operating as a citrus fruit dealer without a citrus fruit dealer's license.

Section 11 amends s. 602.065, F.S., requiring that all federal monies received as reimbursement for citrus canker eradication be placed in the Plant Industry Trust Fund and used only for citrus canker eradication.

Section 12 amends s. 604.15, F.S., adding "fruit of the saw palmetto" to the definition of agricultural product.

Section 13 provides that the act shall take effect upon becoming a law.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

	<u>FY 97-98</u>	<u>FY 98-99</u>	<u>FY 99-00</u>
<b>Division of Forestry</b>			
1. <u>Non-recurring Effects:</u>			
Expenses (Incidental Trust Fund)	\$15,000	\$12,000	\$10,000
2. <u>Recurring Effects:</u>			
Expenses (Incidental Trust Fund)	\$2,000	\$4,800	\$6,500
Revenues (Incidental Trust Fund)	\$16,000	\$34,000	\$44,000

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3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

Incidental Trust Fund

Revenues

\$16,000

\$34,000

\$44,000

Expenditures

\$17,000

\$16,800

\$16,500

Total

(\$1,000)

\$17,200

\$27,500

**Division of Plant Industry**

Non-recurring Effects:

Plant Industry Trust Fund Revenues	\$17,000,000
Total	\$17,000,000

**See Fiscal Comments.**

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:

None

2. Direct Private Sector Benefits:

**Division of Plant Industry:** The use of the \$17,000,000 in federal funds resulting from the nursery strain citrus canker lawsuit settlement would eliminate or substantially reduce the need for citrus industry assessments to partially fund the existing eradication program.

**Division of Forestry:** Antenna space for cellular phones and paging services will be available for commercial telecommunication companies and the need for companies to build their own new towers will be reduced.

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

Other state agencies have been authorized to lease antenna space on their towers and facilities. This reduces the need for private companies to build their own towers. State agencies will be in direct competition with private enterprise in leasing antenna space and tower space to commercial telecommunications companies.

D. FISCAL COMMENTS:

Division of Plant Industry -- The \$17 million in projected revenue represents a federal government payment to the state as settlement for a lawsuit brought by the state to obtain reimbursement for expenses incurred in eradicating nursery strain citrus canker. The payment has been negotiated by the Florida Attorney General's office and the United States Department of Justice. Receipt of the federal funds will eliminate the need for a \$4.3 million General Revenue request included in the department's 1997-98 Legislative Budget Request.

Division of Forestry -- Projected expenditures are based upon the costs involved in maintaining properties where communications antennas are located. Properties, such as fire towers, will have to be maintained to a higher standard with more frequent inspections and maintenance than are currently performed. A deficit of \$1,000 is estimated for the first year, with profit being projected for the second and third years.

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 take actions requiring expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any county or municipality.

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

The bill does not reduce any state tax revenues shared with counties and municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

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