

STORAGE NAME: h1637a.ag

DATE: March 22, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE
ANALYSIS**

BILL #: HB 1637

RELATING TO: Florida Agricultural Finance Act

SPONSOR(S): Representative Kilmer

COMPANION BILL(S): HB 1409 (s) by Representative Spratt and SB 146 (s) by Senator Cowin

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

- (1) AGRICULTURE YEAS 9 NAYS 0
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

HB 1637 was amended at the March 22, 1999, Agriculture Committee meeting, and the substance of HB 1409 was amended onto the bill in a "strike everything after the enacting clause..." amendment.

HB 1637 creates the Florida Agricultural Finance Act (act), establishing the Florida Agricultural Finance Authority (authority). The purposes of the authority are to manage programs which

- assist 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 farming, including aquaculture;
- provide financing to farmers for soil and water conservation;
- promote diversification of the farm economy through the growth and development of new or alternative crops or livestock not customarily grown or produced in the state or that emphasize value-added commodity ventures;
- provide assistance in financing operating expenses and cash-flow requirements of farming; and
- 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 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.

The act directs the authority to function as a public entity under the Office of the Governor and requires that it be composed of eleven members, including the Governor or a designee who will act in an ex-officio, non-voting capacity. Initially, the six standing members will have four-year terms, and three at-large members will have three-year terms. Thereafter, the terms will all be for 4 years. The authority must prepare an annual report to be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General.

The bill appropriates \$500,000 for start-up costs. Post start-up, the authority appears to be self-funding and should not fiscally impact the state.

II. SUBSTANTIVE ANALYSIS:

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 agricultural loan program. The federal government has three main agricultural loan programs available to Florida farmers: the United States Department of Agriculture's Farm Service Agency program, the Farm Credit System, and the Rural Business-Cooperative Service program. 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. The program has 88 resource partners, including the United States Department of Agriculture, the Institute of Food and Agricultural Sciences of the University of Florida, and Enterprise Florida, Inc. Currently, 181 people have contacted the program for assistance and 14 of these have become active clients; 7 are having their plans modified by program staff; and 160 of these prospects are either still formulating their business ideas or developing a business plan.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Florida Agricultural Finance Act, establishing the Florida Agricultural Finance Authority (authority), a public agency of the state. The authority is to establish programs which accomplish the following:

- assist 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 farming, including aquaculture;
- provide financing to farmers for soil and water conservation practices;
- promote diversification of the farm economy through the growth and development of new or alternative crops or livestock and other animals or raites 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;
- assist in financing operating expenses and cash-flow requirements of farming; and
- 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 authority is to be composed of eleven members (the bill only identifies 10 membership entities), including the Governor or a designee. The board will be composed of appointments from the following entities:

- the Florida Farm Bureau Federation,
- the Institute of Food and Agricultural Sciences of the University of Florida,
- the Florida Agricultural and Mechanical University,
- the Florida Agricultural Resources and Mobilization Foundation, Inc. (FARM Foundation),
- the Technological Research and Development Authority,
- the Florida Bankers Association, and
- three Governor-appointed at-large members which should be representative of financial institutions that have experience in agricultural lending, farmers, or beginning farmers or persons interested in agriculture, rural initiatives, and family farm development.

Initially, the six members of the board are to be appointed for four-year terms and the three at-large members for three-year terms. Thereafter, all members are to be appointed for four-year terms.

Members of the board are directed to elect a chair and a vice chair annually. The board is to appoint an executive director, who functions as secretary to the board and serves at the pleasure of the authority. Duties of the executive director 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 pursuant to the direction of the board. Meetings are to be held at the call of the chair or upon the request of at least two members. Any meeting at which official acts are to be taken or public business is to be transacted or discussed must be open and noticed to the public.

The authority is required to prepare an annual report for the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General, to be presented by February 15th of every year. The report 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.

The authority will be set up as a facilitator between farmers and the lending institutions, and will coordinate communication, ascertain qualifications of applicants, and determine the 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 creates provisions to use loans in conjunction with federal programs (such as United States Department of Agriculture Consolidated Farm Service Agency and the federal land bank) that are provided for in the Federal Agriculture Improvement and Reform Act of 1996. Specific financial processes and powers are detailed in sections 570.258-570.2815, F.S. The bill provides in section 570.273, F.S., that the act shall be "liberally construed to effect its purposes."

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 act will take effect July 1, 1999.

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, F.S., grants the authority the powers necessary to carry out its purposes and duties, and section 570.255(15) provides a broad grant of rulemaking authorization to the authority so that it may carry out the purposes 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 and amounts have not yet been determined.

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. 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 ANALYSIS:

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., may be cited as the "Florida Agricultural Finance 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 intellectual, scientific, and agricultural improvement across the state; granting the authority broad powers to adopt rules to carry out the purposes of the act.

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

Creating s. 570.254, F.S.; establishing the Florida Agricultural Finance Authority; directing the authority to establish programs; creating a board of eleven members and establishing terms; providing for the election of a chair and vice chair; requiring that meetings where official acts are to be taken shall be open and noticed to the public; establishing a quorum of six voting members; providing for per diem and traveling expenses.

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

Creating s. 570.256, F.S.; providing for an executive director who shall be appointed by and serve at the pleasure of the authority, and who shall advise the authority on matters relating to agricultural land and property and finance, carry out all directives from the authority, hire and supervise staff pursuant to the direction of the board, and perform other duties.

Creating s. 570.257, F.S.; requiring the authority to submit an annual report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Auditor General by February 15 of each year.

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

Creating s. 570.259, F.S.; providing for the 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 issued 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 Auditor General, the President of the Senate, and the Speaker of the House of Representatives 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 under the Bankhead-Jones Farm Tenant Act.

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; limiting charges of more than 1.5 percent on the amount of a loan as a one-time processing charge for any moneys loaned by the authority or the lending institution.

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: Appropriating \$500,000 from General Revenue for start-up costs of the authority for FY 1999-2000; granting power to the authority to issue up to \$3 million in limited guarantees of credit during FY 1999-2000; providing that any unused portion of the appropriation may be used in subsequent years.

Section 6: Providing that the act shall take effect on July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	<u>FY 99-00</u>	<u>FY 00-01</u>	<u>FY 01-02</u>
Positions			
Program Planning Coordinator @ \$42,460	\$42,916		
Administrative Assistant I @ \$23,511	\$24,354		
OPS			
Clerk (26 weeks @ \$8.00 hourly)	\$4,160		
Expenses			
2 standard expense packages @ \$8,611 & \$6,665	\$15,276		
OCO			
1 4x4 vehicle	\$22,617		

2 standard OCO packages @ \$3,302	\$6,604		
Total non-recurring effects (General Revenue)	\$115,927	\$0	\$0
2. <u>Recurring Effects:</u>			
None.	\$0	\$0	\$0
3. <u>Long Run Effects Other Than Normal Growth:</u>			
Unknown.			
4. <u>Total Revenues and Expenditures:</u>			
Total	\$115,927	\$0	\$0

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:
Unknown.
2. Recurring Effects:
Unknown.
3. Long Run Effects Other Than Normal Growth:
Unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
Unknown.
2. Direct Private Sector Benefits:
Unknown.
3. Effects on Competition, Private Enterprise and Employment Markets:
Unknown.

D. FISCAL COMMENTS:

Travel and per diem costs for the start-up year will need to be factored into the fiscal assessment.

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.

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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:

Section 570.254(2), F.S., provides for a board of 11 members; however, only 10 board membership entities are identified in the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 1637 was amended at the March 22, 1999, Agriculture Committee meeting, and the substance of HB 1409 was amended onto the bill in a "strike everything after the enacting clause..." amendment. Please see bill analysis for HB 1409.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Staff Director:

Shari Z. Whittier

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