

STORAGE NAME: h0745.jud

DATE: April 2, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
JUDICIARY
ANALYSIS**

BILL #: HB 745

RELATING TO: Citrus Canker Disease

SPONSOR(S): Representative Lacasa

COMPANION BILL(S): SB 2408(c)

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

- (1) AGRICULTURE YEAS 9 NAYS 1
- (2) JUDICIARY
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

In 1989, Chapter 602, Florida Statutes, was created to set up a reimbursement program for citrus trees destroyed due to infestation or exposure to citrus canker* in commercial groves. HB 745 revises the legislative intent of Chapter 602, Florida Statutes, to include citrus trees on private residential property destroyed because of citrus canker infestation or exposure on or after January 1, 1995.

The bill also directs the Department of Agriculture and Consumer Services (DACS) to:

- provide, by registered mail, all property owners within a citrus canker quarantine area with general information on the eradication program's policies and procedures;
- inform all affected property owners by registered mail of any impending visit for the purpose of searching, testing, marking, and/or destruction of citrus trees on their property 10 days prior to the visit; and
- conduct criminal background checks of all subcontracted employees involved in the citrus canker eradication program.

The bill provides a graduated schedule of compensation for residential citrus trees destroyed due to infestation or exposure to citrus canker.

There is a significant fiscal impact associated with this legislation.

*It is important to note the reason for reimbursement to the commercial groves in 1989 was due to a misdiagnosis of the strain of citrus canker.

Please refer to Section VI - (Amendments) for changes to the bill made in committee.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Presently, the Department of Agriculture and Consumer Services (DACS) places ads in local area and Hispanic newspapers and runs public service announcements on Hispanic radio stations the week before they are scheduled to survey a specific area. After completing the survey of the property, a notice is left on the door of the property by DACS personnel to acknowledge their visit.

If, during the survey, DACS discovers a tree that may be infected, the technicians also leave a notice that a plant pathologist will return within a week to 10 days to inspect the suspicious tree(s). If the tree is confirmed positively infected, DACS personnel attempts to deliver an Immediate Final Order (IFO). If, after three attempts, DACS personnel cannot deliver the IFO in person to the property owner, the IFO is sent via certified mail. As a matter of courtesy, the property owner is asked to sign a waiver allowing the infected tree to be removed. At that point, the tree is destroyed.

B. EFFECT OF PROPOSED CHANGES:

Section 1: Section 581.184, F.S., directs DACS to:

- provide, by registered mail, all property owners within the quarantine area with general information on the eradication program's policies and procedures;
- inform all affected property owners, by registered mail, of impending surveys of their property 10 days prior to the survey;
- inform all affected property owners, by registered mail, 10 days in advance of any visit for the purpose of testing, marking, and/or destruction of a citrus tree; and
- perform criminal background checks of all subcontracted employees involved in the eradication program.

Section 2: Section 602.025, F.S., adds claimants whose claims arose on or after January 1, 1995, to the Citrus Canker Eradication Program's reimbursement program previously established.

Section 3: Section 602.035, F.S., creates a citrus tree graduated value schedule to provide compensation for citrus trees on residential property destroyed due to exposure or infestation by citrus canker. The bill requires property owners seeking compensation for destroyed trees to provide evidence of the size of the trees with their application for compensation.

Section 4: Section 602.055, F.S., provides an exception for claimants seeking compensation for citrus trees destroyed on or after January 1, 1995, and located on private residential property from the previous deadline for filing a release, which was midnight on June 10, 1993.

Section 5: Section 602.065, F.S., defines the required notification as when claimants receive notification by registered mail.

Section 6: Provides an effective date.

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?

Yes. This legislation provides compensation for citrus trees located on private residential property which are destroyed due to exposure to or infestation by citrus canker.

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

Judiciary Committee staff comment:

Yes. Notification of affected property owners by posting and certified mail will create a larger workload for the Department of Agriculture and Consumer Services.

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

Judiciary Committee staff comment:

Possibly. The department is directed to develop a compensation plan for trees which are destroyed in the buffer zone.

- 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?
No

4. Individual Freedom:

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

Judiciary Committee staff comment:

Yes. Advance notice of impending searches of property will be increased, and citizens may seek a judicial determination that entry upon their property not be permitted. Reimbursement for buffer zone trees may be compensated in some measure in the future.

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

Yes. It permits destruction of healthy trees on private property.

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:

Creates section 581.1845

E. SECTION-BY-SECTION ANALYSIS:

Please refer to Section B. (Effect of Proposed Changes) for a section-by-section analysis.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	<u>Year 1</u> <u>(FY 98-99)</u>	<u>Year 2</u> <u>(FY 99-00)</u>	<u>Year 3</u> <u>(FY 00-01)</u>
10 computers @ \$3,000 each (GR)	\$ 30,000	\$ -	\$ -
Total Non-recurring Costs	30,000		

2. Recurring Effects:

Other personal services (GR)			
*20 senior clerks @ \$26,905 (pay grade II)	538,100	554,243	570,870
Expenses (GR)			
Registered mail notices (\$4.30 per letter per property)	4,300,000	4,300,000	4,300,000
Compensation for citrus tree removal (110,000 @ \$500 per tree)	55,000,000	41,500,000	42,500,000
Office supplies and equipment (20 positions @ \$6,665)	133,300	133,300	133,300
Other - Background checks	<u>20,000</u>	<u>5,000</u>	<u>5,000</u>
Total Recurring Costs	59,991,400	46,492,543	47,509,170

*OPS salaries and benefits are calculated at 10% above minimum and were increased by 3% for the second and third years in anticipation of salary increases.

Total Operating Costs (Recurring and Non-recurring)	<u>60,021,400</u>	<u>46,492,543</u>	<u>47,509,170</u>
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3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

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:

Judiciary Committee staff comment:

Residents who produce their own citrus products may have the source of their food products destroyed, regardless of whether the plants pose a public nuisance.

2. Direct Private Sector Benefits:

Residents may receive some compensation for some trees that are destroyed.

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

None

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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:

Judiciary Committee staff comments

It would be in the public's interest for the products used in canker control on page 2, lines 5 & 6, to be used in amounts and under conditions that comply with all applicable state and federal laws and rules as well as the manufacturer's directions for application.

The emergency procedures on page 2, lines 7-11, for citrus canker removal, would be more effective if they were approved prior to implementation.

Written notice to property owners on page 2, line 12, could be delineated to include posting on the house or on a tree in the case of a vacant lot.

Because certified mail is generally not forwarded or retained by the post office, actual notice to landholders would increase if the final order was mailed simultaneously by first class and certified mail.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike everything amendment was adopted to HB 745, which inserted the Senate companion language. Specifically, the strike-everything amendment:

- ▶ Instructs the Department of Agriculture and Consumer Services (department) to develop and provide a system to inform the public of citrus canker eradication efforts as they relate to private residential properties; to use only products that are in compliance with state and federal laws and rules, and; to ensure that emergency procedures used on residential properties are reviewed and approved by the scientific community.
- ▶ Requires the department to give written notice to property owners upon entering the property for the purpose of surveying and establishes procedures, with time frames, to be followed if citrus canker is suspected present.
- ▶ Allows the department to create a citrus canker buffer zone and develop a compensation plan for trees removed from the buffer zone. Compensation for tree removal from the buffer zone will be subject to annual legislative appropriation.
- ▶ Instructs the department to develop and implement a tree-canopy replacement program for residential properties in an urbanized area. This provision is subject to specific legislative appropriation.
- ▶ And lastly, the amendment provides a definition for "urbanized area."

VII. SIGNATURES:

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