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DATE: March 14, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: CS/HB 255
RELATING TO: Citrus canker eradication
SPONSOR(S): Committee on Agriculture & Consumer Affairs & Representative(s) Bullard, Lerner & others
TIED BILL(S): None

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

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 8 NAYS 0
- (2) STATE ADMINISTRATION (CSG)
- (3) GENERAL GOVERNMENT APPROPRIATIONS (FRC)
- (4) COUNCIL FOR COMPETITIVE COMMERCE
- (5)

I. SUMMARY:

CS/HB 255 provides a compensation program for the removal of citrus trees from residential property as part of a citrus canker eradication program. The program applies retroactively to trees removed on or after January 1, 2000.

While a tree replacement program currently exists compensating residents, regardless of the number of trees removed from their property, with a \$100 voucher redeemable at Wal-Mart Garden Centers, CS/HB 255 provides compensation of \$55 per tree removed. The bill also stipulates that the per-tree amount specified does not limit the amount of compensation that may be paid by another entity or pursuant to court order for the removal of citrus trees as part of a citrus canker eradication program.

The bill appropriates \$50 million from the General Revenue Fund to the Department of Agriculture and Consumer Services to fund the compensation program.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Florida is currently fighting Asian strain bacterial citrus canker for which no cure or effective treatment exists at this time. Thus far, canker infestations have occurred in Dade, Broward, Palm Beach, Manatee, Hillsborough, Collier and Hendry counties. Of the seven counties affected, only three (Dade, Broward and Palm Beach) have residential infestations.

Residential citrus canker was first detected in the Westchester/Sweetwater area of Dade County in October 1995. Since that time, the Citrus Canker Eradication Program (CCEP), organized and implemented through the Department of Agriculture and Consumer Services (department), has cut more than 530,000 trees across South Florida. Current scientific research indicates that all citrus canker outbreaks in Florida, with the exception of infestations in Palmetto (Manatee County) and parts of Sun City Center (Hillsborough County), are genetically related to the Dade County infestation.

Through the department's regulatory authority in Chapter 581, F.S., the CCEP has survey crews inspecting properties throughout the state. When a crew suspects a tree is infected with citrus canker, a sample is taken and tested. If the sample tests positive for canker, the city in which the tree is located is notified of a positive test and is given 10 days to get a second opinion of the infestation. If the city declines the option of a second opinion, an Immediate Final Order (IFO) is sent to the owner of the diseased tree and the owners of every tree that falls within a 1,900 feet arc of the infected tree, notifying them that their diseased or exposed tree will be cut. Residents have 5 days after receiving an IFO to file an appeal before the tree is cut.

The 1,900 feet distance was determined from a specific research study conducted by experienced plant pathologists under the weather conditions in South Florida. Over 15,000 trees were identified and monitored for evidence of citrus canker disease. From this research, it was determined that approximately 95% of the exposed trees that became diseased were up to 1,900 feet away from a single disease-positive tree. It was further found that the previously used distance of 125 feet for exposed trees captured only 20% of the trees likely to be infected by the disease from a disease-positive tree. Using 125 feet to determine what exposed trees to remove meant that up to 80% of the trees not yet showing canker symptoms were being left to further spread the disease.

In November 2000, the cutting stopped in Broward County when a circuit court judge issued an injunction that the state has since challenged in the 4th District Court of Appeals. The ruling applied

only to Broward County, but the state has agreed to apply it in Miami-Dade as well. The department continues to cut diseased and exposed trees in Palm Beach County.

Legislation passed in 1999 authorized the department to establish a replacement program for residential tree removal. The program provides each resident, regardless of the number of trees destroyed on their property, with a \$100 voucher redeemable at Wal-Mart Garden Centers. The voucher may be used towards the purchase of any non-citrus trees/plants or garden supplies, and is valid for one year from the date of issue.

To date, \$18 million has been appropriated for the tree replacement program. The United States Department of Agriculture (USDA) has partnered with the department, providing \$15 million of the total appropriation.

The Florida Citrus Advertising Trust Fund (trust fund), managed by the Department of Citrus, is funded through a box tax on citrus fruit grown and placed into the primary channel of trade in the state. The trust fund has specific purposes for which it may be used, as listed in section 601.15 (7), F.S., none of which include the reimbursement for residential tree replacement. It is questionable whether taking money from the trust fund for residential tree replacement is permissible, given the statutory authority for the trust funds' use.

C. EFFECT OF PROPOSED CHANGES:

This legislation would reimburse residents \$55 per each tree destroyed. The bill also stipulates that the per-tree amount specified does not limit the amount of compensation that may be paid by another entity or pursuant to court order for the removal of citrus trees as part of a citrus canker eradication program. Funding for the reimbursement program comes from the General Revenue Fund.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 581.184, F.S., clarifying compensation for trees removed from nonresidential property within the buffer zone is subject to annual legislative appropriation.

Section 2: Appropriates \$50 million from the General Revenue Fund to the Department of Agriculture and Consumer Services (department) to be used towards compensation for residential citrus trees removed as part of a citrus canker eradication program. Compensation is set at \$55 per tree. However, this does not limit the amount of compensation that may be paid by another entity or pursuant to court order for the removal of citrus trees as a part of a citrus canker eradication program.

Section 3: Provides an effective date of upon becoming law and operates retroactively to provide compensation for citrus trees removed on or after January 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

| | Fund | Amount Year 1 (FY 01-02) | Amount Year 2 (FY 02-03) | Amount Year 3 (FY 03-04) |
|---|------|--------------------------------|--------------------------------|--------------------------------|
| 1. <u>Revenues:</u> | | | | |
| None. | | | | |
| 2. <u>Expenditures:</u> | | | | |
| Non-Recurring Costs: | | | | |
| Tree removal compensation | GR | \$50,000,000 | | |
| Postage, letters, envelopes | GR | 400,000 | | |
| Expense for Comptroller 200,000 checks @ \$.15 | GR | 30,000 | | |
| Contractual modification to Existing software | GR | <u>20,000</u> | | |
| | | \$50,450,000 | | |
| Total Non-Recurring Costs | | <u>\$ 50,450,000</u> | | |

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Because the bill does not allow the Department of Agriculture and Consumer Services (department) to use the appropriated funds for administrative costs, the department is requesting additional General Revenue funding in order to meet additional costs for postage, stationary and envelopes in order to mail out the compensation materials to eligible residents. Modification to the existing software is also calculated into the additional costs.

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 14, 2001, the Committee on Agriculture and Consumer Affairs adopted one amendment and moved to make HB 255 a committee substitute. The amendment appropriates the entire \$50 million from the General Revenue Trust Fund and reduces the per-tree compensation from \$100 to \$55.

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

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