

**STORAGE NAME:** h0255s1.ccc.doc

**DATE:** April 20, 2001

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE  
COUNCIL FOR COMPETITIVE COMMERCE  
ANALYSIS**

**BILL #:** CS/HB 255

**RELATING TO:** Citrus canker eradication

**SPONSOR(S):** Committee on Agriculture & Consumer Affairs & Representative(s) Bullard, Lerner and others

**TIED BILL(S):** None

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

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 8 NAYS 0
  - (2) STATE ADMINISTRATION YEAS 3 NAYS 1
  - (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 13 NAYS 1
  - (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. At a rate of \$55 per tree, \$50 million would compensate residential property owners for 909,090 destroyed trees. The Department estimates it would incur an administrative cost of \$420,000, which is not provided in the bill. House Bill 1807, in Specific Appropriation 1488A, provides \$15 million from the General Revenue Fund for a Citrus Canker Tree Compensation Program.

CS/HB 255 would be effective upon becoming law. If it is enacted during the current fiscal year, it may not be feasible for the Department to distribute the funds before the scheduled reversion date of December 31, 2001.

**On April 17, 2001, the General Government Appropriations Committee adopted a strike-everything amendment, which is traveling with the bill. It removes the appropriation (money is provided in the Appropriations Act, HB 1807), makes compensation contingent upon availability of appropriated funds, and provides eligibility requirements. Please see section V, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES for specifics.**

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 4<sup>th</sup> 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.

In the 1998-99 General Appropriations Act, the Legislature provided \$3 million for a residential tree replacement program in Dade County. The Department was required to establish the replacement program. 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.

**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.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

	<u>Fund</u>	Amount Year 1 <u>(FY 01-02)</u>	Amount Year 2 <u>(FY 02-03)</u>	Amount Year 3 <u>(FY 03-04)</u>
1. <u>Revenues:</u>				
None.				

2. Expenditures:

**Department of Agriculture and Consumer Services**

Non-Recurring Costs:

Tree removal compensation	GR	\$50,000,000
Postage, letters, envelopes	GR	400,000
Contractual modification to Existing software	GR	<u>20,000</u>
Total – General Revenue Fund		\$50,420,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill provides residential property owners \$55 per citrus tree removed as part of a citrus canker eradication program.

D. FISCAL COMMENTS:

The bill appropriates \$50 million from the General Revenue Fund to the Department of Agriculture and Consumer Services to fund the compensation program. At a rate of \$55 per tree, \$50 million would compensate residential property owners for 909,090 destroyed trees. The Department estimates it would incur an administrative cost of \$420,000, which is not provided in the bill.

The bill would be effective upon becoming law. If it is enacted during the current fiscal year, it may not be feasible for the Department to distribute the funds before the scheduled reversion date of December 31, 2001.

House Bill 1807, in Specific Appropriation 1488A, provides \$15 million from the General Revenue Fund for a Citrus Canker Tree Compensation Program.

III. 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.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

**Comments by the Committee on State Administration**

Section 570.191, F.S., provides for an Agricultural Emergency Eradication Trust Fund.

Funds in the trust fund may be made available upon certification by the commissioner [of agriculture] that an agricultural emergency exists and that funds specifically appropriated for the emergency's purpose are exhausted or insufficient to eliminate the agricultural emergency. The term "agricultural emergency" means an animal or plant disease, insect infestation, or plant or pest endangering or threatening the horticultural, aquacultural, or other agricultural interests in the state.

Since 1999, the Legislature has appropriated \$18 million for the tree replacement program, of which \$15 million was provided by the USDA. The state was responsible for the remaining \$3 million, which was paid out of the Agricultural Emergency Eradication Trust Fund.

CS/HB 955 appropriates \$50 million from the General Revenue Fund for fiscal year 2001-2002 to compensate owners for trees removed as part of the Citrus Canker Eradication program. There is a significant difference between the current \$3 million paid by the State for such purpose, and the \$50 million requested by this legislation. In addition, HB 1807, in Specific Appropriation 1488A, appropriates \$15 million for fiscal year 2001-2002 from the General Revenue fund for the Citrus Canker Tree Compensation Program.

V. 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.

**General Government Appropriations Committee:**

On April 17, 2001, the General Government Appropriation Committee adopted a strike-everything amendment which is traveling with the bill. The amendment:

- Eliminates the appropriation of funds;
- Authorizes source of funds and payment to eligible homeowners subject to the availability of appropriated funds;
- Provides eligibility requirements;
- Specifies that compensation cannot duplicate the a Shade Dade or a Shade Florida Card distributed to the property owner;
- Allows the department to use up to \$500,000 of funds appropriated for a citrus canker compensation program for program administrative costs; and,
- Provides specific requirements for the department to use to administer the compensation program.
  - Take reasonable steps to identify and notify owners;
  - Notify homeowners of the manner in which the owner may request funding;
  - Develop a compensation request form and make it available to eligible homeowners; and,
  - Develop a process to resolve disputes relating to compensation. Specifies that the department's decision is final and is not subject to chapter 120, Florida Statutes.

VI. SIGNATURES:

COMMITTEE ON COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Debbi Kaiser

Susan Reese

AS REVISED BY THE COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Staff Director:

Lauren Cyran

J. Marleen Ahearn, Ph.D., J.D.

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

Marsha Belcher

Lynn Dixon

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AS FURTHER REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Staff Director:

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Rebecca R. Everhart

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Hubert "Bo" Bohannon