

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1926

SPONSOR: Criminal Justice Committee and Senators Posey, Cowin and others

SUBJECT: Citrus Canker

DATE: February 26, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/1 amendment</u>
2.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This CS provides for removal and destruction of all citrus trees located within 1900 feet of a citrus tree that is infected with citrus canker. It also provides for issuance of an immediate final order (IFO) authorizing destruction of the trees and for a method for property owners to appeal the IFO. Simultaneously with delivery of the IFO, the property owner is to be given information about the infected tree that is the cause of destruction of his or her exposed trees.

The CS also provides for issuance of search warrants relating to the spread of citrus canker. It authorizes the Department of Agriculture and Consumer Services (department) to obtain a search warrant for an area that may include all of the county in which the search warrant is issued. Prior to issuance of a warrant, a judge must hold a court hearing at which objections of property owners are received, heard and determined.

The CS amends sections 581.184, 933.02 and 933.07 of the Florida Statutes.

## II. Present Situation:

This CS addresses the state's ongoing citrus canker eradication efforts. Citrus canker is a highly contagious bacterial disease which infects citrus plants, including oranges, sour oranges, grapefruit, tangerines, lemons, and limes. Scientific studies indicate that eradication of citrus canker requires destruction of all citrus trees located within 1900 feet of an infected tree. The department cut trees within this 1900 foot zone based upon language in the preamble to ch. 2000-308, Laws of Florida, that cited the scientific study. Following a trial court ruling that the preamble did not provide sufficient authority to destroy the trees, the Fourth District Court of Appeals upheld the program. However, an administrative law judge later considered a challenge

to the program in an administrative proceeding and determined that the department could not destroy the trees without adopting a rule.

The department currently has authority to inspect property for citrus canker and other agricultural pests pursuant to s. 581.031, F.S.

### **III. Effect of Proposed Changes:**

**Section 1** of the CS amends s. 581.184, F.S. to require the department to remove and destroy all citrus trees that are either infected by citrus canker or exposed to infection by citrus canker. It defines “exposed to infection” to include all citrus trees that are within 1900 feet of a tree that is infected by citrus canker. This definition will clearly authorize the department to remove and destroy citrus trees located within 1900 feet of a tree that is infected with citrus canker.

The CS authorizes the department to issue immediate final orders to notify property owners of the removal of infected or exposed trees, and provides a ten-day period for the property owner to request a stay of the IFO from the district court of appeal. The IFO may be delivered in person, by certified mail, or by attaching it to a conspicuous place on the property. The department must simultaneously provide the property owner with the diagnostic report by which it was determined that the tree that exposed the property owner’s trees to citrus canker is infected with the disease, along with information detailing the physical location of the infected tree and its distance from the property owner’s exposed trees. The CS provides that an IFO does not have to be adopted by rule.

Section 581.184, F.S., currently provides for the county sheriff to assist the department with gaining access to private property for purposes of enforcing the provisions of law, and authorizes the department to reimburse the sheriff’s costs. The CS adds the “chief law enforcement officer” of the county to this provision.

**Section 2** of the CS amends s. 933.02, F.S., to provide grounds for issuance of search warrants relating to the spread of citrus canker.

**Section 3** amends s. 933.07, F.S., to authorize the department to obtain a search warrant, effective for up to six months, which may include the entire county in which the search warrant is issued. Issuance of a warrant requires a court proceeding at which a judge must receive, hear, and decide property owner objections to issuance of the warrant. Department employees or contractors would be authorized to serve the warrant.

**Section 4** provides that the definition of “exposed to infection” in s. 581.184(1)(b), F.S., will be repealed on July 1, 2005, and requires legislative review of the definition prior to that date.

**Section 5** provides that the act shall take effect upon becoming a law, except for repeal of s. 581.184(1)(b), F.S.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services estimates that there would be a \$34,300 yearly fiscal impact to carry out the provisions of this CS. The department assumes that public hearings would need to be held once a year in ten counties and would incur the following expenses:

Cost to advertise in Florida Administrative Weekly	300
Cost to advertise the hearing in local newspapers	15,000
Cost for transcription services	18,000
Travel costs for staff attendance	1,000
<b>TOTAL:</b>	<b>\$34,300</b>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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