

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.)

Prepared By: Agriculture Committee

BILL: SB 858

SPONSOR: Senator Smith

SUBJECT: Cultivation of Plants

DATE: March 11, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Pre-meeting</u>
2.	<u> </u>	<u> </u>	<u>EP</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>JU</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>GA</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill prohibits the cultivation of a naturalized plant for purposes of fuel production, or purposes other than agriculture, in plantings larger than two contiguous acres, except under a special permit issued by the Department of Agriculture and Consumer Services (department). It requires that the applicant maintain a bond or certificate of deposit in an amount of not less than 150 percent of the estimated cost of removing the plants. The bill authorizes the department to order that the plants be destroyed if there is a danger to public health, safety, and welfare or if the applicant exceeds the conditions of the special permit. The department is authorized to review cultivation records to determine compliance with the act.

This bill amends section 581.083 of the Florida Statutes.

II. Present Situation:

There is a growing interest in cultivating large crops of plants to be used as biomass for alternative energy sources for electric power generation. Concerns have been raised that if this enterprise is not profitable, large plantings of potentially invasive plants would be abandoned and the state could potentially be left with the responsibility of disposing of them. This bill addresses this concern by requiring persons wishing to grow biomass crops to obtain a special permit from the Department of Agriculture and Consumer Services and to provide proof of financial responsibility.

III. Effect of Proposed Changes:

Section 1. Amends s. 581.083, F.S., to prohibit the cultivation of naturalized plants for purposes of fuel production or purposes other than agriculture, in plantings larger than two contiguous

acres, except under a special permit issued by the Department of Agriculture and Consumer Services (department). Requires the permit applicant to pay a fee and to maintain a bond or certificate of deposit in an amount not less than 150 percent of the estimated cost of removing or destroying the plants. Specifies information that must be on the application for a special permit.

Requires the permitholder to annually cultivate and maintain the naturalized plants. If the permitholder ceases to do so, the plants must be removed and destroyed. Requires the permitholder to notify the department of such removal and destruction within 10 days. Authorizes the department to order that the plants be destroyed if there is a danger to public health, safety, and welfare or if the applicant exceeds the conditions of the special permit. Authorizes the department to issue an immediate final order under specified circumstances. Requires a permitholder to provide reimbursement if it is necessary for the department to remove and destroy plants subject to a special permit. Provides for an administrative hearing process for the permitholder if objections arise.

Provides requirements for maintenance of a bond or certificate of deposit by a permitholder. Provides requirements relating to assignment and cancellation of a bond or certificate of deposit. Authorizes the department to determine by rule whether to require an annual bond or certificate of deposit and to increase or decrease the amount of security required. Authorizes the department to review cultivation records during normal business hours to determine compliance with the act. Provides for suspension or revocation of a special permit.

Section 2. Provides that this act shall take effect July 1, 2005.

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:

The cost of the special permit issued for bio-mass plantings would be approximately \$50 per permit plus \$100 for two onsite inspections to ensure compliance of conditions

specified in the permit. There would also be the cost for obtaining a surety bond or a certificate of deposit, which would vary depending on the size of the planting.

C. Government Sector Impact:

Plant Industry Trust Fund Revenues:

Special Permit @ \$50 per permit – It is unknown how many permits would be issued. However, the Division of Plant Industry anticipates that no more than two or three will be issued per year for bio-mass plantings.

On-Site Inspection Fees @ \$100 for two inspections – The inspections will ensure compliance with the special permit. These fees are contingent on the number of special permits issued for bio-mass plantings. This fee is set by Rule 5B-2 of the Department of Agriculture and Consumer Services and is \$50 per special inspection visit.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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