

1 Grants Program; providing criteria for
2 distribution of grants; authorizing appointment
3 of an advisory council; providing purposes;
4 providing membership; authorizing the
5 department to adopt rules; creating s. 220.192,
6 F.S.; providing certain tax credits for certain
7 producers of ethanol and biodiesel; authorizing
8 the Department of Revenue to adopt certain
9 rules relating to the tax credits; providing
10 for future repeal of the tax credits; amending
11 s. 582.06, F.S.; revising the membership of the
12 Soil and Water Conservation Council; amending
13 s. 828.30, F.S.; updating references to the
14 Rabies Vaccination Certificate; amending s.
15 403.067, F.S.; clarifying rules adopted by the
16 department relating to best-management
17 practices; clarifying the authority for certain
18 measures to be implemented by the Department of
19 Environmental Protection for certain water
20 bodies; repealing s. 482.211(11), F.S.,
21 relating to an exemption from ch. 482, F.S.,
22 provided for a yard worker when applying a
23 pesticide to the lawn or ornamental plants of
24 an individual residential property owner under
25 certain circumstances; designating the "Austin
26 Dewey Gay Agricultural Inspection Station" in
27 Escambia County; providing an appropriation;
28 providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Subsections (7) and (12) of section
2 482.021, Florida Statutes, are amended to read:

3 482.021 Definitions.--For the purposes of this
4 chapter, and unless otherwise required by the context, the
5 term:

6 (7) "Employee" means a person who is employed by a
7 licensee that provides that person with necessary training,
8 supervision, pesticides, equipment, and insurance and who
9 receives compensation from and is under the personal
10 supervision and direct control of the licensee's certified
11 operator in charge and licensee from whose ~~which~~ compensation
12 ~~of~~ the licensee regularly deducts and matches federal
13 insurance contributions and federal income and Social Security
14 taxes.

15 (12) "Independent contractor" means an entity separate
16 from the licensee that:

17 (a) Receives moneys from a customer which are
18 deposited in a bank account other than that of the licensee;

19 (b) Owns or supplies its own service vehicle,
20 equipment, and pesticides; ~~or~~

21 (c) Maintains a business operation, office, or support
22 staff independent of the licensee's direct control;

23 (d) Pays its own operating expenses such as fuel,
24 equipment, pesticides, and materials; or

25 (e)(e) Pays its own workers' ~~worker's~~ compensation as
26 an independent contractor.

27 Section 2. Subsection (5) of section 482.051, Florida
28 Statutes, is amended to read:

29 482.051 Rules.--The department has authority to adopt
30 rules pursuant to ss. 120.536(1) and 120.54 to implement the
31 provisions of this chapter. Prior to proposing the adoption of

1 a rule, the department shall counsel with members of the pest
2 control industry concerning the proposed rule. The department
3 shall adopt rules for the protection of the health, safety,
4 and welfare of pest control employees and the general public
5 which require:

6 (5) That any pesticide used as the primary preventive
7 treatment for ~~preconstruction treatments for the prevention of~~
8 subterranean termites in new construction be applied in the
9 amount, concentration, and treatment area in accordance with
10 the label; that a copy of the label of the registered
11 pesticide being applied be carried in a vehicle at the site
12 where the pesticide is being applied; and that the licensee
13 maintain for 3 years the record of each preconstruction
14 treatment, indicating the date of treatment, the location or
15 address of the property treated, the total square footage of
16 the structure treated, the type of pesticide applied, the
17 concentration of each substance in the mixture applied, and
18 the total amount of pesticide applied.

19 Section 3. Paragraph (a) of subsection (2) of section
20 482.091, Florida Statutes, is amended to read:

21 482.091 Employee identification cards.--

22 (2)(a) An identification cardholder must be an
23 employee of the licensee and work under the direction and
24 supervision of the licensee's certified operator in charge and
25 shall ~~may~~ not be an independent contractor. An identification
26 cardholder shall operate ~~may perform~~ only ~~pest control~~
27 ~~services~~ out of, and ~~or~~ for customers assigned ~~arising~~ from,
28 the licensee's licensed business location. An identification
29 cardholder shall ~~may~~ not perform any pest control
30 independently of and without the knowledge of the licensee and
31

1 the licensee's certified operator in charge and shall ~~may~~
2 perform pest control only for the licensee's customers.

3 Section 4. Subsections (1), (2), and (3) of section
4 482.156, Florida Statutes, are amended to read:

5 482.156 Limited certification for commercial landscape
6 maintenance personnel.--

7 (1) The department shall establish a limited
8 certification category for individual commercial landscape
9 maintenance personnel to authorize them to apply herbicides
10 for controlling weeds in plant beds and to perform integrated
11 pest management on ornamental plants using ~~the following~~
12 ~~materials~~ insecticides and fungicides having the signal word
13 "caution" but not having the word "warning" or "danger" on the
14 label, ~~insecticidal soaps, horticultural oils, and bacillus~~
15 ~~thuringiensis formulations~~. The application equipment that may
16 be used by a person certified pursuant to this section is
17 limited to portable, handheld 3-gallon compressed air sprayers
18 or backpack sprayers having no more than a 5-gallon capacity
19 and does not include power equipment.

20 (2)(a) A person seeking limited certification under
21 this section must pass an examination given by the department.
22 Each application for examination must be accompanied by an
23 examination fee set by rule of the department, in an amount of
24 not more than \$150 or less than \$50; ~~however, until a rule~~
25 ~~setting this fee is adopted by the department, the examination~~
26 ~~fee is \$50. Prior to the department's issuing a limited~~
27 ~~certification under this section, each person applying making~~
28 ~~application for the certification under this section~~ must
29 furnish proof of having a certificate of insurance which
30 states that the employer meets the requirements for minimum
31

1 financial responsibility for bodily injury and property damage
2 required by s. 482.071(4).

3 **(b)** To be eligible to take the examination, an
4 applicant must have completed 6 & classroom hours of plant bed
5 and ornamental continuing education training approved by the
6 department and provide sufficient proof, according to criteria
7 established by department rule, ~~that the applicant has been in~~
8 ~~the landscape maintenance business for at least 3 years.~~

9 ~~(b)~~ The department shall provide the appropriate
10 reference materials for the examination and make the
11 examination readily accessible and available to applicants at
12 least quarterly or as necessary in each county.

13 (3) An application for recertification under this
14 section must be made annually and be accompanied by a
15 recertification fee set by rule of the department, in an
16 amount of not more than \$75 or less than \$25; ~~however, until a~~
17 ~~rule setting this fee is adopted by the department, the fee~~
18 ~~for recertification is \$25.~~ The application must also be
19 accompanied by proof of having completed 4 classroom hours of
20 acceptable continuing education and the same proof of having a
21 certificate of insurance as is required for issuance of this
22 ~~initial~~ certification. After a grace period not exceeding 30
23 calendar days following the annual date that recertification
24 is due, a late renewal charge of \$50 shall be assessed and
25 must be paid in addition to the renewal fee. Unless timely
26 recertified, a certificate automatically expires 180 calendar
27 days after the anniversary recertification date. Subsequent to
28 such expiration, a certificate may be issued only upon
29 successful reexamination and upon payment of the examination
30 fees due.

31

1 Section 5. Subsection (7) of section 482.211, Florida
2 Statutes, is amended to read:

3 482.211 Exemptions.--This chapter does not apply to:

4 (7) ~~Area~~ Mosquito control activities conducted by a
5 local government or district established under chapter 388 or
6 by special act or by a contractor of the local government or
7 district.

8 Section 6. Section 500.033, Florida Statutes, is
9 amended to read:

10 500.033 Florida Food Safety and Food Defense Security
11 Advisory Council.--

12 (1) There is created the Florida Food Safety and Food
13 Defense Security Advisory Council for the purpose of serving
14 as a forum for presenting, investigating, and evaluating
15 issues of current importance to the assurance of a safe and
16 secure food supply to the citizens of Florida. The Florida
17 Food Safety and Food Defense Security Advisory Council shall
18 consist of, but not be limited to: the Commissioner of
19 Agriculture or his or her designee; the Secretary of Health or
20 his or her designee; the Secretary of Business and
21 Professional Regulation or his or her designee; the person
22 responsible for domestic security with the ~~Florida~~ Department
23 of Law Enforcement; members representing the production,
24 processing, distribution, and sale of foods; consumers or
25 ~~and/or~~ members of citizens groups; representatives of ~~or~~ food
26 industry groups; scientists or other experts in aspects of
27 food safety from state universities; representatives from
28 local, state, and federal agencies that are charged with
29 responsibilities for food safety or food defense security; the
30 chairs of the Agriculture Committees of the Senate and the
31 House of Representatives or their designees; and the chairs of

1 | the committees of the Senate and the House of Representatives
2 | with jurisdictional oversight of home defense issues or their
3 | designees. The Commissioner of Agriculture shall appoint the
4 | remaining members. The council shall make periodic reports to
5 | the Department of Agriculture and Consumer Services concerning
6 | findings and recommendations in the area of food safety and
7 | food ~~defense security~~.

8 | (2) The council shall consider the development of
9 | appropriate advice or recommendations on food safety or food
10 | ~~defense security~~ issues. In the discharge of their duties, the
11 | council members may receive for review confidential data
12 | exempt from the provisions of s. 119.07(1); however, it is
13 | unlawful for any member of the council to use the data for his
14 | or her advantage or reveal the data to the general public.

15 | Section 7. Section 570.954, Florida Statutes, is
16 | created to read:

17 | 570.954 Farm to fuel.--

18 | (1) This section may be cited as the "Florida Farm to
19 | Fuel Act."

20 | (2) The Legislature finds that:

21 | (a) Utilization of Florida crops and biomass for
22 | production of bioenergy is important for the state's future
23 | energy stability, protection of its environment, and continued
24 | viability of its agriculture industry.

25 | (b) Development of bioenergy will help to reduce
26 | demand for foreign fuels, reduce pollution, and promote
27 | economic growth.

28 | (c) Assistance in the production and distribution of
29 | bioenergy in the state is needed.

30 | (d) Production of bioenergy in the state is ideal due
31 | to the state's vast amount of farm acreage and mild climate,

1 which permit crops to be grown virtually year-round, and the
2 availability of other biomass.

3 (3) This section is intended to provide grants to:

4 (a) Stimulate capital investment in the state and
5 enhance the market for and promote the production and
6 distribution of bioenergy.

7 (b) Advance the already growing establishment of
8 bioenergy technologies in the state and attract additional
9 bioenergy production to the state.

10 (c) Demonstrate technologies or processes that convert
11 Florida-grown crops, agricultural wastes and residues, and
12 other biomass into bioenergy.

13 (4) As used in this section, the term:

14 (a) "Biomass" means a power source that is comprised
15 of, but not limited to, combustible residues or gases from
16 forest products manufacturing, agricultural and orchard crops,
17 waste products from livestock and poultry operations and food
18 processing, urban wood waste, municipal solid waste, municipal
19 liquid waste treatment operations, and landfills.

20 (b) "Department" means the Department of Agriculture
21 and Consumer Services.

22 (c) "Person" means an individual, partnership, joint
23 venture, private or public corporation, association, firm,
24 public service company, or any other entity, public or
25 private, however organized.

26 (5) The Farm to Fuel Grants Program is established
27 within the department to provide grants for research,
28 development, and demonstration of commercial applications of
29 bioenergy technology.

30
31

1 (a) Grants made under this section for bioenergy
2 projects may be made to any person who meets the criteria in
3 this section.

4 (b) Factors the department may consider in awarding
5 grants include, but are not limited to, the degree to which:

6 1. The project stimulates in-state capital investment
7 and economic development in metropolitan and rural areas,
8 including the creation of jobs and the future development of a
9 commercial market for bioenergy.

10 2. The project produces bioenergy from Florida-grown
11 crops or biomass.

12 3. The project demonstrates efficient use of energy
13 and material resources.

14 4. The project fosters overall understanding and
15 appreciation of bioenergy technologies.

16 5. Matching funds and in-kind contributions from an
17 applicant are available.

18 6. The project duration and the timeline for
19 expenditures are acceptable.

20 7. The project has a reasonable assurance of enhancing
21 the value of agricultural products or will expand agribusiness
22 in the state.

23 8. Preliminary market and feasibility research has
24 been conducted by the applicant or others and shows there is a
25 reasonable assurance of a potential market.

26 (c) The department may conduct a statewide
27 comprehensive information and education program aimed at
28 informing the business sector of the availability of the
29 grants and educating the public about the benefits of
30 renewable energy and the use of alternative fuels.

31

1 (6) Pursuant to s. 570.0705, the Commissioner of
2 Agriculture may appoint a Florida Farm to Fuel Advisory
3 Council consisting of a diverse group of stakeholders that
4 includes, but is not limited to, representatives of the
5 agriculture industry, researchers, fuel suppliers, technology
6 manufacturers, and environmental interests. The council shall
7 provide advice and counsel to the Commissioner of Agriculture
8 on the production of bioenergy in the state.

9 (7) The department may adopt rules pursuant to ss.
10 120.536(1) and 120.54 to implement the provisions of this
11 section.

12 Section 8. Section 220.192, Florida Statutes, is
13 created to read:

14 220.192 Farm to fuel production tax credit.--

15 (1) For tax years beginning on or after January 1,
16 2007, a credit against the tax imposed under this chapter
17 shall be granted in an amount to be determined as follows:

18 (a) A taxpayer who produces ethanol at a facility
19 located in this state is entitled to a credit against the
20 taxpayer's state tax liability equal to the product of 20
21 cents multiplied by the number of gallons of ethanol produced
22 at the facility using Florida-grown commodities.

23 (b) A taxpayer who produces biodiesel at a facility
24 located in this state is entitled to a credit against the
25 taxpayer's state tax liability equal to the product of 20
26 cents multiplied by the number of gallons of biodiesel
27 produced at the facility using Florida-grown commodities.

28 (2) The department shall adopt rules relating to the
29 forms required to claim a tax credit under this section, the
30 requirements and basis for establishing an entitlement to a
31

1 credit, and the examination and audit procedures required to
2 administer this section.

3 (3) This section is repealed July 1, 2010.

4 Section 9. Paragraphs (b) and (c) of subsection (1) of
5 section 582.06, Florida Statutes, are amended to read:

6 582.06 Soil and Water Conservation Council; powers and
7 duties.--

8 (1) COMPOSITION.--The Soil and Water Conservation
9 Council is created in the Department of Agriculture and
10 Consumer Services and shall be composed of 23 members as
11 follows:

12 (b) Twelve ~~nonvoting ex officio~~ members shall include
13 one representative each from the Department of Environmental
14 Protection, the five water management districts, the Institute
15 of Food and Agricultural Sciences at the University of
16 Florida, the United States Department of Agriculture Natural
17 Resources Conservation Service, the Florida Association of
18 Counties, and the Florida League of Cities, and two
19 representatives of environmental interests.

20 (c) All members shall be appointed by the
21 commissioner. ~~Ex officio~~ Members appointed pursuant to
22 paragraph (b) shall be appointed by the commissioner from
23 recommendations provided by the organization or interest
24 represented.

25 Section 10. Subsection (3) of section 828.30, Florida
26 Statutes, is amended to read:

27 828.30 Rabies vaccination of dogs, cats, and
28 ferrets.--

29 (3) Upon vaccination against rabies, the licensed
30 veterinarian shall provide the animal's owner and the animal
31 control authority with a rabies vaccination certificate. Each

1 animal control authority and veterinarian shall use the Form
2 ~~51,~~ "Rabies Vaccination Certificate~~7~~" of the National
3 Association of State Public Health Veterinarians (NASPHV) or
4 an equivalent form approved by the local government that
5 contains all the information required by the NASPHV Rabies
6 Vaccination Certificate Form ~~51~~. The veterinarian who
7 administers the rabies vaccine to an animal as required under
8 this section may affix his or her signature stamp in lieu of
9 an actual signature.

10 Section 11. Paragraph (c) of subsection (7) and
11 subsection (11) of section 403.067, Florida Statutes, are
12 amended to read:

13 403.067 Establishment and implementation of total
14 maximum daily loads.--

15 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
16 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

17 (c) Best management practices.--

18 1. The department, in cooperation with the water
19 management districts and other interested parties, as
20 appropriate, may develop suitable interim measures, best
21 management practices, or other measures necessary to achieve
22 the level of pollution reduction established by the department
23 for nonagricultural nonpoint pollutant sources in allocations
24 developed pursuant to subsection (6) and this subsection.
25 These practices and measures may be adopted by rule by the
26 department and the water management districts pursuant to ss.
27 120.536(1) and 120.54, and, where adopted by rule, shall be
28 implemented by those parties responsible for nonagricultural
29 nonpoint source pollution.

30 2. The Department of Agriculture and Consumer Services
31 may develop and adopt by rule pursuant to ss. 120.536(1) and

1 120.54 suitable interim measures, best management practices,
2 or other measures necessary to achieve the level of pollution
3 reduction established by the department for agricultural
4 pollutant sources in allocations developed pursuant to
5 subsection (6) and this subsection or for programs implemented
6 pursuant to paragraph (11)(b). These practices and measures
7 may be implemented by those parties responsible for
8 agricultural pollutant sources and the department, the water
9 management districts, and the Department of Agriculture and
10 Consumer Services shall assist with implementation. In the
11 process of developing and adopting rules for interim measures,
12 best management practices, or other measures, the Department
13 of Agriculture and Consumer Services shall consult with the
14 department, the Department of Health, the water management
15 districts, representatives from affected farming groups, and
16 environmental group representatives. Such rules shall also
17 incorporate provisions for a notice of intent to implement the
18 practices and a system to assure the implementation of the
19 practices, including recordkeeping requirements.

20 3. Where interim measures, best management practices,
21 or other measures are adopted by rule, the effectiveness of
22 such practices in achieving the levels of pollution reduction
23 established in allocations developed by the department
24 pursuant to subsection (6) and this subsection or in programs
25 implemented pursuant to paragraph (11)(b) shall be verified at
26 representative sites by the department. The department shall
27 use best professional judgment in making the initial
28 verification that the best management practices are reasonably
29 expected to be effective and, where applicable, shall notify
30 the appropriate water management district or ~~and~~ the
31 Department of Agriculture and Consumer Services of its initial

1 verification prior to the adoption of a rule proposed pursuant
2 to this paragraph. Implementation, in accordance with rules
3 adopted under this paragraph, of practices that have been
4 initially verified to be effective, or verified to be
5 effective by monitoring at representative sites, by the
6 department, shall provide a presumption of compliance with
7 state water quality standards and release from the provisions
8 of s. 376.307(5) for those pollutants addressed by the
9 practices, and the department is not authorized to institute
10 proceedings against the owner of the source of pollution to
11 recover costs or damages associated with the contamination of
12 surface water or groundwater caused by those pollutants.

13 Research funded by the department, a water management
14 district, or the Department of Agriculture and Consumer
15 Services to develop or demonstrate interim measures or
16 best-management practices is granted a presumption of
17 compliance with state water quality standards and release from
18 s. 376.307(5) which is limited to the research site for those
19 pollutants addressed by the practices.

20 4. Where water quality problems are demonstrated,
21 despite the appropriate implementation, operation, and
22 maintenance of best management practices and other measures
23 according to rules adopted under this paragraph, the
24 department, a water management district, or the Department of
25 Agriculture and Consumer Services, in consultation with the
26 department, shall institute a reevaluation of the best
27 management practice or other measure. Should the reevaluation
28 determine that the best management practice or other measure
29 requires modification, the department, a water management
30 district, or the Department of Agriculture and Consumer
31 Services, as appropriate, shall revise the rule to require

1 implementation of the modified practice within a reasonable
2 time period as specified in the rule.

3 5. Individual agricultural records relating to
4 processes or methods of production, or relating to costs of
5 production, profits, or other financial information which are
6 otherwise not public records, which are reported to the
7 Department of Agriculture and Consumer Services pursuant to
8 subparagraphs 3. and 4. or pursuant to any rule adopted
9 pursuant to subparagraph 2. shall be confidential and exempt
10 from s. 119.07(1) and s. 24(a), Art. I of the State
11 Constitution. Upon request of the department or any water
12 management district, the Department of Agriculture and
13 Consumer Services shall make such individual agricultural
14 records available to that agency, provided that the
15 confidentiality specified by this subparagraph for such
16 records is maintained. This subparagraph is subject to the
17 Open Government Sunset Review Act of 1995 in accordance with
18 s. 119.15, and shall stand repealed on October 2, 2006, unless
19 reviewed and saved from repeal through reenactment by the
20 Legislature.

21 6. The provisions of subparagraphs 1. and 2. shall not
22 preclude the department or water management district from
23 requiring compliance with water quality standards or with
24 current best management practice requirements set forth in any
25 applicable regulatory program authorized by law for the
26 purpose of protecting water quality. Additionally,
27 subparagraphs 1. and 2. are applicable only to the extent that
28 they do not conflict with any rules adopted by the department
29 that are necessary to maintain a federally delegated or
30 approved program.

31 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

1 (a) The department shall not implement, without prior
2 legislative approval, any additional regulatory authority
3 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
4 130, if such implementation would result in water quality
5 discharge regulation of activities not currently subject to
6 regulation.

7 (b) Interim measures, best management practices, or
8 other measures may be developed and voluntarily implemented
9 pursuant to ~~paragraph subparagraphs~~ (7)(c)1. and 2. for any
10 water body or segment for which a total maximum daily load or
11 allocation has not been established. The implementation of
12 such pollution control programs may be considered by the
13 department in the determination made pursuant to subsection
14 (4).

15 Section 12. Subsection (11) of section 482.211,
16 Florida Statutes, is repealed.

17 Section 13. Austin Dewey Gay Agricultural Inspection
18 Station designated; department to erect suitable markers.--

19 (1) The agricultural inspection station located at or
20 near mile marker 1 on Interstate Highway 10 in Escambia County
21 is designated as "Austin Dewey Gay Memorial Agricultural
22 Inspection Station."

23 (2) The Department of Agriculture and Consumer
24 Services is directed to erect suitable markers designating the
25 Austin Dewey Gay Memorial Agricultural Inspection Station as
26 described in subsection (1).

27 Section 14. The sum of \$5,500,000 is appropriated from
28 the General Revenue Fund to the Department of Agriculture and
29 Consumer Services for the purpose of implementing s.
30 570.954(5), Florida Statutes.

31 Section 15. This act shall take effect July 1, 2006.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 1388

The committee substitute for committee substitute differs from the committee substitute as filed in that it:

- Authorizes the department to conduct a statewide information and education program aimed at informing the business sector on the available grants and educating the general public on the benefits of renewable energy and the use of alternative fuel;
- Designates the Austin Dewey Gay Agricultural Inspection station in Escambia County; and
- Provides an appropriation of \$5,500,000 from the General Revenue Fund to the Department of Agriculture and consumer Services to implement the Farms to Fuel Grant Program.