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CHAMBER ACTION

1 The Agriculture & Environment Appropriations Committee
2 recommends the following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to agriculture; amending s. 193.461, F.S.;
8 revising criteria for agricultural lands taken out of
9 production by any state or federal eradication or
10 quarantine program; amending s. 581.184, F.S.; requiring
11 the Department of Agriculture and Consumer Services to
12 implement a citrus health plan for certain purposes;
13 eliminating the authority of the department to remove and
14 destroy certain citrus trees; deleting definitions and
15 provisions relating to immediate final orders, notice to
16 property owners, rulemaking authority, and the posting of
17 certain orders, to conform; requiring certain law
18 enforcement officers to maintain order under certain
19 circumstances involving the citrus canker disease
20 management process; creating s. 581.1843, F.S.; making it
21 unlawful to propagate certain citrus nursery stock on or
22 after January 1, 2007, at sites and under certain
23 conditions not approved by the department; providing

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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24 exceptions; providing rulemaking authority; specifying
25 regulation of certain varieties of citrus plants;
26 providing exceptions; requiring the department to
27 establish certain regulated areas around commercial citrus
28 nurseries; providing exceptions; providing for notice to
29 property owners by immediate final order prior to removal
30 of certain citrus trees; providing an appeal process for
31 an immediate final order; providing for preemption to the
32 state to regulate the removal and destruction of certain
33 citrus plants; requiring the department to relocate
34 certain trees to certain locations; amending s. 581.1845,
35 F.S.; requiring certain compensation claims to be filed by
36 December 31, 2007; providing for the expiration of
37 compensation claims not filed prior to January 1, 2008;
38 providing for payment of claims by specified funding;
39 providing for future repeal; amending ss. 120.80,
40 348.0008, 933.02, and 933.40, F.S.; deleting provisions
41 and cross-references, to conform; amending s. 11.062, F.S.;
42 providing an exception to the prohibition against the use
43 of state funds by certain state agencies to employ
44 lobbyists under certain circumstances; providing an
45 effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Subsection (7) of section 193.461, Florida
50 Statutes, is amended to read:

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51 193.461 Agricultural lands; classification and assessment;
52 mandated eradication or quarantine program.--

53 (7) Lands classified for assessment purposes as
54 agricultural lands which are taken out of production by any
55 state or federal eradication or quarantine program shall
56 continue to be classified as agricultural lands for the duration
57 of such program or successor programs. Lands under these
58 programs which are converted to fallow, or otherwise nonincome-
59 producing uses shall continue to be classified as agricultural
60 lands and shall be assessed at a de minimis value of no more
61 than \$50 per acre, on a single year assessment methodology;
62 however, lands converted to other income-producing agricultural
63 uses permissible under such programs shall be assessed pursuant
64 to this section. Land under a mandated eradication or quarantine
65 program which is diverted from an agricultural to a
66 nonagricultural use shall be assessed under the provisions of s.
67 193.011.

68 Section 2. Section 581.184, Florida Statutes, is amended
69 to read:

70 581.184 Adoption of rules; citrus disease management
71 ~~eanker eradication; voluntary destruction agreements~~.--

72 (1) The department shall adopt by rule, pursuant to ss.
73 120.536(1) and 120.54, and implement a comprehensive citrus
74 health plan to minimize the impact of exotic citrus pests and
75 diseases to citrus production and to allow for the orderly
76 marketing of citrus fruit in other states and countries. ~~As used~~
77 ~~in this section, the term:~~

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78 ~~(a) "Infected or infested" means citrus trees harboring~~
79 ~~the citrus canker bacteria and exhibiting visible symptoms of~~
80 ~~the disease.~~

81 ~~(b) "Exposed to infection" means citrus trees located~~
82 ~~within 1,900 feet of an infected tree.~~

83 ~~(2)(a) The department shall remove and destroy all~~
84 ~~infected citrus trees and all citrus trees exposed to infection.~~
85 ~~The department may destroy, by chipping, trees removed pursuant~~
86 ~~to this section. Notice of the removal of such trees, by~~
87 ~~immediate final order, shall be provided to the owner of the~~
88 ~~property on which such trees are located. An immediate final~~
89 ~~order issued by the department pursuant to this section shall~~
90 ~~notify the property owner that the citrus trees that are the~~
91 ~~subject of the immediate final order will be removed and~~
92 ~~destroyed unless the property owner, no later than 10 days after~~
93 ~~delivery of the immediate final order pursuant to subsection~~
94 ~~(3), requests and obtains a stay of the immediate final order~~
95 ~~from the district court of appeal with jurisdiction to review~~
96 ~~such requests. The property owner shall not be required to seek~~
97 ~~a stay of the immediate final order by the department prior to~~
98 ~~seeking the stay from the district court of appeal.~~

99 (2)(b) Regulation of the removal or destruction of citrus
100 trees pursuant to this section is hereby preempted to the state.
101 No county, municipal, or other local ordinance or other
102 regulation that would otherwise impose requirements,
103 restrictions, or conditions upon the department or its
104 contractors with respect to the removal or destruction of citrus

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105 trees pursuant to this section shall be enforceable against the
106 department or its contractors.

107 ~~(3) Any immediate final order issued by the department~~
108 ~~pursuant to this section:~~

109 ~~(a) May be delivered in person, by certified mail, or by~~
110 ~~attaching the order to a conspicuous place on the property on~~
111 ~~which a citrus tree to be removed is located.~~

112 ~~(b) Is not required to be adopted by the department as a~~
113 ~~rule.~~

114 ~~(4) Simultaneously with the delivery of an immediate final~~
115 ~~order, the department shall also provide the following~~
116 ~~information to a property owner:~~

117 ~~(a) The physical location of the infected tree which has~~
118 ~~necessitated removal and destruction of the property owner's~~
119 ~~tree.~~

120 ~~(b) The diagnostic report that resulted in the~~
121 ~~determination that the infected tree is infected with the citrus~~
122 ~~eanker.~~

123 (3)~~(5)~~ The department shall ~~is directed to~~ adopt rules,
124 pursuant to ss. 120.536(1) and 120.54, regarding the conditions
125 under which citrus plants, ~~other than those that are infected or~~
126 ~~exposed to infection,~~ can be grown, moved, and planted in this
127 state as may be necessary for the eradication, control, or
128 prevention of the dissemination of citrus diseases ~~eanker~~. Such
129 rules shall be in effect for any period during which, in the
130 judgment of the Commissioner of Agriculture, there is the threat
131 of the spread of citrus diseases ~~eanker disease~~ in the state.
132 ~~Such rules may provide for the conduct of any activity regulated~~

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133 | ~~by such rules subject to an agreement by persons wishing to~~
134 | ~~engage in such activity to voluntarily destroy, at their own~~
135 | ~~expense, citrus plants declared by the department to be~~
136 | ~~imminently dangerous by reason of being infected or infested~~
137 | ~~with citrus canker or exposed to infection and likely to~~
138 | ~~communicate same. The terms of such agreement may also require~~
139 | ~~the destruction of healthy plants under specified conditions.~~
140 | ~~Any such destruction shall be done after reasonable notice in a~~
141 | ~~manner pursuant to and under conditions set forth in the~~
142 | ~~agreement. Such agreements may include releases and waivers of~~
143 | ~~liability and may require the agreement of other persons.~~

144 | (4)~~(6)~~ The department shall develop by rule, pursuant to
145 | ss. 120.536(1) and 120.54, a statewide program of
146 | decontamination to prevent and limit the spread of citrus canker
147 | disease. Such program shall address the application of
148 | decontamination procedures and practices to all citrus plants
149 | and plant products, vehicles, equipment, machinery, tools,
150 | objects, and persons who could in any way spread or aid in the
151 | spreading of citrus canker in this state. In order to prevent
152 | contamination of soil and water, such rules shall be developed
153 | in consultation with the Department of Environmental Protection.
154 | The department may develop compliance and other agreements which
155 | it determines can aid in the carrying out of the purposes of
156 | this section, and enter into such agreements with any person or
157 | entity.

158 | (5)~~(7)~~ Owners or ~~and/or~~ operators of nonproduction
159 | vehicles and equipment shall follow the department guidelines
160 | for citrus canker decontamination effective June 15, 2000. The

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161 ~~department shall publish the guidelines in the Florida~~
162 ~~Administrative Weekly and on the department Internet website.~~
163 ~~The guidelines shall be posted no later than May 15, 2000.~~

164 (6)~~(8)~~ Notwithstanding any provision of law, the
165 Department of Environmental Protection is not authorized to
166 institute proceedings against any person under the provisions of
167 s. 376.307(5) to recover any costs or damages associated with
168 contamination of soil or water, or the evaluation, assessment,
169 or remediation of contamination of soil or water, including
170 sampling, analysis, and restoration of soil or potable water
171 supplies, where the contamination of soil or water is determined
172 to be the result of a program of decontamination to prevent and
173 limit the spread of citrus canker disease pursuant to rules
174 developed under this section. This subsection does not limit
175 regulatory authority under a federally delegated or approved
176 program.

177 (7)~~(9)~~ Upon request of the department, the sheriff or
178 chief law enforcement officer of each county in the state shall
179 provide assistance in obtaining access to private property for
180 the purpose of enforcing the provisions of this section. The
181 sheriff or chief law enforcement officer shall be responsible
182 for maintaining public order during the citrus disease
183 management ~~eradication~~ process and protecting the safety of
184 department employees, representatives, and agents charged with
185 implementing and enforcing the provisions of this section. The
186 department may reimburse the sheriff or chief law enforcement
187 officer for the reasonable costs of implementing the provisions
188 of this subsection.

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189 ~~(10) Posting of an order on the property on which citrus~~
 190 ~~trees are to be cut pursuant to the citrus canker eradication~~
 191 ~~program shall meet the notice requirement of s. 120.569(1).~~

192 Section 3. Section 581.1843, Florida Statutes, is created
 193 to read:

194 581.1843 Citrus nursery stock propagation and production
 195 and the establishment of regulated areas around citrus
 196 nurseries.--

197 (1) As used in this section the term "commercial citrus
 198 grove" means a solid set planting of 40 or more citrus trees.

199 (2) Effective January 1, 2007, it is unlawful for any
 200 person to propagate for sale or movement any citrus nursery
 201 stock that was not propagated or grown on a site and within a
 202 protective structure approved by the department and that is not
 203 at least 1 mile away from commercial citrus groves. A citrus
 204 nursery registered with the department prior to April 1, 2006,
 205 shall not be required to comply with the 1-mile setback from
 206 commercial citrus groves while continuously operating at the
 207 same location for which it was registered. However, the nursery
 208 shall be required to propagate citrus within a protective
 209 structure approved by the department. Effective January 1, 2008,
 210 it shall be unlawful to distribute any citrus nursery stock that
 211 was not produced in a protective structure approved by the
 212 department.

213 (3) The department shall adopt rules pursuant to ss.
 214 120.536(1) and 120.54 that set forth the conditions under which
 215 citrus nursery stock can be propagated, grown, sold, or moved

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216 and the specifications for the approved site and protective
217 structure.

218 (4) Under the provisions of this chapter, the department
219 shall adopt rules that are consistent with scientific findings
220 and recommendations of the Citrus Budwood Technical Advisory
221 Committee to regulate all genera of the Rutaceous subfamilies
222 Aurantioideae, Rutoideae, and Toddalioideae that pose a threat
223 of introducing or spreading a citrus plant pest.

224 (5) The department shall establish regulated areas around
225 the perimeter of commercial citrus nurseries that were
226 established on sites after April 1, 2006, not to exceed a radius
227 of 1 mile. The planting of citrus in an established regulated
228 area is prohibited. The planting of citrus within a 1-mile
229 radius of commercial citrus nurseries that were established on
230 sites prior to April 1, 2006, must be approved by the
231 department. Citrus plants planted within a regulated area prior
232 to the establishment of the regulated area may remain in the
233 regulated area unless the department determines the citrus
234 plants to be infected or infested with citrus canker or citrus
235 greening. The department shall require the removal of infected
236 or infested citrus, nonapproved planted citrus, and citrus that
237 has sprouted by natural means in regulated areas. The property
238 owner shall be responsible for the removal of citrus planted
239 without proper approval. Notice of the removal of citrus trees,
240 by immediate final order of the department, shall be provided to
241 the owner of the property on which the trees are located. An
242 immediate final order issued by the department under this
243 section shall notify the property owner that the citrus trees,

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244 which are the subject of the immediate final order, must be
245 removed and destroyed unless the property owner, no later than
246 10 days after delivery of the immediate final order, requests
247 and obtains a stay of the immediate final order from the
248 district court of appeal with jurisdiction to review such
249 requests. The property owner shall not be required to seek a
250 stay from the department of the immediate final order prior to
251 seeking a stay from the district court of appeal.

252 (6) Regulation of the removal or destruction of citrus
253 plants under this section is preempted to the state. No county,
254 municipal, or other local ordinance or other regulation that
255 would otherwise impose requirements, restrictions, or conditions
256 upon the department or its contractors with respect to the
257 removal or destruction of citrus trees under this section shall
258 be enforceable against the department or its contractors.

259 (7) The department shall relocate foundation source trees
260 maintained by the Division of Plant Industry from various
261 locations, including those in Dundee and Winter Haven, to
262 protective structures at the Division of Forestry nursery in
263 Chiefland or to other protective sites located a minimum of 10
264 miles from any commercial citrus grove. The department is
265 authorized to expend existing funds from its Contracts and
266 Grants Trust Fund for this purpose.

267 Section 4. Subsection (1) of section 581.1845, Florida
268 Statutes, is amended, and subsections (6) and (7) are added to
269 that section, to read:

270 581.1845 Citrus canker eradication; compensation to
271 homeowners whose trees have been removed.--

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272 (1) The Department of Agriculture and Consumer Services
 273 shall provide compensation to eligible homeowners whose citrus
 274 trees have been removed under a citrus canker eradication
 275 program. Funds to pay this compensation may be derived from both
 276 state and federal matching sources and shall be specifically
 277 appropriated by law. Eligible homeowners shall be compensated
 278 subject to the availability of ~~appropriated~~ specifically
 279 appropriated in fiscal year 2006-2007 or prior fiscal years for
 280 that purpose.

281 (6) Any claim for compensation under this section or under
 282 the Shade Dade or Shade Florida programs must be filed with the
 283 department no later than December 31, 2007. Effective January 1,
 284 2008, all unfiled claims shall expire.

285 (7) This section expires July 1, 2008.

286 Section 5. Paragraph (c) of subsection (2) of section
 287 120.80, Florida Statutes, is amended to read:

288 120.80 Exceptions and special requirements; agencies.--

289 (2) DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.--

290 ~~(c) The provisions of ss. 120.54 and 120.56 shall not~~
 291 ~~apply to any statement or action by the department in~~
 292 ~~furtherance of its duties pursuant to s. 581.184(2).~~

293 Section 6. Subsection (2) of section 348.0008, Florida
 294 Statutes, is amended to read:

295 348.0008 Acquisition of lands and property.--

296 (2) An authority and its authorized agents, contractors,
 297 and employees are authorized to enter upon any lands, waters,
 298 and premises, upon giving reasonable notice to the landowner,
 299 for the purpose of making surveys, soundings, drillings,

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300 appraisals, environmental assessments including phase I and
 301 phase II environmental surveys, archaeological assessments, and
 302 such other examinations as are necessary for the acquisition of
 303 private or public property and property rights, including rights
 304 of access, air, view, and light, by gift, devise, purchase, or
 305 condemnation by eminent domain proceedings or as are necessary
 306 for the authority to perform its duties and functions; and any
 307 such entry shall not be deemed a trespass or an entry that would
 308 constitute a taking in an eminent domain proceeding. An
 309 expressway authority shall make reimbursement for any actual
 310 damage to such lands, water, and premises as a result of such
 311 activities. Any entry authorized by this subsection shall be in
 312 compliance with the premises protections and landowner liability
 313 provisions contained in s. ss. 472.029 and 581.184.

314 Section 7. Section 933.02, Florida Statutes, is amended to
 315 read:

316 933.02 Grounds for issuance of search warrant.--Upon
 317 proper affidavits being made, a search warrant may be issued
 318 under the provisions of this chapter upon any of the following
 319 grounds:

320 (1) When the property shall have been stolen or embezzled
 321 in violation of law;

322 (2) When any property shall have been used:

323 (a) As a means to commit any crime;;

324 (b) In connection with gambling, gambling implements and
 325 appliances;; or

326 (c) In violation of s. 847.011 or other laws in reference
 327 to obscene prints and literature;

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- 328 (3) When any property constitutes evidence relevant to
 329 proving that a felony has been committed;
- 330 (4) When any property is being held or possessed:
- 331 (a) In violation of any of the laws prohibiting the
 332 manufacture, sale, and transportation of intoxicating liquors;i~~r~~
 333 ~~or~~
- 334 (b) In violation of the fish and game laws;i~~r~~~~or~~
- 335 (c) In violation of the laws relative to food and drug;i~~r~~
 336 or
- 337 (d) In violation of the laws relative to citrus disease a
 338 ~~quarantine for citrus canker~~ pursuant to ss. s. 581.184 and
 339 581.1845, ~~or~~
- 340 ~~(e) Which may be inspected, treated, seized, or destroyed~~
 341 ~~pursuant to s. 581.184; or~~
- 342 (5) When the laws in relation to cruelty to animals, as
 343 provided in chapter 828, have been or are violated in any
 344 particular building or place.

345

346 This section also applies to any papers or documents used as a
 347 means of or in aid of the commission of any offense against the
 348 laws of the state.

349 Section 8. Paragraph (f) of subsection (1) and paragraph
 350 (b) of subsection (3) of section 933.40, Florida Statutes, are
 351 amended to read:

352 933.40 Agriculture warrants.--

353 (1) As used in this section:

354 (f) "Plant pest" means any plant pest, noxious weed, or
 355 arthropod declared a nuisance by the department pursuant to s.

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356 | 581.031(6), ~~or any plant infected or exposed to infection as~~
357 | ~~defined in s. 581.184(1).~~

358 | (3) An agriculture warrant shall be issued only upon
359 | probable cause. In determining the existence of probable cause
360 | for the issuance of one or more agriculture warrants, one or
361 | more of the following findings may be sufficient to support a
362 | determination of probable cause:

363 | (b) Under all of the circumstances set forth in the
364 | affidavit, there is a fair probability the property subject to
365 | the agriculture warrant:

366 | 1. Contains a plant pest;

367 | 2. Is located in an area which may reasonably be suspected
368 | of being infested or infected with a plant pest due to its
369 | proximity to a known infestation, or if it is reasonably exposed
370 | to infestation;

371 | ~~3. Is located in a Section in which the department has~~
372 | ~~diagnosed the presence of one or more plants infected with~~
373 | ~~citrus canker as defined in s. 581.184(1)(a) or is located in a~~
374 | ~~Section adjacent thereto;~~

375 | 3.4. Contains animals affected with any animal pest or
376 | which have been exposed to and are liable to spread the animal
377 | pest; or

378 | 4.5. Contains any other property that is liable to convey
379 | an animal pest.

380 | Section 9. Subsection (3) is added to section 11.062,
381 | Florida Statutes, to read:

382 | 11.062 Use of state funds for lobbying prohibited;
383 | penalty.--

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384 (3) Notwithstanding any other provision of law, the
385 prohibitions contained in this section shall not apply to a
386 state agency established under s. 20.29, provided that no
387 general revenue funds are expended for lobbying purposes.

388 Section 10. This act shall take effect upon becoming a
389 law.