

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: CS/CS/SB 1702

INTRODUCER: General Government Appropriations Committee, Agriculture Committee, and Senator Alexander

SUBJECT: Department of Agriculture and Consumer Services

DATE: April 2, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Poole	AG	Fav/CS
2.	Blizzard	DeLoach	GA	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The Florida Government Accountability Act requires the Department of Agriculture and Consumer Services (department) and its advisory committees to be reviewed by July 1, 2008, to determine if it and its committees should be retained, modified, or abolished. This bill reenacts the divisions of the department related to agriculture and makes statutory changes recommended in the agency sunset review report.

To reduce the reliance on general revenue funds for services provided by the department, the bill makes adjustments to the following fees.

- County fire protection and land management assessments.
- Wholesale and retail saltwater products dealer licenses.
- Annual registrations for each registered pesticide brand.
- The statutory cap on permit fees for food stores.
- Fertilizer inspections.
- Master registrations for distributors of commercial feed.

- Aquaculture certificates of registration.
- Annual registration fees for independent agents of sellers of travel.

For Fiscal Year 2008-2009, the department estimates a \$3.0 million increase in recurring revenue to the General Inspection Trust Fund. This amount includes \$1.0 million in the food safety inspection program and \$2.0 million for the operation of the commercial feed, pesticide registration, and fertilizer inspection programs. Approximately, \$312,000 will be realized in additional revenue in the Saltwater Products Promotion Trust Fund due to the increase in the wholesale and retail saltwater products dealer licenses. The county fire protection assessment increase will provide additional revenue of \$871,000. The bill provides that three cents of the assessment will continue to be distributed to the General Revenue Fund and the increase of four cents will be distributed to the Incidental Trust Fund in the Division of Forestry.

This bill reenacts paragraphs (a), (b), (c), (d), (f), (g), (h), (i), (k), and (l) of section 20.14(2), Florida Statutes.

This bill amends the following sections of the Florida Statutes: 125.27, 370.07, 487.041, 500.12, 559.928, 576.041, 580.041, and 597.004.

II. Present Situation:

Under the Florida Government Accountability Act (ss. 11.901-920, F.S.), most state agencies and their respective advisory committees are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. The act requires a review of Department of Agriculture and Consumer Services and its advisory committees by July 1, 2008.

The Senate Agriculture Committee is the primary sunset review committee for the divisions within the Department of Agriculture and Consumer Services that are related to agriculture. As a result of its review, the committee issued the Florida Department of Agriculture and Consumer Services Agency Sunset Review Interim Report 2008-202. The report includes the following recommendations.

- The Legislature should retain the Department of Agriculture and Consumer Services.
- The Legislature should retain its technical councils and advisory committees other than the Caribbean Fruit Fly Technical Committee and the Exotic Pest of Citrus Council, which have been inactive and could be combined with other committees.
- The Legislature could consider directing the department to develop a replacement schedule to support the full costs associated with boat and vehicle replacement. In developing a schedule, the department could work with the Department of Management Services and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to identify the life cycle costs related to boat and vehicle ownership, including initial acquisition costs (through recognition of depreciation over a boat or vehicle’s useful life), operating costs, repairs and routine maintenance, and surplus value when the boat or vehicle is replaced.
- The Legislature could consider increasing or creating fees for the following activities described in the report to reduce the need for general revenue.
 - Increase the fees for the different types of retail and wholesale seafood dealer licenses.

- Privatize state farmers' markets, increase rental rates, or sell or combine markets with the lowest commodity sales.
- Require mandatory industry contributions (perhaps a prorated percentage) to the Division of Marketing and Development for all domestic and international trade event participation.
- Require mandatory industry contributions (perhaps a prorated percentage) for all domestic and international in-store retail marketing campaigns.
- Develop and implement a "creative services rate card" for marketing initiatives designed to assist individual businesses and sectors (i.e. associations).
- Increase the annual registration fee for pesticide brands by \$100 (from \$250 to \$350).
- Increase the fee for fertilizer by \$0.25/ton (from \$0.75 to \$1.00/ton).
- Increase the annual fees on commercial feed, based on tons of feed distributed in Florida.
- Increase recreational fees or create a sliding scale for department-owned lands that require higher maintenance.
- Increase county fire protection and land management assessments, which serve as cost-sharing mechanisms for statewide fire protection and land conservation.
- Establish fees for shellfish processing plant inspections.
- Increase the \$50 fee for aquaculture certifications that are required for any person engaging in aquaculture activities.
- Increase permit fees for food stores whose fees are not already at the statutory limit by raising or removing the statutory limits on fees.
- The Legislature could direct the OPPAGA to conduct a review of regulatory authority and responsibilities that the department and the Department of Education have for the United States Department of Agriculture's National School Lunch Program and Summer Food Service Program, in order to determine if there is duplication of activities and if efficiencies could be achieved.
- To improve program operations and reduce costs, the Legislature could consider combining the department's Land Management service and Wildfire Prevention and Management service into a single service. This could simplify accounting and budgeting procedures, since most of the division's employees, facilities, and equipment are used to provide services to both budget entities.
- The Legislature could consider centralizing land management activities under one state agency.
- The Legislature could consider eliminating the Division of Agricultural Environmental Services' Operational Support Unit, including the dog fly control program, which would reduce \$227,926 in Salaries and Benefits and expenses from general revenue.
- The Legislature could consider eliminating funds for mosquito control now provided to local governments with local budgets over \$1 million (25 districts). This would result in a reduction of \$930,200 (25 districts at \$37,208 per district).
- The Legislature could consider selling a current dog fly/mosquito control aircraft (1941 DC3).
- The Legislature could consider eliminating the \$250,000 earmarked for mosquito control research.

Sellers of travel are required to register with the department annually. A registrant must provide to the department a number of items including the registrant's legal business or trade name,

mailing address, and business locations. The annual registration fee for the seller of travel is \$300 per year.

An independent agent acting on behalf of a seller of travel must also register annually with the department before engaging in business. An independent agent must provide certain information in an affidavit to the department including the name of each seller of travel represented by the agent. Independent agents of sellers of travel are not currently assessed a registration fee.

III. Effect of Proposed Changes:

Section 1 reenacts paragraphs (a), (b), (c), (d), (f), (g), (h), (i), (k), and (l) of s. 20.14(2), F.S.

Section 2 amends s. 125.27, F.S., to increase county fire protection and land management assessments, which serve as cost-sharing mechanisms for statewide fire protection and land conservation, from three cents to seven cents. The section provides that four cents of the assessment will be distributed into the Incidental Trust Fund in the Division of Forestry.

Section 3 amends s. 370.07, F.S., to increase the fees for the following wholesale and retail saltwater products dealer licenses:

- Increases the \$300 annual license tax for a resident wholesale county seafood dealer to \$400.
- Increases the \$450 annual license tax for a resident wholesale state dealer to \$550.
- Increases the \$500 annual license tax for a nonresident wholesale county dealer to \$600.
- Increases the \$1,000 annual license tax for a nonresident wholesale state dealer to \$1,100.
- Increases the \$1,000 annual license tax for a wholesale county dealer to \$1,100.
- Increases the \$1,500 annual license tax for an alien wholesale state dealer to \$1,600.
- Increases the \$25 annual license tax for a resident retail dealer to \$75 and increases the \$10 annual license tax for that dealer's additional places of business to \$25.
- Increases the \$200 annual license tax for a nonresident retail dealer to \$250 and increases the \$25 annual license tax for that dealer's additional places of business to \$40.
- Increases the \$250 annual license tax for an alien retail dealer to \$300 and increases the \$50 annual license tax for that dealer's additional places of business to \$65.

Section 4 amends s. 487.041, F.S., to increase the annual registration fee for registered pesticide brands from \$250 to \$350. This section provides that each registration issued in odd-numbered years shall be assessed a fee of \$700, rather than \$500 per brand of pesticide. The section provides that registrations issued in even-numbered years shall be assessed a fee of \$350, rather than \$250 per brand of pesticide.

Section 5 amends s. 500.12, F.S., to increase the statutory limit on permit fees for food stores from \$500 to \$650.

Section 6 amends s. 559.928, F.S., to require independent agents of sellers of travel to submit an annual registration fee of \$50.

Section 7 amends s. 576.041, F.S., to increase the inspection fee for fertilizer from 75 cent to one dollar per ton.

Section 8 amends s. 580.041, F.S., to increase the annual fees on commercial feed, based on tons of feed distributed in Florida, as follows.

Sales in Tons	Current Fee	Proposed
Zero, up to and including 25	25	40
More than 25, up to and including 50	50	75
More than 50, up to and including 100	100	150
More than 100, up to and including 300	300	375
More than 300, up to and including 600	500	600
More than 600, up to and including 1,000	750	900
More than 1,000 up to and including 2,000	1,000	1,250
More than 2,000, up to and including 5,000	1,500	2,000

Section 9 amends s. 597.004, F.S., to increase the annual registration fee for aquaculture certification from \$50 to \$100.

Section 10 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill increases the countywide forest fire assessment from three cents per acre to seven cents per acre. Pursuant to s.125.27, F.S., the Division of Forestry and the board of county commissioners enter into agreements for the establishment of countywide fire protection of all forest and wild lands within each county. Each county is assessed its share of the cost of providing fire protection based on the total number of forest and wildland acreage. The revenue estimating conference determined the increase will provide approximately \$871,257 in Fiscal Year 2008-2009 to the General Revenue Fund.

Section 18(a), Art. VII of the State Constitution provides that a city or county is not bound by any general law requiring the city or county to spend funds or to take an action to expend funds unless the Legislature has determined that the law fulfills an important state interest and unless, for purposes relevant to this bill, the expenditure is required to comply with a law that applies to all persons similarly situated or the law requiring the expenditure is approved by two-thirds of the membership of each house of the Legislature.

The bill applies to all similarly situated persons and fulfills an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill increases certain fees relating to food safety permits, commercial feed, pesticide registration, fertilizer inspections, aquaculture certification and seafood dealers license registration. The bill creates a registration fee for independent agents of sellers of travel. In addition, the bill increases the county fire protection assessment from three cents to seven cents. The department estimates the increase in the fee revenue to the General Inspection Trust Fund to be a total of \$3.3 million in Fiscal Year 2008-2009 on a recurring basis. The service charge on the trust fund revenues will provide and estimated \$240,900 in Fiscal Year 2008-2009 to the General Revenue Fund.

B. Private Sector Impact:

The bill would require food firms regulated by the department to collectively pay an estimated additional \$1,031,525 in annual food permit fees each fiscal year, beginning Fiscal Year 2008-09. Actual permit fees are scaled according to the food safety risk associated with each firm type, size, and complexity of firm operations and the average length of time necessary to complete a routine inspection within a firm category. With the increased maximum fee amount, permit fees would more accurately reflect the level of regulation each firm requires. The projected increases range from zero to \$150, depending on the individual firm type.

The bill's fee increases would require the payment of \$2,017,603 in additional fees in Fiscal Year 2008-2009 by the producers of pesticides, fertilizers, and feed, in order to register and market their products in Florida.

The bill would require the payment of \$49,000 in additional fees in Fiscal Year 2008-2009 in annual registration fees for aquaculture certification. The fee would be increased from \$50 to \$100.

The bill's increase in the license tax for retail and wholesale saltwater products dealer licenses would require the payment of \$312,425 in additional fees.

The bill increases the county assessment of three cents per acre to seven cents per acre relating to fire protection. The additional four cents per acre could be significant for some counties depending on acreage.

The bill requires a registration fee of \$50 for independent agents of sellers of travel. Currently, independent agents are required to register with the department, but are not assessed a registration fee.

C. Government Sector Impact:

For Fiscal Year 2008-2009, the department estimates a \$3.3 million increase in recurring revenue to the General Inspection Trust Fund within the department. This amount includes \$1.0 million in the food safety inspection program, \$2.0 million for the operation of the commercial feed, pesticide registration, and fertilizer inspection programs, and \$300,000 in the consumer services program. The additional revenue provided by these fee increases reduces the reliance on general revenue funds to subsidize these programs.

The department estimates a savings of \$800,000 in general revenue during Fiscal Year 2008-2009, based on increases in the pesticide, fertilizer, and feed fees. The additional revenue will support costs associated with increased inspections and review by the department due to the increasing necessity of regulation of phosphorus and nitrogen content in fertilizers used in urban environments. The Senate proposed budget for fiscal year 2008-2009 includes a reduction of \$800,000 in general revenue based on the fee increase.

Increasing the fee cap in the food safety program will allow general revenue savings of \$400,000 in the 2008-2009 fiscal year. Based on total revenues versus total expenditures relating to the food store inspections, the division has been operating in a deficit status in the General Inspection Trust Fund for the past four fiscal years. Additionally, the increased fee will allow the department to establish fee equity in food permit fees among the different firm categories. The Senate proposed budget for Fiscal Year 2008-2009 includes a reduction of \$400,000 in general revenue based on the fee increase.

The department estimates the fee increase for annual registration for aquaculture certification would generate an additional \$49,000 in recurring revenue to the General Inspection Trust Fund. This fee increase will reduce the program's reliance on general revenue and allow for a \$49,000 reduction in the Senate proposed budget for Fiscal Year 2008-2009.

The department estimates the increased license tax for retail and wholesale saltwater products dealer licenses would generate an additional \$312,425 in recurring revenue to the Florida Saltwater Products Promotion Trust Fund. The funds would be used to assist the industry to promote their products and to generate additional sales of seafood products. The Senate proposed budget includes a reduction of \$312,425 in general revenue for the 2008-2009 fiscal year.

For Fiscal Year 2008-2009, the revenue estimating conference determined the increased fees for county fire protection and land management assessments would generate an additional \$871,257 in recurring general revenue. This bill distributes three cents of the assessment into the General Revenue Fund and four cents into the Incidental Trust Fund in the Division of Forestry.

The department estimates the registration fee for independent agents of sellers of travel will generate approximately \$300,000 in the General Inspection Trust Fund in Fiscal

Year 2008-2009. The revenue provided by the increase reduces the reliance on general revenue funds to subsidize programs in the Division of Consumer Services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by General Government Appropriations on April 2, 2008:

The committee substitute:

- Provides that three cents of the countywide fire protection assessment will continue to be distributed into the General Revenue Fund and the increase of four cents will be distributed into the Incidental Trust Fund in the Division of Forestry.
- Creates a registration fee of \$50 for independent agents of sellers of travel.

CS by Agriculture on March 19, 2008:

The committee substitute reenacts the Department of Agriculture and Consumer Services and its divisions, as recommended in the Agency Sunset Review Interim Report 2008-202. The divisions are as follows:

- Administration
- Agricultural Environmental Services
- Animal Industry
- Aquaculture
- Dairy Industry
- Food Safety
- Forestry
- Fruit and Vegetables
- Marketing and Development
- Plant Industry¹

The committee substitute also makes statutory changes to adjust fees for the following activities in order to reduce reliance on general revenue funds:

¹ The divisions of Licensing, Consumer Services, and Standards are reenacted in the Agency Sunset Review Interim Report 2008-207.

- County fire protection and land management assessments.
- Wholesale and retail saltwater products dealer licenses.
- Annual registrations for each registered pesticide brand.
- The statutory cap on permit fees for food stores.
- Fertilizer inspections.
- Master registrations for distributors of commercial feed.
- Aquaculture certificates of registration.

B. Amendments:

None.