

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 Military Affairs and Domestic Security Committee

BILL: CS/CS/SB 2286

INTRODUCER: Military Affairs and Domestic Security and Agriculture Committee and Senator Dean

SUBJECT: Florida Arborist Licensing Law

DATE: April 8, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Pardue</u>	<u>McElroy</u>	<u>MS</u>	<u>Fav/CS</u>
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	<u>GA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute creates a voluntary arborist licensing program that qualifies a person to hold himself or herself out as a licensed arborist in the State of Florida. The Department of Agriculture and Consumer Services (DACS) is given rulemaking authority to establish licensing procedures and set fees. An arborist is a person who performs services to improve the condition of certain trees and who performs services in connection with post-storm cleanup of damage from trees.

The bill creates Chapter 598 of the Florida Statutes.

II. Present Situation:

There is no state regulation or licensing law governing arborists in the state. The International Society of Arboriculture (ISA) has an arborist certification procedure for persons who have a minimum of three years experience in some aspect of tree care and have passed an exam developed by an international panel of experts.¹ ISA reports on its website that its mission

¹ <http://www.isa-arbor.com/home.aspx>

statement is to promote the professional practice of arboriculture and foster a greater awareness of the benefits of trees through research, technology, and education. There is a Florida chapter² of the ISA whose mission is to promote the scientifically based practice of arboriculture through research, education and public awareness. The Division of Forestry in DACS estimates that there are over 2,000 Florida ISA certified members.

Vegetation Maintenance is Important in Mitigating Storm Damage

In the aftermath of Hurricane Wilma, the Florida Public Service Commission held a workshop to discuss the damage incurred by electric utility facilities due to hurricanes and to explore ways of minimizing that damage and resulting power outages.³ Public testimony at that workshop highlighted the need to properly maintain trees and other vegetation in order to mitigate damage to the state's electric power grid.

In addition, tree damage to residential homes during hurricane events is a significant source of property loss and financial impact. Researchers at the University of Florida surveyed tree damage in the aftermath of Hurricanes Erin and Opal in 1995. These two storms struck the Florida Panhandle at approximately the same landfall within nine weeks of each other. Post storm surveys found:

Twenty-one percent and 8% of the fallen trees damaged property in Erin and Opal. (Of all the trees surveyed, just 2% and 1% damaged property.) Homes accounted for 67% and 29% of the damage in each of the hurricanes; the rest was damage to minor structures such as signs, fences and sidewalks.⁴

Vegetation management is recognized as a major component of property damage mitigation associated with major storm events.

III. Effect of Proposed Changes:

Section 1 creates chapter 598, F.S. to license arborists in the State of Florida.

Proposed s. 598.001, F.S., provides for the chapter to be cited as the "Florida Arborist Licensing Law".

Proposed s. 598.002, F.S., declares that it is the public policy that anyone who wants to practice as a licensed arborist in this state must meet the requirements of this bill.

Proposed s. 598.003, F.S., provides the following definitions:

- "Arboriculture" or "arboriculture services" means any tree service done for compensation relating to improving the condition of certain specified trees by various methods excluding activities already regulated under pest control laws in chapter 482, F.S., and

² <http://www.floridaisa.org/>

³ Florida Public Service Commission Workshop, January 23, 2006.

⁴ Mary L. Duryea, University of Florida IFAS Extension, Wind and Trees: Surveys of Tree Damage in the Florida Panhandle after Hurricanes Erin and Opal, <http://edis.ifas.ufl.edu/FR010>.

nursery activities as defined in chapter 581, F.S. It also includes a service performed in connection with post-storm cleanup of damage from trees.

- “Arborist of Record” means a Florida licensed arborist in good standing who supervises employees providing arboriculture services and issues authorization cards to them.
- “Department” means the Department of Agriculture and Consumer Services.
- “Landscape maintenance” means maintenance performed while standing on the ground or on trees less than 4 inches in diameter at breast height.
- “Licensed arborist” means a person who has fulfilled the requirements for certification by the International Society of Arboriculture (ISA).
- “Person” means individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- “Practice of arboriculture” means the performance or offer to perform an arboriculture service excluding landscape tree maintenance as defined in the bill and as otherwise excluded by this chapter. Representing oneself or holding oneself out to be an arborist shall be construed to be the practice of arboriculture.

Proposed s. 598.004, F.S., provides rulemaking authority for DACS to implement the Florida Arborist Licensing Law, including the establishment of a licensure process and the setting of fees.

Proposed s. 598.005, F.S., authorizes DACS to set fees by rule which fees are to be deposited into the Incidental Trust Fund of the Division of Forestry and used to defray the costs of administering this program. The fees shall not exceed the cost of administering the program and shall not exceed the following limits:

- \$300 for a nonrefundable licensure fee
- \$300 for an annual fee
- \$100 for a reactivation fee

Proposed s. 598.006, F.S., sets forth licensing procedures which include a requirement that the applicant be at least 18 years of age and submit an application that has been reviewed by the Florida Chapter of ISA and proof of the required insurance coverage unless the applicant is employed by a statutorily recognized governmental entity that is self-insured. Circumstances are set out that allow the department to refuse to issue a license or to suspend or revoke a license. A person may not hold himself out as a licensed Florida arborist unless that person has been issued a license under this chapter. Final arboriculture papers for work performed under the supervision of a Florida licensed arborist must be dated, signed, and sealed by the arborist.

Proposed s. 598.007, F.S., requires DACS to renew a license if the applicant is in compliance with this chapter and its rules. A licensed arborist is required to inform DACS of his primary place of practice and keep it current if there is a change.

Proposed s. 598.008, F.S., requires a licensed arborist to make a written request to DACS to reactivate a license that is inactive, suspended, or revoked.

Proposed s. 598.009, F.S., authorizes DACS to issue a duplicate license under certain circumstances.

Proposed s. 598.011, F.S., requires DACS to maintain a roster of all licensed arborists in the state.

Section 2 appropriates one position to DACS and \$71,424 from the Incidental Trust Fund to carry out the purposes of this act.

Section 3 provides that this act shall take effect July 1, 2008

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The intent of the program is that it will be supported by fees that it generates after the initial appropriation from the Incidental Trust Fund of the Division of Forestry within DACS.

B. Private Sector Impact:

Individuals that wish to hold themselves out as a licensed arborist in the State of Florida will have to comply with the requirements of this bill and pay the fees imposed by this bill.

C. Government Sector Impact:

This committee substitute provides for an appropriation of \$71,424 appropriated from the Incidental Trust Fund to the Department of Agriculture and Consumer Services and one position to establish the licensing program and carry out the provisions of this act. The department estimates the following costs to administer the program:

Recurring costs	<u>(FY 08-09)</u>	<u>(FY 09-010)</u>	<u>(FY 10-11)</u>
1 - Administrative Assistant II (0712)	44,732	45,627	46,539
1 - Support Staff Expense Package	5,426	5,426	5,426

1 - Human Resources Allocation	398	398	398
Travel	5,000	2,000	2,000
Additional Supplies	2,000	500	500
AGMIC Budget Entity-Contracted Services	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>
Total Recurring Costs	\$62,556	\$58,951	\$59,863

Expenses and Human Resources package total reflects one (1) position. Travel and supplies reflect increased travel in year one for initial rulemaking development, workshop discussions, and for program implementation, with travel decreasing in subsequent years.

AGMIC recurring costs reflect use of memory, central processing unit storage and disk storage on DACS’ Sun/Oracle platform, in addition to costs associated with the licensing agreement with Oracle software.

Non-Recurring costs	
Support Staff Exp. Package	2,947
OCO – All staff	<u>1,000</u>
Total Non-Recurring Costs	\$ 3,947

Non-Operating Costs			
Administrative Overhead:	\$ 4,921	5,019	5,119
General Revenue Service Charge	Indeterminate	Indeterminate	Indeterminate

An indeterminate amount of General Revenue service charge would be paid depending on the trust fund from which the program costs are expended.

Grand Total Costs (Incidental TF)	<u>\$ 71,424</u>	<u>\$63,970</u>	<u>\$64,982</u>
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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 by Military Affairs and Domestic Security on April 8, 2008:

This committee substitute corrects a technical deficiency by appropriating an amount (\$71,424) that is identical to the department’s estimate of the program’s first year cost.

CS by Agriculture on March 27, 2008:

- Specifies that the definition of arboriculture services is limited to tree services and that activities of a nursery are excluded from this regulation;

- Provides a definition for “Arborist of Record”;
- Clarifies that the definition for “Practice of Arboriculture” excludes landscape tree maintenance as defined in the bill;
- Extends the licensure process to include procedures relating to lost, destroyed or mutilated licenses;
- Revises the licensure procedures to require that an application be reviewed by the Board of Directors, Florida Chapter, ISA, for completeness and compliance with the bill;
- Revises the insurance requirements to waive necessity of coverage while an applicant is employed by a statutorily recognized governmental entity which is self-insured;
- Extends the ban on issuing a license to include an applicant who has committed an act or offense, or is under investigation for the same, related to their ability to practice arboriculture;
- Adds a requirement that final arboriculture papers prepared by or under the supervision of a Florida licensed arborist of record must be dated, signed, and sealed by the licensed arborist;
- Substitutes an appropriation of one FTE and \$72,280 for the prior appropriation of \$200,000; and
- Modifies the definition of “Arboriculture” or “arboriculture services” to provide that landscape architects licensed under chapter 481, F.S., are authorized to practice arboriculture but may not hold themselves out as licensed arborists unless they have met the requirements of this bill.

B. Amendments:

None.