

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 Agriculture Committee

BILL: CS/SB 2352

INTRODUCER: Agriculture Committee and Senator Aronberg

SUBJECT: Urban/Residential Environments and Water

DATE: March 27, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>EP</u>	_____
4.	_____	_____	<u>GA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| 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:

The Florida Consumer Fertilizer Task Force (task force) was created by the 2007 Legislature to review the state’s policies and programs concerning consumer fertilizers. The task force developed a package of consensus recommendations to the Legislature designed to ensure that the education and regulation for the proper use of consumer fertilizers is informed by best available science and is uniform, subject to variations necessary to meet local state and federal water quality standards. This strike-everything amendment creates the “Protection of Urban and Residential Environments and Water Act” and addresses some of the recommendations adopted by the task force. This amendment provides that:

- ⊞ The Department of Environmental Protection is directed to adopt by Secretarial Order on or before October 1, 2008, and without change, the “Florida Friendly Fertilizer Use on Urban Landscapes Model Ordinance” contained in the Florida Consumer Fertilizer Task Force Final Report.
- ⊞ DEP, in consultation with DACS and IFAS, to is required to review the model ordinance and adopt changes as necessary at least every three years, or as additional research or other scientific information becomes available.

- ⊘ Local governments are allowed to establish provisions in addition to or more stringent than those contained in the model ordinance under certain conditions. A local government that has adopted its own fertilizer use ordinance before January 15, 2008, is exempt from adopting the model ordinance.
- ⊘ The minimum training program for limited certification for commercial fertilizer application issued by the Department of Agriculture and Consumer Services (DACS) shall be designed, approved, and made available by the Department of Environmental Protection (DEP) and the Institute of Food and Agricultural Sciences at the University of Florida (IFAS). The course is to be based on the ‘Florida Green Industries Best Management Practices for Protection of Water Resources in Florida.’
- ⊘ Identification cards shall be issued, effective December 31, 2008, for persons with training certificates who apply fertilizer commercially to urban lawnscapes. Exceptions are provided for certified operators who are certified in the category of lawn and commercial pest control.
- ⊘ Any person who applies fertilizer commercially on urban lawnscapes or urban turf must hold a limited certificate for commercial fertilizer application and a limited certificate for commercial landscape maintenance. That person must also be under the direct supervision of a certified operator in lawn and ornamental pest control.
- ⊘ The Department of Agriculture and Consumer Services shall establish a limited certification for commercial fertilizer application to certify persons on the application of fertilizer to urban turf in compliance with best management practices for fertilizer application and management as adopted by DACS and DEP.
- ⊘ Fines collected or received for failure to comply shall be deposited into the Pest Control Trust Fund and used by DACS for urban lawnscapes fertilizer best management practices education.

This strike-everything amendment creates sections 403.9335, 403.9336, 403.9337, 403.9338, 482.1561, 482.1562, and 482.1563, Florida Statutes.

This strike-everything amendment amends sections 482.021, 482.091, 482.156, and 482.2401, Florida Statutes.

II. Present Situation:

The 2007 Legislature created the Consumer Fertilizer Task Force (task force) to take public input and testimony for the development of statewide guidelines governing non-agricultural fertilizer use rates and applications. The creation of the task force was a result of various municipalities and counties enacting rules/regulations dealing with fertilizers. In each case, the rules/regulations varied from county to county and municipality to municipality, making it difficult for the various industry groups to ensure compliance. Additionally, some of the rules/regulations in use are not based on sound agronomic science, thereby jeopardizing the safety of the environment as well as the water supply.

The task force was comprised of 13 members representing a range of stakeholder interests who were technically qualified by training, education or experience in water quality, horticultural, or agronomic science. The task force members were appointed by the President of the Senate, Speaker of the House, Commissioner of Agriculture, Florida League of Cities and the Florida Association of Counties.

The task force held six public meetings around the state taking public comment and developing recommendations. The task force adopted a consensus process that required support of 75% of its members for any substantive decisions on findings and recommendations. On January 15, 2008, the task force released its final report of recommendations. At that time, the task force was dissolved. This strike-everything amendment addresses some of the recommendations made by the task force.

III. Effect of Proposed Changes:

Section 1 creates s. 403.9335, F.S., to name ss. 403.9335 – 403.9338, F.S., as the “Protection of Urban and Residential Environments and Water Act.”

Section 2 creates s. 403.9336, F.S., to provide legislative findings.

Section 3 creates s. 403.9337, F.S., to direct DEP to adopt by Secretarial Order on or before October 1, 2008, and without change, the “Florida Friendly Fertilizer Use on Urban Landscapes Model Ordinance” contained in the Florida Consumer Fertilizer Task Force Final Report to the 2008 Florida Legislature. Requires DEP, in consultation with DACS and IFAS, to review the model ordinance and adopt changes as necessary at least every three years, or as additional research or other scientific information becomes available. Allows local governments to establish provisions in addition to or more stringent than those contained in the model ordinance under certain conditions. Exempts a local government that has adopted its own fertilizer use ordinance before January 15, 2008, from adopting the model ordinance.

Section 4 creates s. 403.9338, F.S., to provide that the minimum training program for limited certification for commercial fertilizer application issued by the Department of Agriculture and Consumer Services (DACS) be designed, approved, and made available by the Department of Environmental Protection (DEP) and the Institute of Food and Agricultural Sciences at the University of Florida. Requires the course to be based on the “Florida Green Industries Best Management Practices for Protection of Water Resources in Florida.” Provides for hours and subjects of training. Requires DEP to contract with IFAS to lead the training effort. Provides for DEP to provide program training coordinators who are certified in the “Florida Green Industries Best Management Practices for Protection of Water Resources in Florida.” Requires DEP, DACS, and IFAS to publish training requirements, procedures, and materials. Requires DEP or IFAS to issue a trainer certificate by January 1, 2009. Requires the maintenance and publication of a list of qualified trainers.

Section 5 amends s. 482.021, F.S., to provide definitions for “commercial fertilizer application” and “urban lawnscapes.”

Section 6 amends s. 482.091, F.S., to require that identification cards be issued, effective December 31, 2008, for persons who apply fertilizer commercially to urban lawnscapes indicating receipt of a training certificate. Provides an exception for certified operators who are certified in the category of lawn and commercial pest control.

Section 7 amends s. 482.156, F.S., to delete requirements related to the examination for limited certification for commercial landscape maintenance personnel which have been established by DACS. Provides an exception for persons holding the limited certificate for commercial landscape maintenance from holding other certification. Requires such persons to receive specified training by December 31, 2008.

Section 8 creates s. 482.1561, F.S., to provide criteria for commercial fertilizer application on urban lawnscapes and urban turf. Provides for certain applicators to be under the direct supervision of specified certified persons. Provides for application of fertilizer to be in accordance with best management practices adopted by DACS and DEP.

Section 9 creates s. 482.1562, F.S., to establish a limited certification for commercial fertilizer application under DACS and DEP. Requires completion of a minimum training program prior to application for certification. Provides for application fees. Provides for annual recertification requirements, including fees. Authorizes DACS to provide certain information to local and state government agencies about the certification status of persons certified under this section. Specifies limitations of certification.

Section 10 creates s. 482.1563, F.S., to authorize DACS to adopt rules to implement the provisions of this legislation.

Section 11 amends s. 482.2401, F.S., to require that fines collected or received for failure to comply with the provisions of this legislation be deposited into the Pest Control Trust Fund and used by DACS for urban lawnscapes fertilizer best management practices education.

Section 12 provides that this act shall take effect upon becoming a law.

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:

Indeterminate.

B. Private Sector Impact:

Persons seeking certification for commercial fertilizer application on urban turf are required to pay a registration fee, as well as to complete approved training.

C. Government Sector Impact:

The number of people who apply commercial fertilizer to urban turf and landscapes is unknown at this time. The Department of Environmental Protection estimates that more than 2,600 people have completed formal training in soil testing, correct fertilizer applications, irrigation requirements, etc. If this estimated number of people complete certification, the annual \$50 registration fee would provide \$130,000 in revenues to the Pest Control Trust Fund on a yearly basis. The strike-everything amendment also provides for a \$25 annual recertification fee.

Expenditures to implement the provisions of this legislation are provided in the following table. The Department of Agriculture and Consumer Services has indicated that while they are not requesting FTE's at this time, if revenues permit, additional positions will be requested for the expansion of the program.

PEST CONTROL TRUST FUND	FY 08-09	FY 09-10	FY 10-11
Recurring Expenditures:			
Expenses – Estimated travel, supplies, gas, certificate costs, etc.	28,000	28,000	28,000
Non-Recurring Expenditures:			
OPS – Support Staff		1,000	1,280
OCO – PC equipment	3,000	3,000	3,000
Contracted Services – Software Maintenance	106	536	967
Total Non-Recurring Costs	3,106	4,536	5,247
Total Costs	\$31,106	\$32,536	\$33,247

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.)

The differences between CS/SB 2352 and SB 2352 are:

- ⊘ The committee substitute provides legislative findings that the model fertilizer use ordinance contained in the Florida Consumer Fertilizer Task Force Final Report, as well as its incorporation of rule 5E-1.003, FAC, entitled “Labeling Requirements for Urban Turf Fertilizers” will serve to improve the quality of water in this state’s water bodies rather than to be “protective of the quality” of the state’s water bodies.
- ⊘ DEP is directed to adopt by Secretarial Order on or before October 1, 2008, and without change, the “Florida Friendly Fertilizer Use on Urban Landscapes Model Ordinance” contained in the Florida Consumer Fertilizer Task Force Final Report to the 2008 Florida Legislature.
- ⊘ The date is changed for exemption of a county or municipal government that has adopted its own fertilizer use ordinance from July 1, 2008 to January 15, 2008.
- ⊘ In the bill, the course for the minimum training program for limited certification for commercial fertilizer application, which is designed, approved and made available by DEP, was placed in s. 482.1562, F.S., which falls under the purview of DACS. In the committee substitute, the language pertaining to the course development has been moved to s. 403.9338, F.S., which falls under the purview of DEP.
- ⊘ The effective date for a trainer certificate to be issued by DEP has been changed from January 1, 2008 to January 1, 2009.
- ⊘ A definition is provided for “urban lawnscapes.”
- ⊘ By December 31, 2008, a licensee or certified operator in charge must apply for an identification card for every employee who applies fertilizer commercially to urban lawnscapes. The application for the identification card must be accompanied by the employee’s training certificate. This does not apply to certified operators who are certified in the category of lawn and commercial pest control.
- ⊘ Persons who have completed training and been certified under the limited certification for commercial landscape maintenance may use their existing training to be considered certified for the purpose of implementing fertilizer BMPs.
- ⊘ By December 31, 2008, persons applying fertilizer commercially to urban lawnscapes must hold a limited certificate for commercial fertilizer application, a limited certification for commercial landscape maintenance, or be under the direct supervision of a certified operator in lawn and ornamental pest control.
- ⊘ In the committee substitute, persons seeking limited certification for commercial fertilizer application must apply and submit a copy of the training certificate received from DEP. The bill required an examination in addition to the training certificate.

- ☒ The committee substitute states that persons certified pursuant to s. 482.1562, F.S., are not authorized to apply pesticides to turf or ornamentals, operate a pest control business, or apply pesticides if unlicensed or uncertified and not under the supervision of a certified person.
- ☒ DACS is authorized to adopt rules to implement the provision of this legislation.
- ☒ Fines collected or received for failure to comply with the provisions of this legislation are to be deposited into the Pest Control Trust Fund and used by DACS for urban lawnscapes fertilizer BMPs education.

B. Amendments:

None.