

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 Community Affairs Committee

BILL: CS/SB 2352

INTRODUCER: Agriculture Committee, Senators Aronberg and Baker

SUBJECT: Urban/Residential Environments and Water

DATE: April 12, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>EP</u>	_____
4.	_____	_____	<u>GA</u>	_____
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 committee substitute (CS) creates the “Protection of Urban and Residential Environments and Water Act”, implementing some of the recommendations adopted by the Florida Consumer Fertilizer Task Force (task force). This CS provides that:

- \$ The Department of Environmental Protection (DEP) is required 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, 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 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 lawnscape. 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 lawnscape 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 lawnscape fertilizer best management practices education.

This CS creates sections 403.9335, 403.9336, 403.9337, 403.9338, 482.1561, 482.1562, and 482.1563, Florida Statutes.

This CS 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 CS 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. DEP is required, 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. It allows local governments 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. However, the local government must follow the procedures in this section when adopting provisions in addition to or more stringent than 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 DACS be designed, approved, and made available by DEP and the Institute of Food and Agricultural Sciences at the University of Florida. The course must be based on the “Florida Green Industries Best Management Practices for Protection of Water Resources in Florida.” A minimum of 6 contact hours of training is required in certain subject areas. DEP is required to contract with IFAS to lead the training effort. DEP shall provide program training coordinators meeting certain criteria and who are certified in the “Florida Green Industries Best Management Practices for Protection of Water Resources in Florida.” DEP, in consultation with DACS and IFAS, shall publish training requirements, procedures, and materials. DEP or IFAS are required to issue certificate for certified trainers by January 1, 2009. DEP must maintain and publish 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 lawnscape indicating receipt of a training certificate. The application for the identification card must be accompanied by a training certificate showing the employee meets the requirements of s. 403.9338, F.S. There is 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. It also provides an exception for persons holding the limited certificate for commercial landscape maintenance from holding other certification. Such persons are required to receive specified training by December 31, 2008.

Section 8 creates s. 482.1561, F.S., to require any person applying fertilizer commercially to urban lawnscapes to hold a certificate or be under the direct supervision of a certified operator. It also requires that the 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. It requires completion of a minimum training program prior to application for certification. It also provides for an application fee and annual recertification requirements and fees. DACS is authorized to provide certain information to local and state government agencies about the certification status of persons certified under this section. This section also specifies the 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 lawnscape is unknown at this time. DEP 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 CS 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
