

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 255 Pest Control

**SPONSOR(S):** Bembry and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 322 and SB 1286

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Agriculture &amp; Natural Resources Policy Committee</u>	<u>15 Y, 0 N</u>	<u>Kaiser</u>	<u>Reese</u>
2)	<u>General Government Policy Council</u>	<u>15 Y, 0 N</u>	<u>Kaiser</u>	<u>Hamby</u>
3)	<u>Natural Resources Appropriations Committee</u>	<u>9 Y, 0 N</u>	<u>Bellflower</u>	<u>Lachat</u>
4)	<u>Full Appropriations Council on General Government &amp; Health Care</u>	<u>31 Y, 0 N</u>	<u>Bellflower</u>	<u>Leznoff</u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

### SUMMARY ANALYSIS

HB 255 codifies the Interstate Pest Control Compact (IPCC) into Florida statutes, which is necessary for Florida to maintain membership in the IPCC. The IPCC was formed in 1968 with the assistance of the Council of State Governments and is comprised of 37 states, including Florida. The IPCC provides funding resources to states that may not have the necessary available capital to respond to a pest outbreak posing a threat to agriculture. Member states pay an initial assessment of \$2,000 base plus a percentage of the value of the state's agriculture and forestry crop values. Over the six year period of 1995-2001, Florida's payment totaled \$39,342. Since becoming a member in 1995, Florida has received \$240,522 in funding from the IPCC Insurance Fund for noxious weed and tomato virus control activities.

The bill provides for:

- The departments, agencies and officers of the state to cooperate with the Insurance Fund established by the IPCC;
- The bylaws, and any amendments to the bylaws, to be filed with the Commissioner of Agriculture;
- The Commissioner of Agriculture to be the compact administrator for the state;
- The Commissioner of Agriculture to have the authority to request assistance from the insurance fund;
- The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program to credit the appropriate account in the state treasury for the amount of any payments made to the state to defray the cost of such programs; and,
- The executive head to be the Governor.

The bill also provides details regarding the internal workings of the IPCC, such as the establishment of the Insurance Fund, administration of the IPCC, administration of the Insurance Fund, assistance and reimbursement procedures, and the creation of advisory and technical committees, among other things.

While the Department of Agriculture and Consumer Services does not anticipate any expenditure associated with this legislation, future revenues and/or funding provided by the IPCC are indeterminate at this time.

HB 255 takes effect July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The IPCC was formed in 1968 with the assistance of the Council of State Governments and is comprised of 37 states, including Florida. The IPCC provides funding resources to states that may not have the necessary available capital to respond to a new pest outbreak posing a threat to agriculture. Member states pay an initial assessment of \$2,000 base plus a percentage of the value of the state's agriculture and forestry crop values. Over the six year period of 1995-2001, Florida's payment totaled \$39,342. Since becoming a member in 1995, Florida has received \$240,522 in funding for noxious weed and tomato virus control activities.

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- The Commissioner of Agriculture to be the compact administrator for the state;
- The Commissioner to have the authority to request assistance from the Insurance Fund;
- The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program to credit the appropriate account in the state treasury for the amount of any payments made to the state to defray the cost of such programs; and,
- The executive head being the Governor.

The bill provides findings regarding the necessity of the IPCC and the importance of each state's participation. The bill also provides definitions for terms used in relation to the IPCC. The bill provides for the Insurance Fund to be administered by a Governing Board and Executive Committee. The members of the Governing Board are entitled to one vote on the board. Action of the Governing Board must be taken only at a meeting where a majority of the members are present. The bill provides for the Insurance Fund to have a seal to serve as an official symbol and to be used as the Governing Board sees fit.

The bill provides criteria regarding the election of officers from among the members of the Governing Board. The Governing Board may also appoint an executive director and set his/her duties and compensation.

The Governing Board must provide personnel policies and programs of the Insurance Fund in its bylaws. The Insurance Fund may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation. The Insurance Fund may accept, for any of its purposes and functions under this compact, any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, use and dispose of the same. All such donations, gifts, or grants accepted by the Governing Board or services borrowed must be reported in the annual report of the Insurance Fund. The Governing Board has the authority to adopt bylaws as well as the power to amend and rescind said bylaws. The bylaws must be published and furnished to the appropriate agency or officer in each party state. Additionally, the Insurance Fund must provide an annual report, which covers its activities for the preceding year, to the Governor and Legislature of each party state.

The bill provides for a compact administrator in each party state to be selected to assist in the coordination of activities pursuant to the compact in his/her state. The compact administrator will also represent his/her state on the Governing Board of the Insurance Fund. The bill provides for the United States to have no more than three representatives on the Governing Board of the Insurance Fund; however, no such representative of the United States will have a vote on the Governing Board or on the Executive Committee of the Governing Board. The Governing Board must meet at least once a year for the purpose of determining policies and procedures regarding the Insurance Fund. Additional meetings of the Governing Board will be held at the call of the chair, the Executive Committee, or a majority of the membership of the Governing Board. If the Governing Board is meeting, it may pass upon applications for assistance from the Insurance Fund and authorize disbursements. When the Governing Board is not in session, the Executive Committee has full authority to act in place of the Governing Board in passing upon such applications. The Executive Committee will be composed of the chairperson of the Governing Board and four additional members of the Governing Board, chosen by it so that there will be one member representing each of four geographic groupings of party states. The Governing Board must make such geographic groupings. One representative of the United States may meet with the Executive Committee. The chair of the Governing Board must be the chair of the Executive Committee. For an action of the Executive Committee to be binding, at least four members of the committee must be present and vote in favor of said action. Necessary expenses of the five members of the Executive Committee incurred in attending meetings of such committee, when not held in conjunction with the Governing Board, must be charged against the Insurance Fund.

Each party state pledges to other party states that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. Party states may request the Governing Board to authorize expenditures from the Insurance Fund for eradication or control measures to be taken by one or more other party states in an effort to eradicate or control an infestation of pests. The Governing Board or Executive Committee must give due notice of any meeting at which an application for assistance from the Insurance Fund is to be considered. The requesting state, and any other party state, is entitled to be represented and to present evidence and argument at such meeting. After reviewing information submitted by the requesting state and determining that an expenditure of funds is within the purposes of the compact, the Governing Board or Executive Committee must authorize support of the program. All determinations of the Governing Board or Executive Committee with respect to an application must be recorded in such manner as to show and preserve the votes of the individual members. The bill provides criteria for a requesting state dissatisfied with a determination of the Executive Committee to be entitled to a review of the facts at the next meeting of the Governing Board. Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the Insurance Fund either at the time such state incurs expenditures on account of such measures or as reimbursement for expenses incurred and chargeable to the Insurance Fund. The Insurance Fund may ascertain the extent and nature of any timely assistance or participation available from the Federal Government and request the appropriate agency or agencies for such assistance and participation prior to authorizing the expenditure of funds from the Insurance Fund. The Insurance Fund may negotiate and execute a memorandum of understanding defining the degree of

participation between and among the Insurance Fund, cooperating federal agencies, states, and any other entities concerned.

The Governing Board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. An advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the Insurance Fund being considered by the Governing Board or the Executive Committee.

A party state may make application for assistance from the Insurance Fund with respect to a pest in a nonparty state. Such application must be considered and disposed of by the Governing Board or Executive Committee in the same manner as an application with respect to a pest within a party state. A nonparty state is entitled to appear, participate, and receive information only to such extent as the Governing Board or Executive Committee sees fit. A nonparty state is not entitled to review of any determination made by the Executive Committee. The Governing Board or Executive Committee may authorize expenditures from the Insurance Fund to be made in a nonparty state only after determining the conditions in such state and the value of such expenditures to the party states as a whole justify them. The Governing Board or Executive Committee may set any conditions that it deems appropriate with respect to the expenditure of moneys from the Insurance Fund in a nonparty state, and may enter into such agreement with nonparty states and other jurisdictions or entities to protect the interests of the Insurance Fund.

The Insurance Fund must submit to each party state a budget for the Insurance Fund for such period as required by the laws of that party state. The bill provides criteria for the Insurance Fund to determine the amounts to be appropriated. The financial assets of the Insurance Fund must be maintained in two accounts to be designated respectively as the "operating account" and the "claims account." The bill provides criteria for determining the moneys to be maintained in each account. The Insurance Fund may not pledge the credit of any party state. The Insurance Fund must keep accurate accounts of all receipts and disbursements, which are subject to the audit and accounting procedures established under its bylaws. The bill calls for the Insurance Fund to be audited annually by a certified or licensed public accountant, and for the report of the audit to be included in and become part of the annual report of the Insurance Fund. The accounts of the Insurance Fund must be open at any reasonable time for inspection by authorized officers of the party states and by any persons authorized by the Insurance Fund.

The compact becomes active when enacted by any five or more states. Thereafter, the compact becomes effective to any other state upon its enactment. A party state may withdraw from the compact by enacting a statute repealing the same, but such withdrawal must not take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. A withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

The bill provides a severability clause whereas if any part of the compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of the compact will not be affected.

## B. SECTION DIRECTORY:

**Section 1:** Creating s. 570.345, F.S.; enacting the IPCC into law; authorizing departments, agencies, and officers of the state to cooperate with the Insurance Fund established by the IPCC, providing for filing of the by-laws; designating the compact administrator; providing for crediting of funds to appropriate accounts of a state treasury under certain circumstances; defining "executive head"; providing findings; providing definitions; establishing an Insurance Fund; providing criteria regarding operation of the Insurance Fund; providing for a governing board and executive committee; providing criteria regarding the operation of the governing board and executive committee; providing for the Insurance Fund to have a distinctive seal; providing for an annual report of the Insurance Fund to applicable states/officers; providing representation on the governing board by the United States;

providing for the governing board to meet at least once a year; providing for membership of the executive committee; providing for states to employ best efforts in eradication and control of pests/diseases; providing criteria for states to apply for assistance from the Insurance Fund; authorizing the governing board to establish advisory and technical committees; allowing a party state to apply for assistance with respect to a pest in a non-party state; requiring a submission of a budget from the Insurance Fund; providing criteria regarding the budget; providing criteria regarding administration of the Insurance Fund; providing terms of withdrawal from compact; and providing for severability.

**Section 2:** Providing an effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

See "Fiscal Comments."

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

### D. FISCAL COMMENTS:

The IPCC was formed in 1968 with the assistance of the Council of State Governments and is comprised of 37 states, including Florida. The IPCC provides funding resources to states that may not have the necessary available capital to respond to a new pest outbreak posing a threat to agriculture. Member states pay an initial assessment of \$2,000 base plus a percentage of the value of the state's agriculture and forestry crop values. Over the six year period of 1995-2001, Florida's payment totaled \$39,342. Since becoming a member in 1995, Florida has received \$240,522 in funding for noxious weed and tomato virus control activities.

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## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None

**B. RULE-MAKING AUTHORITY:**

Not applicable

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**