

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: SB 2656

INTRODUCER: Senator Haridopolos

SUBJECT: Arboriculture

DATE: April 16, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Poole	AG	Favorable
2.	McKay	Wilson	GO	Favorable
3.	Blizzard	DeLoach	GA	Favorable
4.				
5.				
6.				

I. Summary:

This bill creates an arborist licensing program that qualifies persons to hold themselves out as a licensed arborist in the State of Florida. It provides definitions relating to arboriculture and it gives the Department of Agriculture and Consumer Services (department) rulemaking authority to establish licensing procedures and set fees to cover the cost of implementing this program. The bill specifies steps that must be followed for the issuance, renewal, suspension, or revocation of a license. It revises the definition of “agricultural products” to make tropical foliage exempt from regulation under provisions relating to dealers in agricultural products.

This bill appropriates \$72,280 from the Incidental Trust Fund within the department to implement the provisions in the bill. The department estimates a recurring negative impact to the General Inspection Trust Fund of \$23,730, beginning Fiscal Year 2009-2010, due to the tropical foliage exemption from the Florida License and Bond Law.

This bill creates the following sections of the Florida Statutes: 598.001, 598.002, 598.003, 598.004, 598.005, 598.006, 598.007, 598.008, 598.009, and 598.011.

The bill amends section 604.15, Florida Statutes.

II. Present Situation:

Currently, there is no state regulation or licensing law governing arborists in the state. The International Society of Arboriculture (ISA) has a voluntary 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 statement is to promote the professional practice of arboriculture and foster a greater awareness of the benefits of trees through research, technology, and education. The Florida chapter² of the ISA's mission is to promote the scientifically based practice of arboriculture through research, education, and public awareness. The Division of Forestry within the department estimates that there are over 2,000 Florida ISA certified members. It also reports that, during the 2004 hurricane season, many persons claiming to be arboricultural practitioners came into Florida and offered services that did more harm than good to tree structures, creating potential safety hazards.

The Agricultural License and Bond Law covers business transactions for growers selling to companies with a business presence in Florida. In the 2005 Legislative Session, the definition of the term "agricultural products" was amended to include tropical foliage as a non-exempt agricultural product produced in Florida. Hence, tropical foliage is included in the definition of agricultural products and those who sell tropical foliage are subject to the requirement that dealers be licensed and bonded. The foliage industry has subsequently requested a reenactment of the exemption.

III. Effect of Proposed Changes:

Section 1 creates ch. 598, F.S., to provide for the licensure of arborists in Florida.

Section 598.001, F.S., is created to provide for the chapter to be cited as the "Florida Arborist Licensing Law."

Section 598.002, F.S., is created to declare 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 chapter.

Section 598.003, F.S., is created to provide 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 ch. 482, F.S., and nursery activities, as defined in ch. 581, F.S. It also includes a service performed in connection with post-storm cleanup of damage from trees. A licensed landscape architect can practice arboriculture and an emergency response team member can provide charitable arboriculture services. However, neither can hold himself out as a state-licensed arborist unless licensed under this chapter.
- "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 four 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).

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

² <http://www.floridaisa.org/>

- “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, unless exempted by this chapter. Representing oneself or holding oneself out to be an arborist shall be construed to be the practice of arboriculture.

Section 598.004, F.S., is created to provide rulemaking authority for the department to implement the Florida Arborist Licensing Law by addressing practice guidelines, licensure process, fees, and the development of a roster of licensed arborists.

Section 598.005, F.S., is created to authorize the department to set fees to defray the costs of administering this program. The fees shall:

- Not exceed the cost of administering the program.
- Be nonrefundable.
- Be deposited into the Incidental Trust Fund of the Division of Forestry.
- Not exceed \$300 annually.

Section 598.006, F.S., is created to set forth licensing procedures, which are to include:

- Requirements that an applicant be at least 18 years of age, disclose information that would be grounds for denial or refusal of a license, submit evidence of certification by the ISA, provide proof of the required insurance coverage, and agree in writing to comply with industry standards and best management practices.
- Circumstances that allow the department to deny or refuse to renew a license or to suspend or revoke a license.
- A prohibition against a person holding himself out as a Florida-licensed arborist, unless that person has been issued a license under this chapter.
- A requirement that a Florida-licensed arborist sign and seal arboriculture papers or documents prepared by him or under his supervision.

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

Section 598.008, F.S., is created to require that a licensed arborist make a written request to the department to reactivate a license that is inactive, suspended, or revoked.

Section 598.009, F.S., is created to authorize the department to issue a duplicate license under certain circumstances.

Section 598.011, F.S., is created to require that the department maintain a roster of all licensed arborists in the state.

Section 2 amends s. 604.15, F.S., to revise the definition of “agricultural products” to make tropical foliage exempt from regulation under provisions relating to dealers in agricultural products.

Section 3 appropriates one position and \$72,280 from the Incidental Trust Fund to carry out the provisions of this act.

Section 4 provides that this act shall take effect July 1, 2009.

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 arborist licensing program is that it will be supported by fees generated after the initial appropriation from the Incidental Trust Fund.

The bill provides relief to tropical foliage dealers from the agricultural dealers’ provisions of ch. 604, F.S., including the fees required by s. 604.19, F.S.

B. Private Sector Impact:

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

The bill provides relief to tropical foliage dealers from the agricultural dealers’ provisions of chapter 604, F.S., including the fees required by s. 604.19, F.S. This will decrease the protection provided by the agricultural bond and create a financial vulnerability to those growers who will no longer have the protection of the bond to ensure payment for their product.

C. Government Sector Impact:

The bill provides for an appropriation of \$72,280 from the Incidental Trust Fund and one position to establish the licensing program and carry out the provisions of this bill. The department estimates the costs to administer the program as follows:

	Fiscal Year 2009-10	Fiscal Year 2010-11	Fiscal Year 2011-12
Revenue – Incidental Trust Fund	Indeterminate	Indeterminate	Indeterminate
Revenue – General Inspection Trust Fund	(\$23,730)	(\$24,441)	(\$25,175)
Recurring costs			
Administrative assistant	\$49,544	\$49,544	\$49,544
Support staff expense package	\$5,426	\$5,426	\$5,426
Human resources allocation	\$401	\$401	\$401
Travel	\$4,300	\$2,000	\$2,000
Additional supplies	\$2,500	\$500	\$500
Contracted services AGMIC	\$5,000	\$5,000	\$5,000
Total recurring costs	\$67,171	\$62,871	\$62,871
Non-recurring costs			
Support staff package	\$2,971		
OCO-all staff- 1@\$1,000	\$1,000		
Total non-recurring costs	\$3,971		
Administrative overhead	\$1,090	\$1,090	\$1,090
Grand total	\$72,232	\$63,961	\$63,961

Revenue is indeterminate because it is unknown how many persons will decide to become a licensed arborist.

The department estimates a decrease in recurring revenue in the General Inspection Trust Fund within the department of \$23,730 in Fiscal Year 2009-2010, due to the tropical foliage exemption.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not appear to require arborists to become licensed, and the provisions of s. 11.62(2), F.S., appear to be addressed in proposed s. 598.002, F.S.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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