

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 Budget Subcommittee on General Government Appropriations

BILL: CS/SB 1132

INTRODUCER: Budget Subcommittee on General Government Appropriations; Senators Hays and Montford

SUBJECT: Agriculture

DATE: February 2, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Buford</u>	<u>AG</u>	Favorable
2.	<u>Blizzard</u>	<u>DeLoach</u>	<u>BGA</u>	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
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:

This bill revises definitions¹ in the Florida Right to Farm Act for “farm operation” and “farm product” so that the definitions include honeybee and aquaculture activities and the placement and operation of an apiary. It revises the definition of “apiary” to allow honeybee hives to be placed on agricultural land or land integral to a beekeeping operation, and creates a definition for “apiculture.” The bill grants the Department of Agriculture and Consumer Services (DACS) exclusive authority to regulate, inspect, permit, and determine placement of managed honeybee colonies and authorizes the DACS to adopt rules for this purpose after consulting with local governments and other affected stakeholders.

The bill creates a definition for “farm sign” and exempts a farm sign from the Florida Building Code and any county or municipal code or fee.

This bill substantially amends sections 604.50, 823.14, 586.02, and 586.10 of the Florida Statutes.

¹ See s. 823.14(3), F.S., for definitions.

II. Present Situation:

Beekeeping

The Bureau of Plant & Apiary Inspection of the DACS plays a vital role in Florida agriculture as inspectors work to prevent the introduction and establishment of honey bee pests and diseases. Florida's honey industry ranks among the top five in the nation with an annual worth of \$13 million. Seventeen million pounds of honey are produced in Florida each year. Additionally, honeybee operations benefit the state's fruit and vegetable industry by providing an estimated \$20 million in increased production numbers created by managed pollination services for over 100 varieties of popular fruits and vegetables. Florida Apiary Inspectors certify movement of honey bee colonies throughout the state and the nation. The DACS has the most comprehensive state program (e.g., number of inspectors and traps) to prevent the accidental introduction of the unwanted Africanized honey bee.²

The Florida Legislature first provided for inspection and "certification of honey" in 1953 by authorizing the then Commissioner of Agriculture to establish standards of grade and quality to qualify for the label of "certified honey" and further gave the commissioner authority to make rules and regulations as necessary to implement a certification program.³ This function was transferred to the DACS upon its creation in a 1969 reorganization of the executive branch of government.⁴ The laws regulating honey certification were substantially reworded in 1986 and expanded to include regulation of honeybees and honeybee products at which time the Honeybee Technical Council was also created.⁵ Currently, chapter 586, F.S., gives the DACS the powers and duties to regulate honeybees, honeybee pests, honeybee products, and beekeeping equipment. Beekeepers are required to register their hives and submit to an annual inspection. Based on inspection programs and inspection results, the DACS also has authority to regulate the certification and labeling of Florida-produced honey and the issuance of certificates of registration and inspection.

Researchers at the University of Florida's Institute of Food and Agriculture Sciences estimate that as much as 30 percent of all foods in the human diet depend upon pollination by honey bees. In addition, these insects pollinate livestock forage crops such as alfalfa and clover and are also important for dairy, poultry and swine production for that reason.⁶

Florida Right to Farm Act

The Florida Right to Farm Act⁷ (act) makes legislative findings that agricultural production is a major contributor to the economy of the state and that agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits based on the theory of nuisance and that these suits encourage and even force the premature removal of farm land from agricultural use. The act also prohibits local government from adopting any ordinance, regulation, rule, or

² Retrieved from <http://ww.freshfromflorida.com/pi/plantinsp/apiary/apiary.html>. Site last visited April 17, 2012.

³ L.O.F. 28167.

⁴ L.O.F. 69-106.

⁵ L.O.F. 86-62

⁶ G. B. Crawford, "The buzz about bees," *Florida Agriculture, The Voice of Agriculture in Florida*, Vol. 71, No. 10, October 2011.

⁷ Section 823.14, F.S.

policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural where such activity is regulated through implemented best management practices or interim measures developed by the Department of Environmental Protection, DACS, or water management districts and adopted under chapter 120 as a part of a statewide or regional program. The definition of “farm operation” in the act does not include honeybee or aquaculture products or the placement of an apiary. Further the definition of “farm product” includes animals useful to humans, but not insects. The act defines apiary, but not apiculture, and is silent as to where an apiary may be located.

Some local governments greatly restrict or ban honey bee colony placement within their jurisdictions with the consequence of reducing pollination of plants and creating a more favorable environment for unwanted, more aggressive African honey bees to colonize.⁸ Additionally, honey bees, honey bee products, and aquaculture products are being produced in farming operations but may not be included in the current law as farm products.⁹

Farm Signs

Section 604.50, F.S., specifies that any nonresidential farm building or farm fence is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. “Farm” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.¹⁰ “Nonresidential farm building” means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c), F.S., or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house. A farm sign is not specifically exempted from complying with the provisions of s. 604.50, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 823.14, F.S., to revise the definition of “farm operation” to include honeybee and aquaculture activities and to, additionally, include the placement and operation of an apiary. It expands the definition of “farm product” to include “insects” useful to humans.

Section 2 amends s. 586.02, F.S., to revise the definition of “apiary” to specify that an apiary may be located on land classified as agriculture under s. 193.461, F.S., or on land that is integral to a beekeeping operation. It provides a definition for “apiculture” which is the raising, caring, and breeding of honeybees.

Section 3 amends s. 586.10, F.S., to preempt to the state the authority to regulate, inspect, and permit managed honeybee colonies and to adopt rules regarding the placement and location of managed colonies which would supersede any local ordinances regarding these matters. It makes

⁸ DACS bill analysis for SB 1132, January 10, 2012, on file with the Senate Agriculture Committee.

⁹ *Id.*

¹⁰ Section 823.14, F.S.

DACS's enumerated powers and duties mandatory and gives the DACS authority to adopt rules to implement this section after consulting with local governments and other affected stakeholders.

Section 4 defines "farm sign" as a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or service sold, produced, manufactured, or furnished on the farm. It exempts a "farm sign" from the Florida Building Code and any county or municipal code or fee except for code provisions implementing local, state, or federal floodplain management regulations.

Section 5 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Article VII of the State Constitution limits the power of the Legislature to enact laws impacting certain revenues and expenditures of municipalities and counties. The mandates provision appears to apply because the bill exempts farm signs from any county or municipal code or fee, and preempts the regulation of honeybee activities to the state; however, this provision appears to have a fiscal impact of less than \$1.9 million statewide on counties and municipalities and is deemed an insignificant fiscal impact, and thus an exemption for the purposes of Section 18, Article VII of the Constitution appears to apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Local governments may suffer a revenue loss due to being preempted from regulating honeybee activities and farm signs. Although the fiscal impact is indeterminate, it is likely to be insignificant.

B. Private Sector Impact:

This bill may have a positive fiscal impact of an indeterminate amount on the private sector as there is the ability to construct farm signs without being subject to fees or fines and the potential for elimination of duplicate regulation.

C. **Government Sector Impact:**

The fiscal impact to local governments due to the loss of revenue arising from the regulation of honeybee activities and farm signs is indeterminate, but it is likely insignificant.

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 Budget Subcommittee on General Government Appropriations on February 2, 2012:

The committee substitute differs from the original bill by adding a definition for farm signs and exempting farm signs from the Florida Building Code and any county or municipal code or fee. It also adds a provision giving the DACS rulemaking authority to implement the provisions of the bill related to beekeeping after consultation with local governments and other affected shareholders.

- B. **Amendments:**

None.