

**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/CS/SB 1254

**INTRODUCER:** Environmental Preservation and Conservation Committee; Agriculture Committee; and Senator Siplin

**SUBJECT:** Department of Agriculture and Consumer Services

**DATE:** February 27, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Buford	AG	Fav/CS
2.	Uchino	Yeatman	EP	Fav/CS
3.	Blizzard	DeLoach	BGA	Pre-meeting
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 addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (DACS). Specifically this bill:

- Establishes the Division of Food, Nutrition and Wellness;
- Designates the DACS, rather than the Department of Environmental Protection (DEP), as the staff responsible for acquiring and administering conservation easements on land that is acquired under the Rural and Family Lands Protection Program;
- Extends the date from September 15 to September 30 for mosquito control districts to provide their certified budgets to the DACS;
- Revises the products that mosquito control districts are authorized to use to control mosquito breeding;
- Repeals statutory language relating to the John A. Mulrennan, Sr., Arthropod Research Laboratory;
- Eliminates travel and per diem reimbursements for several councils;
- Allows the DACS to adopt the most current federal regulations to address the safety and protection of food offered at retail and wholesale;

- Eliminates the Food Safety Pilot Program, relating to inspection of food establishments and vehicles;
- Updates milk, milk products and frozen dessert laws;
- Updates the name of the Office of Energy and Water to the Office of Agricultural Water Policy;
- Repeals the statute relating to the Florida Agricultural Exposition which was closed in 2008;
- Eliminates three technical councils and replaces them with a new Agricultural Feed, Seed and Fertilizer Advisory Council;
- Requires a review of marketing orders when requested by an advisory council rather than an annual audit by a certified public accountant;
- Extends the expiration dates for the fertilizer tonnage fee program to December 31, 2022, and December 31, 2027, authorizing the DACS to continue to collect approximately \$1 million annually that is used for the development of best management practices and nutrient pollution abatement efforts;
- Requires commercial feed distributors to report quarterly on the amount of feed distributed in Florida and provides penalties for failure to comply;
- Authorizes the DACS to impose and recover monetary penalties for commercial feed found to be deficient or excessive in nutrients;
- Provides that consumers who purchase commercial feed that is in violation of the DACS standards may seek legal or administrative action to recover penalties;
- Provides the ability for soil and water conservation districts to work across district lines to utilize water conservation devices, systems, and techniques;
- Provides that the proceeds of the sale of soil and water conservation district property be credited to the district rather than the DACS;
- Repeals provisions relating to cattle vaccination for brucellosis;
- Renames the “Wounded Warrior Special Hunt Area” as the “Operation Outdoor Freedom Special Hunt Area”;
- Allows the DACS to deposit funds from private sources, as well as federal funds, into the Florida Forest Service Incidental Trust Fund for reforestation projects;
- Gives the Florida Forest Service the sole authority to enforce silviculture and agricultural open burning and eliminates duplicative permitting by other entities of the state;
- Provides an education fee waiver for elementary, middle, high school, and vocational schools that participate in the aquaculture certification program;
- Eliminates the Aquaculture Interagency Coordinating Council; and
- Deletes the Aquaculture Interagency Coordinating Council from the membership of the Aquaculture Review Council.

This bill amends sections 20.14, 253.002, 379.2523, 379.2524, 388.161, 388.201, 388.323, 388.46, 493.6104, 500.09, 500.147, 502.014, 502.053, 570.0705, 570.074, 570.18, 570.53, 570.54, 573.112, 573.118, 576.045, 576.071, 580.041, 580.131, 581.011, 581.145, 582.06, 582.20, 582.29, 582.30, 582.31, 582.32, 589.19, 589.277, 590.02, 597.0021, 597.003, 597.004, 597.005, 604.21 and 616.252 of the Florida Statutes.

This bill creates section 570.451 of the Florida Statutes.

This bill repeals sections 388.42, 570.071, 570.29, 570.34, 576.091, 578.30, 580.151, 585.155, 589.03, and 597.006 of the Florida Statutes.

## **II. Present Situation:**

### **Division of Food, Nutrition and Wellness**

The 2011 Legislature created the Healthy Schools for Healthy Lives Act, which provides for a type two transfer of administration of school food and nutrition programs from the Department of Education to the DACS, pending a waiver from the United States Department of Agriculture. That waiver was granted in October 2011; and on January 1, 2012, the DACS assumed administration of the state's school food and nutrition programs. The Commissioner of Agriculture states the DACS is the most experienced and best positioned to manage Florida's school food and nutrition programs. Furthermore it is the commissioner's position that the transfer will foster increased coordination between Florida farmers and the school programs that provide food for Florida's children.<sup>1</sup>

### **Board of Trustees Lands**

The Board of Trustees of the Internal Improvement Trust Fund consists of the Governor and Cabinet. The Division of State Lands within the DEP currently serves as staff to the board for the acquisition, administration, and disposition of state lands, with certain exceptions. This bill removes the DEP as the intermediary for acquisition of conservation easements that are acquired under the Rural and Family Lands Protection Program (RFLPP). The RFLPP was created by the 2001 Legislature to protect agricultural lands from development through permanent easement acquisitions from qualified and willing agricultural land owners. Landowners protecting their land under this program are free to undertake any agricultural practice as long as they are willing to follow established best management practices.

The DACS has entered into a Memorandum of Understanding (MOU) with the DEP which allows the DACS to carry out the responsibilities of acquiring conservation easements. In accordance with the MOU, the DACS negotiates, contracts, and performs all due diligence with regard to the real estate transactions, prepares the Board of Trustees agenda item and presents the item at a regular scheduled meeting. All information for the real estate transaction must be submitted to the DEP for review prior to the Board of Trustees meeting, and it also must be given to the DEP for a final review prior to closing. This bill eliminates steps the DACS considers redundant by removing the DEP as the intermediary and allowing the DACS to act as an agent of the Board of Trustees.

### **Per Diem and Travel Expenses for Advisory Committees**

Section 112.061, F.S., establishes standard travel reimbursement rates, procedures, and limitations applicable to all public officers, employees, and authorized persons whose travel is authorized and paid by a public agency. This allows members of select statutorily created advisory councils to receive compensation for per diem and travel expenses. The members

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<sup>1</sup> Analysis, Senate Bill 1312, 2011 Legislative Session.

organize and host the meetings of the councils, and have in the past been provided with per diem and travel expenses in accordance with these provisions.

In order to reduce costs, several advisory committees and councils were stripped of the ability to receive travel expenses and per diem by the 2011 Legislature. This bill includes some committees and councils that were overlooked in 2011 and also reinstates travel expenses and per diem for some advisory committees that do not fall under the DACS purview.<sup>2</sup>

### **Mosquito Control**

Mosquito control is Florida's first line of defense against mosquito-borne diseases such as West Nile encephalitis, St. Louis encephalitis, eastern encephalitis, dengue and many others.<sup>3</sup> Chapter 388, F.S., addresses mosquito control efforts in the state. It allows any city, town or county, or any other area in the state to create a special taxing district for the control of arthropods. There are currently sixty two mosquito control programs in Florida.

The fiscal year for districts is the twelve month period extending from October 1 of one year through September 30 of the following year. Prior to July 15 of each year, the district governing board must complete the preparation of a tentative detailed work plan budget. The tentative budget must include proposed operations and requirements for arthropod control measures during the ensuing fiscal year. For the purpose of determining eligibility for state aid, the governing board must submit copies to the DACS for review and approval. The board must adopt and execute a certified budget and submit it to the DACS for approval by September 15, which prevents current revenue and expense information from being included and is inconsistent with county budgetary schedules.

### **Disposal of Surplus Property**

Mosquito control districts are currently required to offer surplus property (such as application equipment, spray trucks, aircraft, aircraft parts, etc.) to all other counties or districts engaged in arthropod control at a price established by the board of commissioners that owns the equipment. This equipment is typically highly specialized and only of use to other mosquito control programs, if it has any residual value at all. If no acceptable offer is received within a reasonable time, the equipment can be offered to other governmental units or private nonprofit agencies. The mosquito program that disposes of the surplus property retains the funds for use in the control program. Eliminating this requirement will allow the equipment to be offered to other mosquito control programs, and, if not taken by them, disposed of by auction or scrap disposal without the additional step of offering it to all local governments. This will eliminate an unnecessary step in the equipment disposal process for mosquito control programs.

### **John A. Mulrennan, Sr., Arthropod Research Laboratory**

The John A. Mulrennan, Sr., Arthropod Research Laboratory is a research laboratory in Panama City, Florida, under the administration of the Florida Agricultural and Mechanical University

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<sup>2</sup> CS/CS/HB 7215, 2011 Legislative Session.

<sup>3</sup> University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, <http://fme1.ifas.ufl.edu/> (last visited Feb. 1, 2012).

(FAMU). The FAMU closed the laboratory on June 30, 2011.<sup>4</sup> The laboratory performed basic and applied research to develop and test formulations, application techniques, and procedures of pesticides and biological control agents for the control of arthropods and, in particular, biting arthropods of public health or nuisance importance. Each quarter, the laboratory provided the DACS with such information as it needed to assist in the performance of its duties with respect to arthropod control under ch. 388, F.S. The laboratory also served as a center for training of students and state and local government personnel in the safe and effective control of biting arthropods.

The FAMU was represented on the Florida Coordinating Council on Mosquito Control in order to coordinate the activities of the laboratory with the needs and interests of mosquito control stakeholders in Florida. With the close of the laboratory, there is no reason for continued representation on the council or for mention of the laboratory in statute.

### **U.S. Food and Drug Administration Food Code**

The United States Food Code is a model created by the Food and Drug Administration (FDA) to assist federal, state, local and tribal control jurisdictions in regulating any entity that sells, manufactures, or provides food as part of their services. This law was instituted because some food manufacturers were producing and selling impure products for consumption. The FDA Food Code was adopted to protect the citizens of this country from bodily harm that could arise from consuming contaminated food and to provide various entities a uniform standard, and a final authority, regarding any questionable practices in the preparation or sales of food. The FDA Food Code is currently updated every four years.<sup>5</sup>

The Division of Food Safety (division) is responsible for assuring the public of a safe, wholesome and properly represented food supply through permitting and inspection of food establishments, inspection of food products, and performance of specialized laboratory analyses on a variety of food products sold or produced in the state. The division monitors food from farm gate through processing and distribution to the retail point of purchase. Section 500.09(3), F.S., requires the division to adopt the rules necessary to enforce the provisions of ch. 500, F.S., and authorizes the DACS to adopt by reference the rules adopted by the Food and Drug Administration with regard to food safety. The DACS has indicated that the authority to adopt all current changes to the FDA Food Code and Federal Code of Regulations as they are released and implemented by the federal government will best protect the health and safety of Florida citizens.

### **Food Safety Pilot Program**

The 1997 Legislature created a food safety pilot program for the inspection of food establishments and vehicles to increase efficiency and reduce costs by allowing certain food establishments to start self-inspection. To be eligible for this program, a food establishment must have a good inspection record, certified food managers, active food training programs, thorough

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<sup>4</sup> Florida Agricultural and Mechanical University, College of Engineering, Sciences, Technology & Agriculture, Public Health Entomology Research and Education Center, <http://www.famu.edu/cesta/main/index.cfm/research/public-health-entomology-research-and-education-center/#my-menu> (last visited Feb. 1, 2012).

<sup>5</sup> United States Food and Drug Administration, *Introduction to FDA Food Code*, <http://www.fda.gov/food/foodsafety/retailfoodprotection/foodcode/default.htm> (last visited Feb. 1, 2012).

records, and written Sanitation Standard Operation Procedures in place. Seventeen food establishments participated in the program, and the DACS audited the participants periodically to ensure compliance with the federal and state food laws.<sup>6</sup> By 2004, due to the difficulty of compliance, there were no establishments remaining in the program. As an alternative to the pilot program, the Division of Food Safety has implemented a variable inspection frequency, which rewards food establishments with good sanitary history by reducing the frequency of inspections. The variable inspection frequency has proven to be less burdensome on the industry than the pilot program.

### **Milkfat Testing**

Currently, the DACS is required to maintain a program to issue permits to persons who test milk or milk products for fat content if the tests will be used as a basis for payment to a dairy farmer. Approximately sixty five permitted analysts currently pay \$125 for a two-year permit that involves certain steps to obtain. First, a person seeking to be licensed as a Milk Fat Tester/Analyst must be employed by and work in an industry milk laboratory. Next, the applicant must also have a satisfactory onsite evaluation by the State Milk Laboratory Evaluation Officer and participate in the state's Split Sample Milk Fat Program twice a year with satisfactory results. In this program, samples are prepared and shipped to industry labs for analysts to test and report back their results to the Central Dairy Laboratory. Since this program was implemented in 1973, the USDA Milk Marketing Administration has started a program that provides the same function of making sure the dairy farmer is fairly paid, making the state program redundant.

### **Florida Agricultural Exposition**

In a joint venture, the DACS and the Department of Corrections constructed and equipped an agricultural exposition center in 1969 known as the Florida Agricultural Exposition in Indiantown, Florida. The purpose of the facility was to:

- Demonstrate and sell Florida agricultural and agriculture business products;
- Attract and inform buyers;
- Conduct agricultural short courses and conferences;
- Organize tours in the aid of marketing Florida agricultural products to the domestic, Latin American, and other foreign markets; and
- Train prisoners of the correctional institutions of the state in agricultural labor and management.

A local rancher who was involved with the facility said that the facility had an emphasis on cows and used inmates at the Martin Correctional Institution to gentle the livestock or help show the different breeds.<sup>7</sup> To support the facility, the DACS and the Department of Corrections were authorized to accept monetary donations from growers and dealers of agricultural products and their associated entities, the federal government, and other sources. The DACS was also authorized to expend up to \$25,000 of its own funds, if available. As a result of decreased use, significantly increased costs, and a profile change in inmates of the Martin Correctional Institute, the facility was closed in 2008.

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<sup>6</sup> Analysis, Senate Bill 2044, 1997 Legislative Session.

<sup>7</sup> Telephone interview with Michael Duane by librarian of Elisabeth Lahti Library, Indiantown, Florida.

## **Office of Energy and Water**

In 1995, the Legislature authorized the Commissioner of Agriculture to create an Office of Water Coordination and to designate the bureaus and positions that report to that office regarding water policy and water issues that affect agriculture and are within the DACS' jurisdiction. That year, the DACS established the Office of Agricultural Water Policy (OAWP). It facilitated communication and coordination among federal, state, and local governmental agencies, environmental representatives, and the agriculture industry on agricultural water resource issues. A primary function of the OAWP was to develop and assist with the implementation of best management practices in order for agricultural producers to meet their obligation under the Florida Watershed Restoration Act. The producers were required to reduce agricultural pollutant loadings to impaired waters within a basin for which the DEP had adopted a Basin Management Action Plan. The OAWP also facilitated and assisted in the development of other watershed protection plans throughout the state, including the Lake Okeechobee, St. Lucie Watershed, and Caloosahatchee Watershed protection plans, among others. The OAWP was also very involved in Everglades restoration efforts and in other federal matters, such as the discussion/debate over U.S. Environmental Protection Agency (EPA) numeric nutrient criteria for Florida.<sup>8</sup>

The State Energy Office, within the Governor's Office, was originally created and organized on July 1, 1975, by the Florida Legislature. Since 1975, the Energy Office has been housed in several state agencies, including the Department of Administration, the Department of Community Affairs, the DEP and the Executive Office of the Governor. In the mid 2000s, the state began to focus more on energy issues and on how to increase the state's energy independence, decrease dependence on foreign oil and create a clean energy economy. To do this, the Legislature and the Governor's office created two separate bodies to advise them on these issues and to develop a plan to implement any recommended policy actions. In 2006, the Florida Energy Commission was created by the Florida Energy Act, and the following year, the Governor created the Governor's Action Team on Energy and Climate Change. As a result of the Florida Energy Commission and Governor's Action Team recommendations, the 2008 Legislature created the Florida Energy and Climate Commission and consolidated staff from three different agencies to create the Governor's Energy Office housed in the Executive Office of the Governor.<sup>9</sup>

The 2011 Legislature moved the state's energy office from the Executive Office of the Governor to the DACS and created the Office of Energy and Water. To facilitate an expanded energy focus within the DACS, a separate Office of Energy will be established and this bill will change the name of the Office of Energy and Water to the Office of Agricultural Water Policy.

## **Plant Industry Technical Council**

The Plant Industry Technical Council is an advisory committee that was created by the Legislature in 1959. Appointed by the Commissioner of Agriculture, the council is composed of

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<sup>8</sup> Analysis, Senate Bill 2076, 2011 Legislative Session.

<sup>9</sup> DACS, *Agency Summary, Governor's Energy Office & Florida Energy & Climate Commission*, available at [http://www.freshfromflorida.com/offices/energy/docs/meetings/01142011\\_FECC\\_GEO\\_Agency\\_Summary.pdf](http://www.freshfromflorida.com/offices/energy/docs/meetings/01142011_FECC_GEO_Agency_Summary.pdf) (last visited Feb. 1, 2012).

industry representatives who consult with and advise the Commission and the director of the Division of Plant Industry (division) about policies and issues related to their respective industries.<sup>10</sup> According to the DACS, the council has met sporadically over the last decade and in the past few years has not been as effective at addressing plant industry-related issues. The division has had better success in dealing with issues by using working groups or task forces that are commodity based or specific to a given issue. Recently, the division has been working with the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection Quarantine Program and with the United States Department of Homeland Security's Customs and Border Protection Modernization Program through a recently established Florida Partnership Council. The new council meets quarterly, and once annually it brings in industry stakeholders for a "State of the State" meeting to seek input and review of overall plant protection programs in Florida. The DACS is therefore recommending that the Plant Industry Technical Council be eliminated.

### **Aquatic Plant Nursery Registration**

The water hyacinth is a floating plant that often jams rivers and lakes with uncounted thousands of tons of floating plant matter.<sup>11</sup> Section 581.145, F.S., authorizes the DACS to issue, when requested, a permit to an aquaculture producer to export water hyacinths to countries other than the United States and only when the hyacinths are cultivated in a nursery for the sole purpose of exportation and the aquaculture activity has been certified by the department. An aquaculture producer is forbidden from shipping water hyacinths to another country under the permit for the purpose of importing the hyacinths back into the United States. Drop shipments cannot be made to any destination within the United States. This provision does not restrict or interfere with the DEP's efforts, or those of any other agency or local government responsible for the management of noxious aquatic plants, to control or eradicate noxious non-nursery aquatic plants, including water hyacinths. It is also not a consideration in the approval or the release of biological control agents for water hyacinths or any other noxious aquatic plants.

Even though the water hyacinth is not on the United States Department of Agriculture's Noxious Plant List, Florida aquatic plant producers have been prohibited from distributing these products through interstate commerce. This puts Florida aquatic plant producers at a competitive disadvantage in the United States marketplace.

### **Division of Agricultural Environmental Services Technical Councils**

Currently, within the DACS there are three separate advisory councils that mitigate issues regarding fertilizer, seeds, and commercial feed. While each council addresses issues unique to its particular area, overlap occurs due to the nature of the three topics. All of the various industry groups have agreed to combine the three separate councils into one all-encompassing council. This bill creates the Agricultural Feed, Seed and Fertilizer Advisory Council, which will replace the following three councils:

- **Commercial Feed Technical Council** – This council considers and studies all issues involving commercial feed in Florida and reviews and makes recommendations to the DACS

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<sup>10</sup> University of Florida, *Division of Plant Industry, 39<sup>th</sup> Biennial Report* (1990-1992), available at <http://ufdc.ufl.edu/UF00075925/00003> (last visited Feb. 1, 2012).

<sup>11</sup> University of Florida, Center for Aquatic and Invasive Plants, *Home*, <http://plants.ifas.ufl.edu/> (last visited Feb. 1, 2012).



on related matters. The council is composed of thirteen members representing various interests of the feed industry.

- **Seed Technical Council** - This council considers and studies all issues involving seed, seedlings, vegetative propagating materials and plants and reviews and makes recommendations to the DACS on related matters. The council is composed of eleven members representing various interest of the seed industry.
- **Commercial Fertilizer Technical Council** - This council considers and studies all issues involving commercial fertilizer in Florida and reviews and makes recommendations to the DACS on related matters. The council is composed of thirteen members of the fertilizer industry.

### **Commercial Feed Master Registration**

The Division of Agricultural Environmental Services regulates animal feeds, including pet foods, through the inspection of production and distribution establishments and laboratory analysis of samples. Section 580.041, F.S., requires distributors of commercial feed in the state to obtain a master registration each year before distributing their brand. Distributors must consent to comply with provisions of ch. 580, F.S., as well as applicable rules. Registration forms must be accompanied by a fee based on tons of feed distributed in the state during the previous year. The terms of compliance for registration include:

- Submitting samples of manufactured feed for testing by laboratories certified by the DACS or obtaining an exemption from testing, as provided by ch. 580, F.S.
- Maintaining a bookkeeping system and records that allow the DACS to verify the accuracy of the reported tonnage of feed distributed in the state.
- Allowing the DACS to examine pertinent records.

The DACS has statutory authority to assess penalties for violations of ch. 580, F.S., as well as to refuse, suspend, or cancel the master registration of a distributor who violates or fails to comply with the provisions of ch. 580, F.S.

The DACS has indicated that because the reporting of the tonnage of feed distributed in the state is provided on a voluntary basis, many registrants defer or refuse to provide the information, while other registrants incur the costs of providing this information. Because the registration cost is based on the tons of feed distributed in the state, the failure to report the tonnage presents a problem when assessing the registration fee.

Additionally, current law requires registrants to have feed samples and ingredients testing at a frequency determined by rule.<sup>12</sup> The rule states that testing is based on the quantity and type of feed distributed. Without proper reporting, it is impossible for the DACS to determine if registrants are in compliance with statutory requirements.

### **Commercial Feed Penalties Payable to Consumers**

When ch. 580, F.S., was revised in 1995, the changes failed to include the authority for the DACS to impose and recover monetary penalties for commercial feed found to be deficient or

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<sup>12</sup> Rule 5E-3.003, F.A.C.

excessive in nutrients by the department's Certified Feed Laboratories program. Current statutory language provides only for recovery of deficiency penalty payments by the end-use consumer and only through formal legal action. No provision has been made for assessment or recovery of penalties by the state in instances where no consumer is associated with the deficient feed product.

### **Agricultural Marketing Orders**

There are thousands of small agricultural producers in Florida who depend on scientific research and marketing campaigns to grow and market their crops. Most cannot afford to own and operate their own laboratories and marketing firms, or maintain the staff it would take to run them. However, these small producers sometimes formally organize to establish a marketing order and vote to contribute small, set amounts into a "pot" for such activities. Then they use the pot of money to contract with professional firms that specialize in research and marketing.<sup>13</sup>

Marketing orders are instrumentalities issued by the DACS and designed to regulate the distribution and handling of agricultural products in intrastate commerce. Section 573.118, F.S., provides for marketing orders to become effective when consented to by a majority of producers or handlers of such commodities in the state. To establish a marketing order, at least ten percent of the affected producers must petition the DACS to give notice of a public hearing regarding a proposed marketing order. Once the notice has been filed and the hearing has been conducted, the DACS may issue the marketing order if it determines the order will accomplish certain objectives prescribed by statute.<sup>14</sup> Prior to a marketing order being issued, the petitioners must deposit such monies with the DACS to defray the cost of implementing the marketing order. Thereafter, persons directly affected by the marketing order shall pay such amounts as the DACS deems necessary to cover the administration and enforcement of the marketing order. On an annual basis, the DACS must arrange for an audit of the books and accounts of the marketing order by a certified public accountant (CPA). The CPA must notify the DACS and all parties covered by the marketing order of the results no later than thirty days following the audit.

### **Fertilizer Tonnage Fee**

Between 1985 and 1992, the DACS and the DEP jointly conducted surveys of drinking water wells in predominantly agricultural regions of Florida. Survey results from limited sampling in thirty- eight Florida counties showed elevated levels of nitrate in drinking water wells in thirty- six of the thirty- eight counties tested. Of those thirty- six counties, thirteen had at least one site with nitrate levels above the federal drinking water standard of ten parts per million (ppm) set by the EPA.

Based on these findings, the DACS initiated development of a comprehensive program to protect Florida's water resources while maintaining the state's large agricultural industry. The DACS, in partnership with the DEP, the Florida Farm Bureau, the Florida Fruit and Vegetable Association, the Florida Fertilizer and Agrichemical Association, and other groups, developed a voluntary,

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<sup>13</sup> DACS, *State Agricultural Marketing Orders*, <http://www.florida-agriculture.com/marketingorders.htm> (last visited Feb. 1, 2012).

<sup>14</sup> Section 573.108, F.S.

incentive-based program to develop individual practices or combinations of practices to specify how nitrogen-based fertilizers are to be used. Two categories of practices were created:

- Interim Measures (IMs) – Based on currently available knowledge, IMs were intended to provide a reasonable expectation of reducing nitrate levels entering ground water.
- Best Management Practices (BMPs) – BMPs are determined by research or field testing at representative sites to be the most effective and practicable methods of fertilization that meets crop needs and nitrate groundwater quality standards.

To fund the development of research-based BMPs and IMs, the Legislature authorized the DACS to impose supplemental fees on users of all fertilizer materials containing nitrogen to be deposited into the General Inspection Trust Fund. The authorization was granted through adoption of s. 576.045, F.S. Subsection (2) of s. 576.045, F.S., imposes the following fees which expire on December 31, 2012:

- \$100 for each license to distribute fertilizer.
- \$100 for each of the first five specialty fertilizer registrations and \$25 for each registration after the first five.
- Fifty cents per ton for bulk fertilizer sold in Florida which contains nitrogen or phosphorus.<sup>15</sup>

The revenue from the collection of the tonnage fee on fertilizers containing nitrogen or phosphorus is used for the development and implementation of agricultural BMPs and nutrient abatement and research efforts. The provisions of this program are set to expire on December 31, 2012, and December 31, 2017, respectively. Failing to extend these expiration dates would create a shortfall of approximately \$1 million annually and would impair efforts to protect and restore water quality.

### **Soil and Water Conservation Districts**

Soil and water conservation districts (districts) are governmental subdivisions of the state that coordinate with federal, state, regional, and other local partners to develop and implement soil and water conservation practices on private lands. In 1935, the United States Department of Agriculture, Natural Resources Conservation Service was established by Congress to assist individuals, groups, and units of government with natural resources conservation. Florida's 62 districts were established in 1937 under ch. 582, F.S., based on that federal legislation. Soil and water conservation districts were originally organized, for the most part, within county boundaries by landowner petition based on a need for soil and water conservation and in the interest of public health, safety, and welfare. The governing body of a district consists of five elected supervisors.

Section 582.29, F.S., provides for agencies of the state that have jurisdiction over the administration of any state-owned lands, and any county, or other governmental subdivision of the state that has jurisdiction over any county-owned or other publicly owned land, lying within the boundaries of any district must cooperate to the fullest extent with the supervisors of the district in effecting the programs and operations undertaken by the supervisors under the provisions of ch. 582, F.S.

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<sup>15</sup> Analysis, Senate Bill 1644, 2003 Legislative Session.

The supervisors of the districts are given free access to enter and perform work upon such publicly-owned lands. The provisions of land use regulations adopted must be in all respects observed by the agencies administering such publicly-owned lands. The DACS' Office of Agricultural Water Policy has field staff located around the state who work directly with the districts as their DACS liaisons. The DACS coordinates with the districts on programs concerning best management practices implementation, cost share programs, mobile irrigation labs, and public land management.

Currently, districts do not have the authority to work across district lines to assist landowners whose property falls outside a district boundary or in an area that doesn't have an active district. The DACS has indicated that the legislative changes in this bill will enable the districts to work across district lines, work with landowners whose property falls outside of a district boundary or in areas that don't have an active a district in order to maximize the utilization of water conservation devices, systems and techniques.<sup>16</sup>

Section 582.30, F.S., provides that any time after five years from the organization of a district, any ten percent of owners of land lying within the boundaries of such district may file a petition with the DACS asking that the operations of the district be terminated and the existence of the district discontinued. Upon petition, the DACS may conduct public meetings and hearings as necessary to assist in the consideration of termination of the district. Within sixty days after receiving the petition, the DACS must give due notice of holding a referendum, as well as supervising and issuing regulations to govern the referendum. The ballot must be clearly marked with the propositions "For terminating the existence of the district" and "Against terminating the existence of the district" and provide a square before each proposition with a direction to insert an "x" mark in the square before one or the other of the propositions as the voter so chooses. All owners of land lying within the boundaries of the district are eligible to vote in such a referendum. If the referendum has been duly noticed and fairly conducted, no informalities relating to the conduct of the referendum can invalidate the referendum or its results. If two-thirds or more of the qualified voters in the referendum have voted for the discontinuance of the district, the DACS must certify to the supervisors of the district the result of the referendum and that the continued operation of the district is not administratively practicable or feasible.

Alternatively, upon review and recommendation of the Soil and Water Conservation Council regarding the continued viability of the district, the Commissioner of Agriculture may dissolve or discontinue a district if the commissioner certifies that the continued operation of the district is not administratively practicable or feasible. If a district has failed to comply with any of the audit and financial reporting requirements of ch. 189, F.S., the commissioner, after review and confirmation by the DACS' inspector general, may certify dissolution or discontinuance of the district without prior review and recommendation of the Soil and Water Conservation Council. Notice of the proposed certification of dissolution or discontinuance must be published once a week for two weeks in a newspaper of general circulation within the county or counties where the district is located. The notice must state the district's name, a general description of the territory included in the district, and requires that objections to the proposed dissolution or any

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<sup>16</sup> DACS, Office of Agricultural Water Policy, *Florida Soil and Water Conservation Districts*, <http://www.floridaagwaterpolicy.com/Fswcd.html> (last visited Feb. 1, 2012).

claims against assets of the district must be filed with the DACS no later than sixty days following the date of last publication.

Section 582.31, F.S., provides for a district to terminate the affairs of the district, upon receipt from the department of a certification that the department has found that the continued operation of the district is not administratively practicable and feasible. The supervisors of the district must dispose of all district property at a public auction and pay over the proceeds of the sale to the State Treasury, which is placed to the credit of the department to be used to liquidate any legal obligations of the district at the time of its termination. The supervisors must file an application with the Department of State for the discontinuance of the district, and must include with the application the DACS certificate setting forth the determination the continued operation of the district is not administratively practicable and feasible. The application must reiterate that the property has been disposed of and the proceeds paid over to the State Treasury. A full accounting of the properties and the proceeds of the sale must be included in the application. The Department of State must then issue to the supervisors of the district a certificate of dissolution and record the certificate in the appropriate book of record.

Section 582.32, F.S., provides that once a certificate of dissolution has been issued, all land use regulations adopted and in force within the district are no longer valid. Contracts entered into by the district or supervisors of the district remain in effect for the period provided for in the contract, with the DACS being substituted for the district or supervisors of the district as party to the contract. The DACS shall be entitled to all benefits and subject to all liabilities under such contracts and have the same right and liability to perform, to require performance, and to modify or terminate such contracts by mutual consent as the district or supervisors of the district would have had. The dissolution of the district does not affect the lien of any judgment entered under the provisions of ch. 582, F.S., nor the pendency of any action instituted under the provisions of ch. 582, F.S. The DACS can succeed to all the rights and obligations of the district or the supervisors of the district as to such liens and actions. The DACS is not required to entertain petitions for the discontinuance of any district or conduct referenda upon such petitions in accordance with the provisions of ch. 582, F.S., more often than once in five years. If no statutory provisions control the dissolution of a special district, s. 189.4045(2), F.S., provides that the local general-purpose government assumes all assets and liabilities of the dissolved district.

### **Soil and Water Conservation Council**

Section 582.06, F.S., creates the Soil and Water Conservation Council (council) within the DACS, which is composed of 23 members. Eleven of the members are persons who have been involved in the practice of soil or water conservation, or in the development or implementation of interim measures or best management practices related to soil or water conservation. These eleven members must also be engaged in agriculture or an occupation related to the agricultural industry for at least five years at the time of their appointment. The remaining twelve members must include one representative each from the DEP, the five water management districts (WMDs), the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida, the United States Department of Agriculture Natural Resources Conservation Service, the Florida Association of Counties, and the Florida League of Cities and two representatives of environmental interests.

The bill reduces the membership of the council from twenty-three members to seven members, all of whom must be familiar with agricultural production and the challenges landowners face. The DACS believes this change will enable members to more narrowly focus their efforts and to communicate more specifically with the Commissioner of Agriculture.

### **Brucellosis Vaccinations**

Bovine brucellosis is a cattle disease that is near eradication in the United States after more than fifty years of efforts by state departments of agriculture, the U.S. Department of Agriculture, and the cattle industry. The Cooperative State-Federal Brucellosis Eradication Program is administered under a Memorandum of Understanding between the appropriate agency in each of the states and the U.S. Department of Agriculture. This program includes all of the activities associated with detecting, controlling, and eliminating brucellosis from domestic livestock in the U.S. One of the long term responsibilities of the DACS' Division of Animal Industry has been the administration of Florida's Brucellosis Eradication Program. Each owner of a herd of cattle in the state must enroll the herd in the program to determine whether the herd is infected with brucellosis.

Florida was declared "Brucellosis Class Free" in 2001 and, except for specific geographic regions surrounding Yellowstone National Park, the remainder of the United States is also "Brucellosis Class Free." Although calfhood vaccination continues on a voluntary basis by some Florida producers, vaccine is no longer provided at state expense. Whole-herd vaccination is no longer needed or available to producers.<sup>17</sup>

### **Forest Protection**

The Florida Forest Service (FFS) has the primary responsibility for prevention, detection, and suppression of wildfires wherever they may occur. It controls and authorizes open burning for the maintenance and continuous clearing of agricultural land. During Fiscal Years 2005-2006 and 2006-2007, the FFS in cooperation with the University of Florida Institute for Food and Agricultural Sciences developed a certification program for Florida Pile Burners to raise the overall quality of the open burning program in Florida. In Fiscal Year 2009-2010, the DACS amended the open burning rules and regulations to include the pile burner certification program. Rule 5I-2, Florida Administrative Code, outlines the steps necessary to become certified and the requirements to keep that certification. A burn permit must be obtained for burns relating to agriculture, silviculture and rural land clearing. Currently, there is some confusion regarding where persons wishing to burn for agricultural and silvicultural reasons need to acquire a burning authorization. The FFS does not charge a fee for these authorizations, but other governmental agencies do. Authorizing the FFS to have sole authority to authorize silviculture and agriculture open burning would eliminate double permitting by any other entity of the state and eliminate that cost to the public.

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<sup>17</sup> Analysis, Senate Bill 22-C, 2008 Legislative Session.

### **Tree Planting Programs**

Section 589.277, F.S., authorizes the FFS to administer federal state and privately sponsored tree-planting programs to assist private rural landowners and urban communities. Contributions from governmental and private sources may be deposited into the Federal Grants Trust Fund. The FFS has the authority to develop and implement guidelines and procedures to utilize the financial resources of the fund for urban and rural reforestation. Grants to municipalities, counties, nonprofit organizations, and qualifying private landowners may be made from allocated monies for the purpose of purchasing, planting, and maintaining native tree species. The FFS must work with the Department of Education to develop programs to teach the importance of trees in the urban, rural and global environment.

While current statutory language states that both governmental and private contributions may be deposited into the Federal Grants Trust Fund, the federal government does not allow private funds to be deposited into this trust fund. Therefore, the FFS cannot accept funds from a non-federal source.

### **Creation of Certain State Forests**

The 2011 Legislature directed the Florida Forest Service to designate areas of state forests as “Wounded Warrior Special Hunt Areas” to honor wounded veterans and service members, and to provide outdoor recreational opportunities for eligible veterans and service members.<sup>18</sup>

Admittance to these areas is limited to:

- persons who are active duty members of any branch of the United States Armed Forces and who have a combat-related injury; or
- veterans who served during a period of wartime service or peacetime service and have a service-connected disability or were discharged from military service because of a disability acquired or aggravated while serving on active duty.

This bill renames the “Wounded Warrior Special Hunt Area” as the “Operation Outdoor Freedom Special Hunt Area.” Currently, there is another organization using the term “Wounded Warrior.”

### **Aquaculture Certificate of Registration**

Any person engaging in aquaculture must be certified by the DACS and pay an annual registration fee of \$100. This would include all schools with aquaculture education programs. The DACS believes that exposure to its aquaculture certification program helps to educate the next generation of Floridians on the benefits of aquaculture. This includes potential career paths, proper handling of non-native aquatic species and showing hands-on practical educational opportunities. Increasing outreach and educational efforts to schools has been a priority of the Aquaculture Review Council. There are approximately fifteen programs in schools that are currently certified.

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<sup>18</sup> CS/HB 663, 2011 Legislative Session.

### **Aquaculture Interagency Coordinating Council**

The Aquaculture Interagency Coordinating Council was created in 1984 to facilitate and coordinate much needed interagency communication during the time that aquaculture regulations were divided among many different state agencies. With the consolidation of regulations via the Aquaculture Certification program and development of Aquaculture Best Management Practices, there is no longer the compelling need for an annual meeting and associated annual report of various state agencies to discuss issues of concern. Regular communication between the respective state agencies, usually between the DACS and the Fish and Wildlife Conservation Commission, readily takes place now. In addition, several of the agencies originally designated as members of the council either no longer exist or no longer have the statutory responsibilities they had when the council was created including the Office of Tourism, Trade and Economic Development, the Department of Community Affairs, and the Department of Labor and Employment Security.

### **Federal Packers and Stockyard Act**

The federal Packers and Stockyards Act (PSA) requires certain regulated entities to obtain a bond before the U.S. Department of Agriculture will allow them to do business. The PSA bond is a financial instrument a packer obtains from a private bond company stating the bond company will meet the packer's financial obligations to pay sellers of livestock if the packer is unable to do so.

In order to meet the bonding requirements of the PSA, a dealer may:

- purchase a surety bond from an insurance company or other financial institution that issues surety bonds. The issuing company will act as trustee on the surety bond;
- receive an irrevocable letter of credit from a bank that would be held in trust for the benefit of sellers that might need to file a claim against the dealer for failure to pay; or
- purchase a certificate of deposit from a financial institution to be held in trust for the benefit of sellers that might need to file a claim against the dealer for failure to pay.

In the instance of a surety bond purchased from an insurance company, generally the insurance company would act as trustee in the event a claim was filed against the bond. When an irrevocable letter of credit or certificate of deposit is issued to meet the bonding requirements of the PSA, a trust agreement must be executed placing the irrevocable letter of credit or certificate of deposit in trust for the benefit of sellers that might need to file a claim against the dealer for failure to pay. A trustee must be named to administer the settlement of claims.<sup>19</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 20.14, F.S., to establish the Division of Food, Nutrition and Wellness within the Department of Agriculture and Consumer Services (DACCS). This new division will administer the school food and nutrition programs that were transferred to the DACCS during the 2011 Legislative Session.

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<sup>19</sup> Email from Grace Lovett, Director of the Office of Legislative Affairs, DACS (Feb. 6, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).



**Section 2** amends s. 253.002, F.S., to authorize the DACS to act as agent to the Board of Trustees for the Internal Improvement Trust Fund for all matters concerning conservation easements that are acquired under the Rural and Family Lands Protection Program.

**Section 3** amends s. 379.2523, F.S., to delete obsolete references to the Aquaculture Interagency Coordinating Council which is abolished in section 49 of this bill.

**Section 4** amends s. 379.2524, F.S., to delete provisions that prohibit compensation and authorize members of the Sturgeon Production Working Group to be reimbursed for per diem and travel expenses incurred while participating in business involving the group.

**Section 5** amends s. 388.161, F.S., to remove obsolete language that refers to pesticidal practices that are no longer legal. It revises the products that mosquito control districts are authorized to use to control mosquito breeding.

**Section 6** amends s. 388.201, F.S., to change the date from September 15 to September 30 for mosquito districts to submit their certified budgets to the DACS.

**Section 7** amends s. 388.323, F.S., to eliminate the requirement that mosquito control programs offer surplus property to all local governments or private nonprofit agencies before disposing of the property.

**Section 8** repeals s. 388.42, F.S., relating to the John A. Mulrennan, Sr., Arthropod Research Laboratory, which has been closed by the Florida Agricultural and Mechanical University.

**Section 9** amends s. 388.46, F.S., to remove the Florida Agricultural and Mechanical University from membership of the Florida Coordinating Council on Mosquito Control. The bill also removes references of reporting requirements to the Florida Coastal Management Program Interagency Management Committees. This section specifies that the Subcommittee on Managed Marshes take into account the mosquito control source reduction implications and natural resource interests when providing technical assistance and guidance on saltmarsh management plans and research proposals.

**Section 10** amends s. 493.6104, F.S., to delete provisions that prohibit compensation and authorize members of the Private Investigation, Recovery, and Security Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

**Section 11** amends s. 500.09, F.S., to authorize the DACS to adopt rules to incorporate by reference the current federal model Food Code issued by the Food and Drug Administration and Public Health Service of the United States Department of Health and Human Services.

**Section 12** amends s. 500.147, F.S., to eliminate a food safety pilot program for the inspection of food establishments and vehicles which was implemented by the DACS in 1997. There has been no recorded participation in this program since 2004.

**Section 13** amends s. 502.014, F.S., to delete provisions relating to a permitting program for persons who test milk or milk products for fat content.

**Section 14** amends s. 502.053, F.S., to delete duplicative permitting requirements for milkfat testers. The USDA Milk Marketing Administration provides these same functions. It also deletes the DACS' authority to charge applicants a fee not to exceed \$125 for a milkfat tester's license.

**Section 15** amends s. 570.0705, F.S., to prohibit members of advisory bodies from receiving per diem and reimbursement for travel expenses under certain circumstances. The bill deletes a provision that prohibits members from receiving compensation for their services.

**Section 16** repeals s. 570.071, F.S., relating to the Florida Agricultural Exposition in Indiantown, Florida, which was closed in 2008.

**Section 17** amends s. 570.074, F.S., to update the name of the Office of Energy and Water to the Office of Agricultural Water Policy and to revise the jurisdiction of the office.

**Section 18** amends s. 570.18, F.S., to correct a cross-reference.

**Section 19** repeals s. 570.29, F.S., relating to a duplicative divisions list included in the Department of Agriculture and Consumer Services. The list is contained in s. 20.14, F.S.

**Section 20** repeals s. 570.34, F.S., to abolish the Plant Industry Technical Council.

**Section 21** creates s. 570.451, F.S., to establish the Agricultural Feed, Seed, and Fertilizer Advisory Council within the DACS. The council will be composed of fifteen members who represent the DACS, IFAS, and representatives of specified industries. Members will be appointed by the Commissioner of Agriculture for a term of up to four years. The bill specifies the powers and duties of the council, which include organization, frequency of meetings, procedures and recordkeeping. The council must also review relevant documents and provide the DACS with advice and recommendations on issues concerning the regulation of agricultural feed, seed, and fertilizer.

**Section 22** amends s. 570.53, F.S., to remove a cross-reference.

**Section 23** amends s. 570.54, F.S., to remove a cross-reference.

**Section 24** amends s. 573.112, F.S., to provide for members of the Citrus Research and Development Foundation, Inc. (foundation), to be reimbursed by the foundation for per diem and travel expenses incurred while serving in an advisory capacity to the DACS. In the 2011 Session, payment of travel expenses and per diem was eliminated for the foundation, as well as other councils and working groups, to reduce government expenses. The foundation exists as a Florida not-for-profit corporation, organized as a direct support organization certified by the University of Florida's board of trustees, and operating for the benefit of the citrus industry and the state of

Florida.<sup>20</sup> The DACS has indicated that since the foundation is supported by private sources, its members should have kept the authority to be reimbursed for per diem and travel expenses incurred while participating in business involving the foundation.

**Section 25** amends s. 573.118, F.S., to delete a requirement for the DACS to cause an annual audit, by a certified public accountant, of collections and expenditures from agricultural commodity marketing order assessments. The bill would require specific procedures to maintain marketing order records within the state's accounting system. The bill would also require a review of accounts, if requested by an advisory council, which will reduce the administrative burden that mostly affects citrus, peanut, and tobacco marketing orders.

**Section 26** amends s. 576.045, F.S., to extend the expiration date for subsections (1), (2), (3), (4), and (6) of s. 576.045, F.S. from December 31, 2012, to December 31, 2022. It also extends the expiration date for subsections (5) and (7) of s. 576.045, F.S., from December 31, 2017, to December 31, 2027. This change continues current revenue from the collection of a tonnage fee on fertilizers containing nitrogen or phosphorus that is sold in this state.

**Section 27** amends s. 576.071, F.S., to remove a reference to the Fertilizer Technical Council.

**Section 28** repeals s. 576.091, F.S., to eliminate the Fertilizer Technical Council.

**Section 29** repeals s. 578.30, F.S., to eliminate the Seed Technical Council.

**Section 30** amends s. 580.041, F.S., to clarify that commercial feed distributors must maintain records and a bookkeeping system that will allow the DACS to track the type and tonnage of commercial feed sold in Florida. The bill requires quarterly reporting of the number of tons of feed distributed on forms furnished by the DACS. It also provides penalties for violations by distributors of commercial feed.

**Section 31** amends s. 580.131, F.S., to revise requirements for the assessment of penalties and enforcement of violations by manufacturers and distributors of commercial feed or feedstuff. It authorizes the DACS to assess penalties. The bill requires registered distributors of commercial feed to pay penalties to consumers within sixty days after the DACS notifies a registrant in writing of any penalty. It imposes additional penalties for nonpayment. It provides for the deposit and use of proceeds from any penalties paid to the DACS if the consumer cannot be identified.

**Section 32** repeals s. 580.151, F.S., to eliminate the Commercial Feed Technical Council.

**Section 33** amends s. 581.011, F.S., to remove a definition for "technical council," referring to the Plant Industry Technical Council, to conform to the repeal of the council in Section 21 of the bill.

**Section 34** amends s. 581.145, F.S., to revise requirements for the issuance of permits to aquaculture producers for the transport and sale of water hyacinths to other states and countries.

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<sup>20</sup> Florida Citrus Mutual, *Florida Citrus Research and Development Foundation Inc.*, available at <http://www.flcitrusmutual.com/files/9979ddcb-1713-47bb-8.pdf> (last visited Feb. 1, 2012).

**Section 35** amends s. 582.06, F.S., to revise requirements for the composition and appointment of members of the Soil and Water Conservation Council. It reduces the number of council members from twenty-three to seven, who are all appointed by the Commissioner of Agriculture. Included in this reduction are members from the DEP, the five WMDs, IFAS, the U.S. Department of Agriculture Natural Resources Conservation Service, the Florida Association of Counties, the Florida League of Cities and two members representing environmental interests. It deletes provisions that authorize members of the council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

**Section 36** amends s. 582.20, F.S., to authorize Soil and Water Conservation Districts (districts) to work across district boundaries, or on lands where no district exists, or on lands within another district with the concurrence of such district in order to maximize the utilization of water conservation devices, systems and techniques.

**Section 37** amends s. 582.29, F.S., to revise the jurisdiction of districts to include territory contiguous to a district's boundaries.

**Section 38** amends s. 582.30, F.S., to revise requirements and procedures for the dissolution or discontinuance of a district.

**Section 39** amends s. 582.31, F.S., to revise requirements for payment of the proceeds from the sale of property of a dissolving district to the State Treasury and clarifies that proceeds from public auction be placed to the credit of the district to provide for any legal obligations.

**Section 40** amends s. 582.32, F.S., to remove the DACS as the agency responsible for contracts, assets and liabilities of a dissolved soil and water conservation district. The bill transfers responsibility from the DACS to local general-purpose governments, pursuant to s. 189.4045(2), F.S.

**Section 41** repeals s. 585.155, F.S., relating to the inspection and vaccination of cattle for brucellosis, since Florida was declared free of bovine brucellosis in 2001.

**Section 42** repeals s. 589.03, F.S., to delete provisions that authorize members of the Florida Forestry Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

**Section 43** amends s. 589.19, F.S., to rename the "Wounded Warrior Special Hunt Area" of the state forests as an "Operation Outdoor Freedom Special Hunt Area." The bill also conforms obsolete references to the former Division of Forestry, now the Florida Forest Service.

**Section 44** amends s. 589.277, F.S., to allow contributions from governmental and private sources for tree planting programs to be deposited into the Incidental Trust Fund as well as the Federal Grants Trust Fund. The bill also conforms obsolete references to the former Division of Forestry.

**Section 45** amends s. 590.02, F.S., to preempt state and local government agencies, other than the Florida Forest Service, from enforcing regulations concerning broadcast burning or agricultural or silvicultural pile burning except under certain circumstances. The bill also conforms obsolete references to the former Division of Forestry.

**Section 46** amends s. 597.0021, F.S., to remove a reference to the obsolete Aquaculture Interagency Coordinating Council.

**Section 47** amends s. 597.003, F.S., to remove references to the obsolete Aquaculture Interagency Coordinating Council.

**Section 48** amends s. 597.004, F.S., to provide an annual registration fee waiver to all elementary, middle, high school, and vocational schools that participate in the aquaculture certification program.

**Section 49** amends s. 597.005, F.S., to remove references to the obsolete Aquaculture Interagency Coordinating Council. The bill also decreases the membership of the Aquaculture Review Council, since there will no longer be a member of the Aquaculture Interagency Coordinating Council to serve on the council.

**Section 50** repeals s. 597.006, F.S., to eliminate the Aquaculture Interagency Coordinating Council.

**Section 51** amends s. 604.21, F.S., to authorize the Commissioner of Agriculture, or the Commissioner's designee, to act as a trustee for a bond or security in compliance with the PSA. The bill also authorizes the Commissioner of Agriculture to enter into agreements with the U.S. Department of Agriculture to implement the PSA.

**Section 52** amends s. 616.252, F.S., to provide members of the Florida State Fair Authority with reimbursement for per diem and travel expenses incurred while participating in business involving the authority.

**Section 53** provides that this act shall take effect July 1, 2012.

#### **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:**

See Government Sector Impact section.

**B. Private Sector Impact:**

The DACS estimates:

- Amending s. 253.002, F.S., to authorize the DACS to perform all staff duties and functions related to the Rural and Family Lands Protection Program, will result in a decrease in the time it take landowners to enter into an easement agreement with the state.
- Amending s. 580. 131, F.S., will allow persons who have purchased commercial feed that has been distributed in violation of ch. 580, F.S., to seek administrative action, as well as legal action, to recover penalties.

**C. Government Sector Impact:****Revenues**

The DACS estimates that there will be:

- A reduction of approximately \$1,500 annually in non-recurring revenues from the waiver of the aquaculture certification fee for schools.
- An increase of approximately \$3,600 annually in recurring revenues as a result of feed distributors being required to report the tons of feed distributed in the state.
- A reduction of approximately \$4,700 annually in recurring revenues as a result of the elimination of the milkfat tester permits.

**Expenditures**

The DACS estimates that there will be a reduction of approximately \$11,300 annually in recurring expenditures if it is not required to pay per diem and travel expenses for the Private Investigation, Recovery and Security Advisory Council.

**Other Fiscal Comments**

- Amending s. 388.201, F.S., will allow local governments additional time to prepare budget information regarding arthropod control before it must be submitted to DACS for review.
- Amending s. 388.323, F.S., will delete a requirement for local governments to offer mosquito control equipment to governmental units or private non-profit agencies that most likely would have no use for it.
- Amending s. 573.118, F.S., will delete a requirement that audits of marketing order accounts to be performed by a certified public accountant, resulting in a reduced administrative burden and saving the cost of an expensive audit.
- Amending s. 576.045, F.S., will extend the expiration dates for the fertilizer tonnage fee, allowing the DACS to continue to collect approximately \$1 million annually that

is used towards the development of best management practices and nutrient pollution abatement efforts.

- Amending s. 582.31, F.S., will remove DACS from responsibility for any outstanding contracts upon dissolution of a soil and water conservation district.
- Amending s. 590.02, F.S., will allow DACS to receive private funds to administer tree-planting programs.
- Amending s. 597.004, F.S., may cause DACS to lose approximately \$1,500 annually in aquaculture registration fees.

**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/CS by Environmental Preservation and Conservation on February 6, 2012:**

- Clarifies when a soil and water conservation district is dissolved all assets and liabilities transfer to the local general-purpose government pursuant to s. 189.4045(2), F.S.;
- Authorizes the Commissioner of Agriculture, or the Commissioner's designee, to act as a trustee for a bond or security in compliance with the PSA; and
- Authorizes the Commissioner of Agriculture to enter into agreements with the U.S. Department of Agriculture to implement the PSA.

**CS by Agriculture Committee on January 23, 2012:**

CS for Senate Bill 1254 is different from Senate Bill 1254 in that it:

- Deletes Section 15 of Senate Bill 1254 which provides direct statutory authority to the Department of Agriculture and Consumer Services to distribute grants funds to farmers.

**B. Amendments:**

None.