

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7021 PCB ANRS 12-01 Department of Agriculture and Consumer Services
SPONSOR(S): Agriculture & Natural Resources Subcommittee, Crisafulli
TIED BILLS: **IDEN./SIM. BILLS:** SB 1254

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee	12 Y, 0 N	Kaiser	Blalock
1) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N, As CS	Lolley	Massengale
2) State Affairs Committee			

SUMMARY ANALYSIS

The bill addresses various issues relating to the Department of Agriculture and Consumer Services (department). The bill:

- Establishes the Division of Food, Nutrition and Wellness within the department.
- Designates the department as the staff responsible for acquiring and administering conservation easements on state lands.
- Renames the "Wounded Warrior Special Hunt Area" as the "Operation Outdoor Freedom Special Hunt Area."
- Allows water hyacinths produced by certified aquaculture producers to be exported to domestic, as well as foreign, markets.
- Clarifies that the department has sole responsibility for enforcing laws, regulations, rules or policies relating to broadcast burning or agricultural or silvicultural pile burning.
- Specifies that members of committees, boards, councils, working groups, task forces or any other advisory bodies created within the department or by the department are not entitled to per diem or travel expenses.
- Extends the due date from September 15 to September 30 for mosquito control districts to provide their certified budgets to the department.
- Repeals statutory language relating to the John A. Mulrennan, Sr. Arthropod Research Laboratory.
- Authorizes the department to adopt by reference the current revision of the federal model food code when applicable.
- Repeals the pilot program relating to the inspection of food establishments.
- Repeals provisions relating to the milkfat testing program within the department.
- Changes the name of the Office of Energy and Water to the Office of Agricultural Water Policy.
- Extends the expiration dates for the fertilizer tonnage fee program to December 31, 2022 and December 31, 2027.
- Repeals language establishing the Plant Industry Technical Council, the Aquaculture Interagency Coordinating Council and the Florida Agricultural Exposition.
- Repeals the Fertilizer Technical Council, the Commercial Feed Technical Council and the Seed Technical Council and creates the Agricultural Feed, Seed and Fertilizer Advisory Council.
- Requires companies distributing feed in the state to report the number of tons distributed to the department on a quarterly basis, specifies penalties for failure to comply, and specifies that consumers who purchase commercial feed that is in violation of department standards may seek legal or administrative action to recover penalties. If the identity of the consumer cannot be ascertained, the registrant of the commercial feed must reimburse the department.
- Allows soil and water conservation districts to work within the district's boundaries, territories within another district's boundaries subject to the other district's approval, or territories not contained within any district's boundaries to maximize the utilization of water conservation devices, systems, and techniques, reduces the membership of the Soil and Water Conservation Council from 23 members to 7 members, and directs that the proceeds of the sale of soil and water conservation district property be credited to the district rather than the department.
- Repeals provisions relating to whole-herd and calf vaccination for brucellosis.
- Waives the annual registration fee for elementary, middle, high school or vocational schools that participate in the aquaculture certification program.
- Requires a review of marketing orders when requested by an advisory council rather than an annual audit by a certified public accountant.

The fiscal impact on the state and local government is expected to be insignificant. See Fiscal Analysis & Economic Impact Statement.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7021a.ANRAS

DATE: 1/19/2012

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Division of Food, Nutrition and Wellness

Present Situation

Chapter 2011-207, L.O.F., transferred the administration of the school food and nutrition programs from the Department of Education to the Department of Agriculture and Consumer Services (department) pending a waiver from the United States Department of Agriculture (USDA). The transfer included all powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition programs. The waiver was granted in October 2011; therefore, effective January 1, 2012, the department will administer the school food and nutrition programs in the state.

Section 570.29, F.S., lists the various divisions within the department. This section of statute is duplicative of s. 20.14, F.S., which establishes the department in the organizational structure of the state.

Effect of Proposed Changes

The bill amends s. 20.14, F.S., to establish the Division of Food, Nutrition and Wellness within the department. This new division will house the school food and nutrition programs that were transferred to the department during the previous legislation session.

The bill repeals s. 570.29, F.S., and corrects various cross-references from s. 570.29, F.S., to s. 20.14, F.S.

Florida Forest Service

Present Situation

State Lands

Section 253.002, F.S., directs the Department of Environmental Protection (DEP) to perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, which are titled and vested in the Board of Trustees of the Internal Improvement Trust Fund (BOT). However, water management districts perform the staff duties and functions related to the review of applications for authorization to use BOT-owned submerged lands necessary for an activity related to the management and storage of surface waters for which the water management district has permitting responsibility. Additionally, the department performs the staff duties and functions related to the review of applications and compliance with conditions for use of BOT-owned submerged lands under authorizations or leases issued relating to aquaculture activities.

In 2001, the Legislature passed the Rural and Family Lands Protection Program (act),¹ which focuses on maintaining the integrity and function of working agricultural landscapes through the acquisition of development rights using permanent easements 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.

Section 570.71, F.S., specifies that the department, acting on behalf of the BOT, may allocate moneys to acquire perpetual, less-than-fee interest in land, to enter into agricultural protection agreements, and to enter into resource conservation agreements. Rural-lands-protection easements are a perpetual

¹ Chapter 2001-279, L.O.F.

right or interest in agricultural land that is suitable for retaining such land in predominantly its current state and to prevent the subdivision and conversion of such land into other uses. Lands placed in a protection or conservation easement may not be used for:

- Construction or placement of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads that are necessary for agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities, such as electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances;
- Subdivision of the property;
- Dumping or placing of trash, waste, or offensive materials; and
- Activities that affect the natural hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish or wildlife habitat, except those required for environmental restoration; federal, state, or local government regulatory programs; or best management practices.

Resource conservation agreements are contracts for services that provide annual payments to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above that which is already required by law or that provide recreational opportunities. The agreements are for a term of not less than 5 years and not more than 10 years. Property owners are eligible to enter into resource conservation agreements only upon entering into a conservation easement or rural lands protection easement.

Agricultural protection agreements are for a term of 30 years and provide payments to the landowner having significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner. As stated above, certain prohibitions apply.

As part of the agricultural protection agreement, the parties must agree that the state has the right to buy a conservation easement or rural land protection easement at the end of the 30-year term. If the landowner offers the easement for purchase and the state does not respond in a timely fashion, the landowner is released from the agricultural agreement. The purchase price of the easement must be established in the agreement and is based on the value of the easement at the time the agreement is entered into, plus a reasonable escalator multiplied by the number of full calendar years following the date of the commencement of the agreement. The landowner may transfer or sell the property before the expiration of the 30-year term, but only if the property is sold subject to the agreement and the buyer becomes the successor in interest to the agricultural protection agreement. Upon mutual consent of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement.

Payments for conservation easement are lump-sum payments at the time the easement is entered into. Landowners entering into an agricultural protection agreement may receive up to 50 percent of the purchase price at the time the agreement is entered into, with the remaining payments on the balance being paid in equal annual sums over the term of the agreement. Payments for resource conservation agreements are equal annual payments over the term of the agreement. Easements purchased in accordance with the act cannot prevent landowners from transferring the remaining fee value with the easement.

The department, in consultation with the DEP, the water management districts, the Department of Economic Opportunity, and the Florida Fish and Wildlife Conservation Commission, can adopt rules to establish an application process, a process and criteria for establishing funding priorities, an appraisal process, and a process for title review and compliance and approval of the rules by the BOT.

A landowner may choose not to have his property included in any lists or maps developed to implement this act by providing a written request to the department asking to be left off of the list or map.

The department may use funds from the state, the federal government, other governmental entities, non-governmental organizations, or private individuals to implement this act. Any funds provided must be deposited into the Conservation and Recreation Lands Program Trust Fund within the department and used for the purpose of this act. No more than 10 percent of any funds made available to implement this act may be expended for resource conservation agreements and agriculture protection agreements.

The department has entered into a memorandum of understanding (MOU) with the DEP allowing the department to carry out the responsibilities of acquiring conservation easements. In accordance with the MOU, the department negotiates contracts, performs all due diligence with regard to the real estate transactions, prepares the BOT agenda item and presents the item at the BOT meetings. However, according to Florida law, all information must be submitted to the DEP for review prior to the BOT meeting as well as prior to closing.

Creation of Certain State Forests

Chapter 2011-116, L.O.F., directed the Florida Forest Service (FFS) to designate areas of state forests as "Wounded Warrior Special Hunt Areas" to honor wounded veterans and service members, and provide outdoor recreational opportunities for eligible veterans and service members. Admittance to these areas are limited to persons who are an active duty member of any branch of the United State Armed Forces and has a combat-related injury or a veteran who served during a period of wartime service or peacetime service and has a service-connected disability or was discharged from military service because of a disability acquired or aggravated while serving on active duty.

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 moneys 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 can't accept funds from a non-federal source.

Chapter 2011-206, L.O.F., renamed the Division of Forestry, within the department, to the Florida Forest Service as it was first designated in the early 1900s. While many references in the statutes have been changed to the Florida Forest Service, some references to the Division of Forestry remain.

Forest Protection

Section 590.02 (10)(a), F.S., specifies that the FFS has exclusive authority to require and issue authorizations for broadcast burning and agricultural and silvicultural pile burning. An agency, commission, department, county, municipality, or other political subdivision of the state cannot adopt laws, regulations, rules, or policies pertaining to broadcast burning or agricultural and silvicultural pile burning unless an emergency order is declared in accordance with s. 252.38(3), F.S., as it relates to emergency management powers of political subdivisions. However, nothing in this section prohibited these entities from enforcing laws, regulations, rules, or policies that may have already been adopted.

Effect of Proposed Changes

State Lands

The bill amends s. 253.002, F.S., to empower the department to perform the staff duties and functions relating to the acquisition, administration, and disposition of conservation easements pursuant to s. 570.71, F.S., on BOT-owned lands.

Creation of Certain State Forests

Since the enactment of chapter 2011-116, L.O.F., it has come to the attention of the department that another organization is using the term "Wounded Warrior." The bill amends s. 589.19(4)(a), F.S., to rename the "Wounded Warrior Special Hunt Area" as the "Operation Outdoor Freedom Special Hunt Area."

Tree Planting Programs

The bill amends s. 589.277, F.S., to allow the deposit of funds for tree-planting programs into either the Federal Grants Trust Fund or the Incidental Trust Fund so the department can accept non-federal funds and have a place to deposit those funds. The bill also changes references from the Division of Forestry to the Florida Forest Service.

Forest Protection

The bill amends s. 590.02 (10)(a), F.S., to further state that, in addition to the prohibition on adopting laws, regulations, rules, or policies pertaining to broadcast burning or agricultural and silvicultural pile burning, an agency, commission, department, county, municipality, or other political subdivision of the state cannot enforce such laws, regulations, rules, or policies that may have already been adopted.

Advisory Committees

Present Situation

Chapter 2011-206, L.O.F., repealed statutory authority allowing members of advisory committees under the jurisdiction of the department to receive travel expenses and per diem. While a majority of the advisory committees and councils were identified in ch. 2011-206, L.O.F., some committees and councils were overlooked.

Section 589.03, F.S., specifies that members of the Florida Forestry Council are not entitled to compensation for the services they render to the council. However, members of the council are entitled to travel and per diem for attending meetings and performing the duties required by membership on the council. Current law specifies that the aggregate expense of all members of the council cannot exceed \$2,500 during any fiscal year.

Additionally, some advisory committees that do not fall under the purview of the department were stripped of the ability to receive travel expenses and per diem.

Effect of Proposed Changes

The bill repeals the statutory authority allowing members of the Sturgeon Production Working Group and the Private Investigation, Recovery and Security Advisory Council to receive travel expenses and per diem.

Additionally, the bill repeals s. 589.03, F.S., relating to compensation and allowance for members of the Florida Forestry Council. Since the department no longer reimburses members of the council for travel and per diem, this section of statute is no longer valid.

The bill also clarifies in s. 570.0705, F.S., that members of committees, boards, councils, working groups, task forces, or any other advisory bodies created within the department or by the department are not entitled to per diem or travel reimbursements.

The bill restores the authority for members of the Citrus Research and Development Foundation, Inc. and the Florida State Fair Authority to receive travel expenses and per diem. These expenses are reimbursed by the foundation and fair authority, respectively.²

Mosquito Control

Present Situation

Powers and Duties

Section 388.161, F.S., prescribes the powers and duties of the board of commissioners for mosquito control districts. The board may do any and all things necessary to control and eliminate all species of mosquitoes and other arthropods of public health importance, including providing for the construction and maintenance of canals, ditches, drains, dikes, fills, and other necessary works. The board may also provide for the installation and maintenance of pumps, excavators, and other machinery and equipment, the use of oil, larvicide paris green, or any other chemicals approved by the department but only in such quantities as may be necessary to control mosquito breeding and will not be detrimental to fish life. The board also has all of the powers of a body corporate, including the power to sue and be sued as a corporation in any court; to contract; to adopt and use a common seal and alter the seal as needed; to purchase, hold, lease, and convey real estate and personal property as the board sees fit to carry out the purposes of chapter 388, F.S.; to acquire by gift real estate, personal property, and moneys; and to employ a field director and such trained personnel, legal, clerical or otherwise, and laborers as may be required. The board has the authority to adopt rules as necessary to carry out the purposes of chapter 388, F.S., provided such rules are approved by the department.

District Budgets

Section 388.201, F.S., specifies that the fiscal year for mosquito control districts operating under the provisions of chapter 388, F.S., is the 12-month period extending from October 1 of one year through September 30 of the following year. Prior to July 15 of each year, the 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 department for review and approval. The tentative budget must set forth, classified by account number, title and program items, and by fund from which to be paid, the proposed expenditures of the district for construction, acquisition of land, and other purposes, for the operation and maintenance of the district's works, the conduct of the district generally, to which may be added an amount to held as a reserve.

The tentative budget must also show the estimated amount that will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. The estimated unobligated or net balance that will be on hand at the beginning of the fiscal year and the estimated amount to be raised by district taxes and from any and all other sources for meeting the district's requirements must also be included in the tentative budget.

The budget and maintenance tax levy must be adopted in accordance with the method in which the millage is assessed. The board may consider objections filed to the tentative budget and, in its discretion, amend, modify, or change the tentative budget. The board must adopt and execute a certified budget for the district by September 15 of each year. The certified budget must be on a form furnished by the department. Certified copies of the budget shall be submitted to the department for approval by September 15 of each year.

² Sections 573.112 and 616.252, F.S.

The county commissioners' mosquito and arthropod control budgets shall be made and adopted as prescribed by s. 388.201, F.S., and summary figures shall be incorporated into the county budgets as prescribed by the Department of Financial Services.

Disposal of Surplus Property

Section 388.323, F.S., directs that serviceable equipment no longer needed by a county or mosquito control district must first be offered to any or all other counties or districts engaged in arthropod control at a price established by the board of commissioners who own the equipment. If no acceptable offer is received within a reasonable time, the equipment shall be offered to other governmental units or private nonprofit agencies.³ The alternative procedure for disposal of surplus property is followed if it has been determined no other county, district, governmental unit, or private nonprofit agency has need for the equipment. All proceeds from the sale of any real or tangible personal property owned by the county or district shall be deposited into the county's or district's state fund account unless otherwise specifically designated by the department.

John A. Mulrennan, Sr. Arthropod Research Laboratory

The John A. Mulrennan, Sr. Arthropod Research Laboratory (lab) is a research laboratory under the administration of the Florida Agricultural and Mechanical University (FAMU). The lab performs 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. The lab gives special attention to the needs of arthropod control districts, counties, and municipalities of the state by providing information, assistance and recommendations for the safe and effective control of arthropods which create a health or nuisance problem. The lab performs environmental impact studies to determine the effects of arthropod control pesticides, with a special emphasis on integrated arthropod control. Each quarter, the lab provides the department with such information as the department may need to assist it in the performance of its duties with respect to arthropod control under chapter 388, F.S. The lab also serves as a center for training of students and state and local government personnel in the safe and effective control of biting arthropods that create a public health or nuisance problem. Funds that become available from the federal government, from any district or county, from funds appropriated to local arthropod control agencies by the state, or from any other sources may be used in constructing, equipping, and operating the lab.

Florida Coordinating Council on Mosquito Control

Section 388.46, F.S., establishes the Florida Coordinating Council on Mosquito Control. The council is represented by designees of:

- The Secretary of Environmental Protection and the State Surgeon General;
- The executive director of the Fish and Wildlife Conservation Commission;
- The state epidemiologist;
- The Commissioner of Agriculture; and
- Representatives from the University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomological Research Laboratory; FAMU; the United States Environmental Protection Agency; the United States Department of Agriculture, Insects Affecting Man Laboratory; the United States Fish and Wildlife Service; two mosquito control directors nominated by the Florida Mosquito Control Association; two representatives of Florida environmental groups; and two private citizens who are property owners whose lands are regularly subject to mosquito control operations, appointed for 4-year terms by the

³ A private non-profit agency is defined in s. 273.01(3), F.S., as a nonprofit charitable organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, which has been held to be tax-exempt under the provisions of s. 501 of the Internal Revenue Code of 1954, and which has as its principal mission public health and welfare; education; environmental restoration and conservation; civil and human rights; or the relief of human suffering and poverty.

The council is chaired by the Commissioner of Agriculture or his authorized designee. A majority of the membership constitutes a quorum for conducting business. The chair is responsible for recording and distributing to the members a summary of the proceedings of all council meetings. The council must meet at least three times a year, or as needed. The council may designate subcommittees, as needed, to assist in carrying out its responsibilities. The Subcommittee on Managed Marshes must be the first subcommittee appointed by the council. The subcommittee must provide technical assistance and guidance on mosquito impoundment management plans and develop and review research proposals for mosquito source reduction techniques.

The responsibilities of the council include:

- Developing and implementing guidelines to assist the department in resolving disputes arising over the control of arthropods on publicly owned lands.
- Identifying and recommending to FAMU research priorities for arthropod control practices and technology.
- Developing and recommending to the department a request for a proposal process for arthropod control research.
- Identifying potential funding sources for research or implementation projects and evaluating and prioritizing proposals upon request by the funding source.
- Preparing and presenting reports, as needed, on arthropod control activities in the state to the Pesticide Review Council, the Florida Coastal Management Program Interagency Management Committee, and other governmental organizations, as appropriate.

Effect of Proposed Changes

Powers and Duties

The bill amends s. 388.161, F.S., to specify that the board is authorized to use pesticides registered by the department to control mosquito breeding, as long as it is not detrimental to fish life. The terms previously used in statute that are being deleted are obsolete.

District Budgets

The bill amends s. 388.201., F.S., to change the date the certified budget is due to the department from September 15 to September 30 of each year. This change will reduce burdens on local governments by providing additional time for budget preparation.

Disposal of Surplus Property

The bill amends s. 388.323, F.S., to only require that mosquito control districts first offer surplus equipment to other counties or districts engaged in arthropod control, and deletes the requirement that mosquito control districts also offer such equipment to other governmental units or private nonprofit agencies. Generally, mosquito control equipment is highly specialized and only of use to other mosquito control programs.

John A. Mulrennan, Sr. Arthropod Research Laboratory

The bill repeals s. 388.42, F.S., relating to the John A. Mulrennan, Sr. Arthropod Research Laboratory. In June 2011, FAMU closed the laboratory, terminated all of its employees, and disposed of all of its assets.

The bill amends s. 388.46(2)(a), F.S., to remove FAMU from the Florida Coordinating Council on Mosquito Control. With the closing of the laboratory, there is no need for continued representation on the council.

The bill amends s. 388.46(2)(b), F.S., to more accurately reflect the work of the Subcommittee on Managed Marshes by specifying that the subcommittee 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.

The bill also removes a reference to the Florida Coastal Management Program Interagency Management Committee. This committee is no longer in existence.

Food Safety

Present Situation

Rulemaking

The Division of Food Safety (DFS) 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 DFS monitors food from farm gate through processing and distribution to the retail point of purchase. Section 500.09(3), F.S., requires the DFS to adopt the rules necessary to enforce the provisions of chapter 500, F.S.,⁴ and specifies that the department is authorized to adopt by reference the rules adopted by the Food and Drug Administration (FDA) in regard to food safety.

Pilot Program

During the 1997 legislative session, the DFS initiated a pilot program for the inspection of food establishments and vehicles. The program was used as a “carrot” to reward food establishments that routinely passed the inspection process performed by the DFS. To participate in the pilot program a food establishment must meet the following criteria:

- Maintain a good inspection history over a specified period of time.
- Maintain certified food manager activities that demonstrate effective assessment of food safety practices and correcting deficiencies at the food establishment.
- Maintain an active food training program for employees.
- Maintain “self inspection” records that are available for inspection by the DFS.
- Maintain written sanitation standard operation procedures and verification records for review by the DFS.
- Maintain logs for the freezer/refrigeration units and hot-cold temperature charts for review by the DFS.
- Maintain records of corrective actions to resolve food safety deficiencies for review by the DFS.

When first implemented, approximately 17 food establishments participated in the pilot program. Because of the difficulty of compliance, however, no participation has been recorded since 2004.

Milkfat Testing

Section 502.014(3), F.S., requires the department to maintain a program to issue permits to persons who test milk or milk products for fat content if these tests are used as a basis for payment to the dairy farmer.

⁴ Chapter 500, F.S., deals with food products.

To obtain a permit, an applicant must pay a fee of \$125⁵ and demonstrate sufficient knowledge, ability, and equipment to perform milkfat testing satisfactorily. Each permit holder must maintain records of all tests conducted for a period of 1 year and make such records available to the department for review. Since this program was implemented in 1973, the industry has evolved and the USDA Milk Marketing Administration provides the same function.

Effect of Proposed Changes

Rulemaking

The bill amends s. 500.09(3), F.S., to specify that the DFS is authorized to adopt by reference the current edition of the model food code issued by the FDA and Public Health Service of the United States Department of Health and Human Services. While the DFS must still follow the established rulemaking process, this change enables the DFS to adopt the current edition of the model food code.

Pilot Program

The bill repeals s. 500.147(6), F.S., relating to the pilot program for the inspection of food establishments. In lieu of the pilot program, the DFS has implemented a variable inspection program, which rewards food establishments with good sanitary history by reducing the frequency of inspections.

Milkfat Testing

The bill amends ss. 502.014 and 502.053, F.S., to delete the duplicative permitting requirement for milkfat testers.

Water Issues

Present Situation

Office of Agricultural Water Policy

During the 2011 legislative session, the Office of Water Policy Coordination was renamed as the Office of Energy and Water. This was done to better reflect the duties carried out by this office. However, at the same time, the Legislature transferred the state energy office to the department. This expanded the focus of energy beyond what was planned for within this office. With the transfer of the state energy office, a new office (Office of Energy) was created within the department.

Fertilizer Tonnage Fee

Section 576.045, F.S., specifies legislative intent regarding the improvement of fertilization-management practices that protect that state's water resources and preserves a viable agricultural industry, which may be accomplished through research concerning best management practices and education and incentives for the agricultural industry and other major users of fertilizer.

In addition to the fees paid for registration and inspection of agricultural fertilizers, a tonnage fee of 50 cents per ton is assessed for all fertilizer sold in the state that contains nitrogen or phosphorous. These fees are deposited into the General Inspection Trust Fund, and are appropriated annually to the department and allocated according to a memorandum of understanding between the department and the Department of Environmental Protection (DEP). These funds must be used for the express purpose of research, development, adoption, and distribution of interim measures, best management practices (BMPs), or other measures that achieve state water quality standards for nitrogen and phosphorous criteria. The funds may be used for cost-sharing grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The funds may also be used to reimburse the DEP for costs incurred while monitoring and verifying the

⁵ This amount covers a two year period.

effectiveness of the interim measures, BMPs, or other measures, as well as sampling and analyzing potable water supplies found to contain levels of nitrate in excess of state water quality standards.

To achieve these goals, the department may consult with the DEP, the Department of Health, the water management districts, environmental groups, the fertilizer industry, and representatives from the affected farming groups.

The provisions regarding funding and intent, fees, purpose, waiver of liability, and rulemaking are set to expire on December 31, 2012. Compliance and other provisions are set to expire on December 31, 2017. Failing to extend these expiration dates would create a shortfall of approximately \$1 million annually, which the department uses in the development and implementation of agricultural BMPs.

Effect of Proposed Changes

Office of Agricultural Water Policy

The bill changes the name of the Office of Energy and Water to the Office of Agricultural Water Policy.

Fertilizer Tonnage Fee

The bill amends section 576.045, F.S., to extend the expiration dates for the fertilizer tonnage fee program to December 31, 2022 and December 31, 2027, respectively.

Plant Industry

Present Situation

Plant Industry Technical Council

Section 570.34, F.S., establishes the Plant Industry Technical Council (PITC) to address plant industry-related issues. The PITC is composed of eleven members representing various industry-related interests, as well as a citizen-at-large representative, all who serve on the State Agricultural Advisory Council. An additional representative from the citrus fruit industry, appointed by the Commissioner of Agriculture, also serves on the PITC.

The Division of Plant Industry (DPI) reports that the PITC has met sporadically over the past several years and has not been an effective mechanism to address plant industry-related issues. In the recent past, the DPI 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. Additionally, the DPI has partnered with their respective counterparts at the USDA to establish the Florida Partnership Council. The council meets with industry stakeholders to seek input and review overall plant protection programs in Florida.

Aquatic Plant Nursery Registration

Section 581.145, F.S., directs that, despite any other provision of state or federal law, the department issue, when requested, a permit to an aquaculture producer to engage in the business of exporting water hyacinths to countries other than the United States and only when such 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 Department of Environmental Protection'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. This provision is 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.

Effect of Proposed Changes

Plant Industry Technical Council

The bill repeals section 570.34, F.S., which establishes the Plant Industry Technical Council. The bill also deletes the term "technical council," which refers to the PITC, from the definitions section in Chapter 581, F.S.

Aquatic Plant Nursery Registration

The bill amends s. 581.145, F.S., to allow for the transporting and selling of water hyacinths to other states and countries that allow such transportation and sale when the aquaculture activities have been certified by the department. An aquaculture producer may not ship water hyacinths to other states or countries under the permit for the purpose of importing the hyacinths back into Florida. Section 581.145(3), F.S., does not restrict or interfere with the efforts of the Fish and Wildlife Conservation Commission or the efforts 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.

Agriculture Environmental Services

Present Situation

Agricultural Feed, Seed and Fertilizer Advisory Council

Currently, within the department there are three separate advisory councils that mitigate issues regarding fertilizer, seeds, and commercial feed: the Fertilizer Technical Council, the Commercial Feed Technical Council, and the Seed Technical Council. Each of these councils is composed of between 11 and 13 members, which include representatives of the various industry groups related to the respective councils, as well as representatives of the department and the Institute of Food and Agricultural Sciences at the University of Florida (IFAS). While each council addresses issues unique to its particular area, overlap occurs because of 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.

Commercial Feed Master Registration

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 complying with provisions of chapter 580, F.S., as well applicable rules. Registration forms must be accompanied by a fee based on tons of feed distributed in the state during the previous year.⁶

The terms of compliance for registration include:

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

⁶ Section 580.041(1)(b), F.S., provides a chart listing the fee per ton of feed distributed.

The department has statutory authority to assess penalties for violations of chapter 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 chapter 580, F.S.

Records of the tonnage of feed distributed are maintained by the distributor and verified by the department. Some registrants defer or refuse to provide accurate 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 department rule.⁷ The rule states that testing is based on the quantity and type of feed distributed. Without proper reporting, it is impossible for the department to determine if registrants are in compliance with statutory and rule testing requirements.

Commercial Feed Penalties Payable to Consumers

Section 580.131, F.S., provides consumers that purchase a commercial feed that has been distributed in violation of chapter 580, F.S., the right to seek legal action to recover penalties. The law⁸ specifies penalties to coincide with the various violations. The statutes state that a penalty may not be less than \$10 regardless of the monetary value of the violation.

The department states that in 1995, when the current law was amended, statutory language was inadvertently omitted that allowed the department to impose and recover monetary penalties for commercial feed found, when tested by the department's laboratories, to be deficient or excessive in nutrients. Additionally, pre-1995 statutory language, entitled the consumer to payment of penalties through any legal or administrative action that might be implemented, which enabled the state to order restitution on behalf of the consumer through administrative action. The pre-1995 statutes also provided for the penalties to be paid to the department when the identity of the consumer could not be ascertained.

Effect of Proposed Changes

Agricultural Feed, Seed and Fertilizer Advisory Council

The bill repeals the Fertilizer Technical Council, the Commercial Feed Technical Council, and the Seed Technical Council and creates the Agricultural Feed, Seed and Fertilizer Advisory Council. The new council will consist of 15 members who represent the department, IFAS, the beef cattle, poultry, aquaculture, field crops, citrus, vegetable, and dairy production industries, as well as representatives of the fertilizer, seed, and commercial feed industries.

Each member shall be appointed by the Commissioner of Agriculture for a term of 4 years or until a successor is appointed. The members shall organize by electing a chair, a vice chair, and a secretary to serve a 2-year term. Council officers may not serve consecutive terms.

For all purposes, a majority of the members constitutes a quorum. The secretary of the council must keep a record of each meeting, noting the members present and the actions taken. The records of the meetings must be kept on file with the department and are subject to review by members of the council.

The council must meet at least twice a year, either at the call of the chair, by request of a majority of its members, at the request of the department, or at such time as an agricultural or environmental emergency arises. The council may receive reports of relevant enforcement activity conducted by the department, which may include the number of inspections, the number of administrative actions, the number of complaints received and investigated, and the dispositions of complaints. The council may also provide advice to the department on the conduct of actions, and make recommendations to the

⁷ Rule 5E-3.003, F.A.C.

⁸ Section 580.131, F.S.

Commissioner of Agriculture for actions to be taken with respect to the regulation of feed, seed, and fertilizer.

Commercial Feed Master Registration

The bill amends s. 580.041, F.S., to change the tonnage reporting requirements. The tonnage of feed distributed in the state must be reported to the department on a quarterly basis, no later than 30 days following the end of each quarter.

The bill also allows the department to issue a warning letter; impose an administrative fine not to exceed \$1,000 per occurrence; revoke or suspend the master registration, laboratory certification, or quality assurance/quality control plan approval; or, impose a probationary period of up to 6 months for persons who violate the provisions of chapter 580, F.S.

Commercial Feed Penalties Payable to Consumers

The bill amends s. 580.131, F.S., to provide consumers who purchase commercial feed that has been distributed in violation of chapter 580, F.S., or any rules promulgated under chapter 580, F.S., the right to seek legal or administrative action to recover penalties. The bill also requires the registrant to reimburse the consumer within 60 days of notice of penalty from the department. Registrants that fail to meet the 60-day deadline are subject to a warning letter; the imposition of an administrative fine not to exceed \$1,000 per occurrence; revocation or suspension of the master registration, laboratory certification, or quality assurance/quality control plan approval; or, imposition of a probationary period of up to 6 months.

Lastly, the bill specifies that, when the identity of the consumer cannot be ascertained, the registrant must reimburse the department within 60 days of notice of penalty being served. The proceeds from penalty payments must be deposited into the General Inspection Trust Fund to be used for the sole purpose of funding the feed inspection program.

Soil and Water Conservation Districts

Present Situation

Soil and water conservation 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. Districts are currently regulated under chapter 582, F.S.

Section 582.20, F.S., specifies that the powers and duties of the districts include:

- Conducting surveys, investigations, and research on soil erosion, floodwater and sediment damages, conservation issues, development and utilization of soil and water resources, disposal of water, preventive and control measures and works of improvement needed.
- Publishing the results of surveys, investigations and research and disseminating information regarding preventive and control measures and works of improvement.
- Disseminating information concerning such preventive and control measures and works of improvement.
- Avoiding duplication of research by the districts working in cooperation with the state or its agencies and the federal government or its agencies.
- Conducting demonstration projects regarding effective conservation methods.
- Implementing preventive and control measures for conservation, development and utilization of soil and water resources, and the disposal of water within the district, such as engineering operations, methods of cultivation, the growing of vegetation, changes in land use, and other measures on private lands or public-owned lands, with the cooperation of landowners or the public land management agency.
- Cooperating or entering into agreements with, and within the limits of appropriations made available to the districts, to furnish financial or other aid to any agency, governmental or

otherwise, or any landowner or occupier of land within the district to assist in conservation efforts.

- Acquiring, either by purchase, exchange, lease, gift, grant, bequest, or otherwise, any property, real or personal, or rights or interests in such property, as well as maintaining, administering, improving, receiving income from, or disposing of any properties acquired.
- Making available to landowners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment to assist in such operations to attain conservation goals.
- Constructing, improving, operating and maintaining such structures as may be necessary or convenient for the performance of any of the operations authorized in chapter 582, F.S.
- Developing comprehensive plans for the conservation of soil and water resources.
- Taking over, by purchase, lease or otherwise, and administering any soil-conservation, erosion-control, erosion-prevention project, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water.
- Managing, as agents of federal or state agencies, any soil-conservation, erosion-control, erosion-prevention project, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water.
- Suing and being sued in the name of the district; having a seal, which may be judicially noticed; having perpetual succession unless terminated as provided in chapter 582, F.S., making and executing contracts or other instruments necessary to exercise the powers of the districts; upon a majority vote of the supervisors of the district, to execute promissory notes and other evidences of indebtedness; pledging, mortgaging and assigning the income of the district and its personal property as security for such promissory notes as may be obtained; making, amending and repealing rules and regulations to achieve the purposes and powers of the districts.

As a condition to extending any benefits under chapter 582, F.S., or the performance of work upon, any lands not owned or controlled by the state or its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require landowners and occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands that will tend to prevent or control erosion and prevent floodwater and sediment damages on the land. Provisions relating to the acquisition, operation, or disposition of property by public bodies of the state apply only to districts organized under chapter 582, F.S. The property and property rights of every kind and nature acquired by a district organized under chapter 582, F.S., are exempt from state, county, and other taxation.

Section 582.29, F.S., directs 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 to 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 chapter 582, F.S. 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.

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.

Section 582.30, F.S., specifies that any time after 5 years from the organization of a district under chapter 582, F.S., any 10 percent of owners of land lying within the boundaries of such district may file a petition with the department asking that the operations of the district be terminated and the existence of the district discontinued. Upon petition, the department may conduct public meetings and hearings as necessary to assist in the consideration of termination of the district. Within 60 days after receiving the petition, the department 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 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 department 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 chapter 189, F.S., the commissioner, after review and confirmation by the department's 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 2 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 require that objections to the proposed dissolution or any claims against assets of the district must be filed with the department no later than 60 days following the date of last publication.

Section 582.31, F.S., directs 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 certificate of the department 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.

Soil and Water Conservation Council

Section 582.06, F.S., creates the Soil and Water Conservation Council within the department, 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 5 years at the time of their appointment. The remaining twelve members must include one representative each from the Department of Environmental Protection, the five water management districts, the Institute of Food and Agricultural Sciences 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.

All members are appointed by the Commissioner of Agriculture from recommendations provided by the organization or interest represented. The term of appointment is for four years or until successors are duly qualified and appointed. Vacancies are filled for the remainder of the term in the manner of an initial appointment. The meetings, powers and duties, procedures, and recordkeeping of the council, as well as per diem and travel expenses of the council members, are governed by s. 570.0705, F.S., relating to advisory committees established within the department.

Effect of Proposed Changes

The bill amends ss. 582.20 and 582.29, F.S., to allow districts to work within their boundaries, territories within another district's boundaries subject to the other district's approval, or territories not contained within any district's boundaries in order to maximize the utilization of water conservation devices, systems, and techniques in an area that either falls outside a district boundary or that doesn't have an active district.

The bill amends s. 582.30, F.S., to provide for the dissolution or discontinuance of a district if:

- The Soil and Water Conservation Council, upon review and recommendation, determines the continued operation of the district is not administratively practicable and feasible under the provisions of chapter 582, F.S.
- The district fails to comply with any audit or financial reporting requirement of chapter 189, F.S., or fails to comply with any requirements of s. 582.20(1)-(9), F.S., and the department's inspector general reviews and confirms in writing the district has failed to comply with any of the requirements.
- The department receives a resolution adopted by the supervisors of the district requesting the commissioner to issue a certificate determining that the continued operation of the district is not administratively practicable and feasible under the provisions of chapter 582, F.S.

If any of the requirements for a dissolution or discontinuation are satisfied, the department must publish notice of a proposed certificate determining that the continued operation of the district is not administratively practicable and feasible under the provisions of chapter 582, F.S. The notice procedures remain the same as current law. Upon expiration of the 60-day period after the date of last publication, the commissioner, upon review of any comments or objections received, may issue a certificate determining that the continued operation of the district is not administratively practicable and feasible under the provisions of chapter 582, F.S. If the commissioner issues such a certificate, the department must file the original certificate with the Department of State and must provide a copy of the certificate to the supervisors of the district at the district's principal office.

The bill amends s. 582.31, F.S., to provide for the proceeds of the sale of district property to be paid to the State Treasury and credited to the district, rather than the department; thus, making the legal obligations the responsibility of the district at the time of the district dissolution.

Soil and Water Conservation Council

The bill amends s. 582.06, F.S., reducing the membership of the council from 23 members to 7 members, all of whom must 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. The members must also be engaged in agriculture or an occupation related to the agricultural industry for at least 5 years at the time of their appointment. All members are appointed by the Commissioner of Agriculture and serve 4-year terms or until their successors are duly qualified and appointed. Vacancies are filled for the remainder of the term in the manner of an initial appointment. The meetings, powers and duties, procedures, and recordkeeping of the council are governed by s. 570.0705, F.S., relating to advisory committees established within the department.

Animal Industry

Present Situation

Whole-herd and Calf Vaccination

Section 585.155, F.S., specifies that all female calves born in the state used for dairy breeding purposes must be vaccinated with an approved *Brucella abortus* vaccine by state or federal regulatory officials or licensed, accredited veterinarians. When vaccinated, calves must be tattooed with the official shield tattoo "V", which is registered by the United States Department of Agriculture (USDA), in

the right ear, preceded by the numeral of the quarter of the year and followed by the last numeral of the year. Additionally, each calf must be individually identified at the time of vaccination, if not already identified by tattoo or brand, by an official vaccination ear tag in the right ear. The tag must include the designated state prefix, followed by the letter "V," two additional letters, and four numerals. Registration tattoos or individual brand numbers may be substituted for the official ear tags. The identification must be accurately recorded on the official vaccination record. Duplicate records of these vaccinations must be supplied to the department and comprise the official record of vaccination.

Each owner of a herd of cattle in the state must enroll the herd in a program to determine whether the herd is infected with brucellosis. When reactors or suspects are revealed in a herd, the department and the owner must develop a plan to eliminate the infection in accordance with the Uniform Methods and Rules for Brucellosis Eradication and the rules of the state. The plan must include the required testing, removal of reactor animals, calfhood vaccination, and whole-herd vaccination to clear the herd of infection.

The department must establish low brucellosis incidence areas and brucellosis free areas that can be recognized by the USDA as having Class "Free," Class "A," or Class "B" status under the Uniform Methods and Rules for Brucellosis Eradication. The only vaccine that qualifies under chapter, 585, F.S., is an approved vaccine produced under license of the USDA.

Effect of Proposed Changes

Whole-herd and Calf Vaccination

The bill repeals s. 585.155, F.S. Florida has been declared brucellosis-free since 2001 and no cases have been revealed since that time. Although calfhood vaccination continues on a voluntary basis, the vaccine is no longer provided at state expense.

Aquaculture

Present Situation

Aquaculture Certification

Section 597.004(1), F.S., specifies the criteria that must be met in order to become certified to engage in aquaculture production in the state. The application for certificate of registration must include:

- Applicant's name/title;
- Company name;
- Complete mailing address;
- Legal property description of all aquaculture facilities;
- Actual physical street address for each aquaculture facility;
- Description of production facilities;
- Aquaculture products to be produced;
- One-hundred dollar annual registration fee; and
- Documentation that the rules adopted relating to chapter, 597, F.S., have been complied with in accordance with s. 597.004(2)(a), F.S.

Aquaculture Interagency Coordinating Council

Section 597.006, F.S., creates the Aquaculture Interagency Coordinating Council. The council was created in 1984 to facilitate and coordinate inter-agency communication regarding aquaculture activities between the department, the Department of Economic Opportunity, the Department of Environmental Protection (DEP), the Fish and Wildlife Conservation Commission (FWCC), the statewide consortium of universities under the Florida Institute of Oceanography, Florida Agricultural and Mechanical University

(FAMU), the Institute of Food and Agricultural Sciences at the University of Florida (IFAS), and the Florida Sea Grant Program.

The council is composed of one member from each of the above-referenced organizations, to be designated by the head of the respective organization, to act as an aquaculture contact person. In the case of the IFAS, the Vice President for Agricultural Affairs serves as the representative for the council.

The council meets quarterly, with a chair and vice chair being elected by the membership to serve for 1 year. The chair may call for a council meeting as often as necessary to transact business. At least one meeting a year must be a joint meeting with the Aquaculture Review Council (ARC). The council may designate subcommittees as needed to assist in carrying out its responsibilities. A majority of the members constitutes a quorum and an action by a majority of the quorum is considered official. The department has primary responsibility for providing administrative and staff support for the council and must maintain a record of the proceedings of each meeting, which must include the name of the members present and any action taken. The records of the meeting must be kept on file with the department and available for review by the council members.

The purpose of the council is to establish positive interagency cooperation to foster the development of the state's aquaculture industry. To achieve this purpose the council must:

- Serve as a forum for discussion and study regarding governmental regulations relating to aquaculture.
- Review and discuss aquaculture issues developed by the ARC.
- Formulate responses to industry issues, as presented by the ARC, which include solutions and policy alternatives to facilitate aquaculture development.
- Review the recommendations for short-term research projects submitted to the Commissioner of Agriculture by the ARC and forward any pertinent comments to the Commissioner of Agriculture.
- Review the results of the aquaculture research projects funded by the department.
- Establish and maintain effective and cooperative linkages between member agencies, the ARC, and the public and private institutional research, extension, and service programs, so that recommendations for improvement are responsive to the needs of aquaculture.
- Prepare an annual report to be submitted by December 1 each year to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of the legislative appropriations and agriculture committees, and the heads of each agency represented on the council. The report includes all actions and recommendations of the council, as well as the responsive actions taken by the agencies. The report also includes a list of all aquaculture activities undertaken by member agencies and the needs each activity is designed to address, the results, the funds expended on each activity, and the source of those funds.
- Develop guidelines for use by member agencies when reporting any aquaculture activities.

Effect of Proposed Changes

Aquaculture Certification

The bill amends s. 597.004(1), F.S., to specify that the annual registration fee is waived for any elementary, middle, high school or vocational schools that participate in the aquaculture certification program. Currently, there are approximately 15 certified aquaculture programs in schools around the state. These programs help to educate students on potential career paths, proper handling of non-native species, as well as demonstrating hands-on practical educational opportunities. The department hopes that by waiving the certification fee, more schools will become involved in the aquaculture certification program.

Aquaculture Interagency Coordinating Council

The bill amends ss. 379.2523, 597.0021, 597.003 and 597.005, F.S., and repeals s. 597.006, F.S., to abolish the Aquaculture Interagency Coordinating Council.

Miscellaneous

Present Situation

Florida Agricultural Exposition

In 1969, the department received legislative authority to construct and equip, in conjunction with the Department of Corrections, an agricultural exposition center in Palm Beach County to be known as the Florida Agricultural Exposition. The exposition is administered by the department for the purposes of:

- Demonstrating and selling Florida agricultural products;
- Attracting and informing buyers;
- Conducting agricultural short courses and conferences;
- Organizing tours to aid in the marketing of Florida agricultural products to domestic and foreign markets; and
- Training prisoners of the correctional institutions of the state in agricultural labor and management.

The department and the Department of Corrections have statutory authority to receive donations of funds from growers and dealers of agricultural products, the various groups and associations representing agricultural products and agricultural business products, the federal government and other sources. The moneys collected are deposited into the state treasury in a separate trust fund. The department is further authorized to expend up to \$25,000 of its own funds, if available. Lack of interest, as well as funding, makes it no longer feasible to continue the operation of the exposition.

Marketing Orders

Marketing orders are instrumentalities issued by the department and designed to regulate the distribution and handling of agricultural products in intrastate commerce. Marketing orders become effective when consented to by a majority of producers or handlers of such commodities in the state.⁹ To establish a marketing order, at least 10 percent of the affected producers must petition the department to give notice of a public hearing regarding a proposed marketing order.¹⁰ Once the notice has been filed and the hearing has been conducted, the department may issue the marketing order if it determines the order will accomplish certain objectives prescribed by statute.¹¹ Prior to a marketing order being issued, the petitioners must deposit such monies with the department to defray the cost of implementing the marketing order. Thereafter, persons directly affected by the marketing order shall pay such amounts as the department deems necessary to cover the administration and enforcement of the marketing order.¹² Section 573.118(4) directs the department to arrange on an annual basis for an audit of the books and accounts of the marketing order by a certified public accountant (CPA). The CPA must notify the department and all parties covered by the marketing order of the results no later than 30 days following the audit.

Effect of Proposed Changes

Florida Agricultural Exposition

The bill repeals section 570.071, F.S., which creates and administers the Florida Agricultural Exposition.

⁹ Section 573.104, F.S.

¹⁰ Section 573.105, F.S.

¹¹ Section 573.108, F.S.

¹² Section 573.118, F.S.

Marketing Orders

The bill amends s. 573.118, F.S., to require the department to maintain records of collections and expenditures for each marketing order separately within the state's accounting system. Rather than an annual audit, the bill directs that a review be conducted when requested by an advisory council associated with the particular marketing order.

B. SECTION DIRECTORY:

Section 1: Amends s. 20.14, F.S., establishing the Division of Food, Nutrition, and Wellness within the department.

Section 2: Amends s. 253.002, F.S., authorizing the department to perform staff duties for the Board of Trustees of the Internal Improvement Fund related to conservation easements.

Section 3: Amends s. 379.2523, F.S., deleting references to the Aquaculture Interagency Coordinating Council.

Section 4: Amends s. 379.2524, F.S., removing provisions relating to per diem and travel expenses for members of the Sturgeon Production Working Group.

Section 5: Amends s. 388.161, F.S., revising the products that mosquito control districts are authorized to use to control mosquito breeding.

Section 6: Amends s. 388.201, F.S., revising the due date for mosquito control districts to submit their certified budgets to the department.

Section 7: Amends s. 388.323, F.S., revising procedures for a county or mosquito control district to dispose of certain surplus equipment.

Section 8: Repeals s. 388.42, F.S., relating to the John A. Mulrennan, Sr., Arthropod Research Laboratory.

Section 9: Amends s. 388.46, F.S., revising the membership and the responsibilities of the Florida Coordinating Council on Mosquito Control; and revising the duties of the council's Subcommittee on Managed Marshes.

Section 10: Amends s. 493.6104, F.S., removing provisions relating to per diem and travel expenses for members of the Private Investigation, Recovery, and Security Advisory Council.

Section 11: Amends s. 500.09, F.S., authorizing the department to adopt rules to incorporate by reference the federal model food code.

Section 12: Amends s. 500.147, F.S., deleting provisions relating to a food safety pilot program.

Section 13: Amends s. 502.014, F.S., deleting provisions relating to a permitting program for persons who test milk or milk products.

Section 14: Amends s. 502.053, F.S., deleting requirements for a milkfat tester license.

Section 15: Amends s. 570.0705, F.S., prohibiting members of certain advisory bodies from receiving per diem or travel expenses.

Section 16: Repeals s. 570.071, F.S., relating to the Florida Agricultural Exposition.

Section 17: Amends s. 570.074, F.S., renaming and revising the policy jurisdiction of the department's Office of Energy and Water.

Section 18: Amends s. 570.18, F.S., correcting a cross-reference.

Section 19: Repeals s. 570.29, F.S., relating to the divisions of the department.

Section 20: Repeals s. 570.34, F.S., relating to the Plant Industry Technical Council.

Section 21: Creates s. 570.451, F.S., creating the Agricultural Feed, Seed, and Fertilizer Advisory Council; providing for the council's powers and duties and appointment of council members.

Sections 22 and 23: Amends s. 570.53, F.S., correcting cross-references.

Section 24: Amends s. 573.112, F.S., providing that members of the Citrus Research and Development Foundation's board of directors are entitled to reimbursement from the foundation for per diem and travel expenses.

Section 25: Amends s. 573.118, F.S., revising requirements for the accounting and review of collections and expenditures from agricultural commodity marketing order assessments.

Section 26: Amends s. 576.045, F.S., revising the expiration dates of certain provisions regulating fertilizers that contain nitrogen and phosphorous.

Section 27: Amends s. 576.071, F.S., removing a reference to the Fertilizer Technical Council.

Section 28: Repeals s. 576.091, F.S., relating to the Fertilizer Technical Council.

Section 29: Repeals s. 578.30, F.S., relating to the Seed Technical Council.

Section 30: Amends s. 580.041, F.S., revising the reporting requirements and penalties for violations by distributors of commercial feed.

Section 31: Amends s. 580.131, F.S., revising requirements for the assessment of penalties and enforcement of violations by manufacturers and distributors of commercial feed or feedstuff; authorizing the department to assess penalties; requiring registered distributors of commercial feed to pay penalties to consumers within a specified time; imposing additional penalties for nonpayment; providing for the deposit and use of certain funds paid to the department.

Section 32: Repeals s. 580.151, F.S., relating to the Commercial Feed Technical Council.

Section 33: Amends s. 581.011, F.S., removing a reference to the Plant Industry Technical Council.

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

Section 35: Amends s. 582.06, F.S., revising requirements for the composition and appointment of members of the Soil and Water Conservation Council and the reimbursement of members for per diem and travel expenses.

Sections 36 and 37: Amends ss. 582.20 and 582.29, F.S., revising the jurisdiction of soil and water conservation districts to include territories within another district's boundaries subject to the other district's approval or territories not contained within any district's boundaries.

Section 38: Amends s. 582.30, F.S., revising requirements and procedures for the dissolution or discontinuance of a soil and water conservation district.

Section 39: Amends s. 582.31, F.S., revising requirements for payment of the proceeds from the sale of property of a dissolving soil and water conservation district to the State Treasury.

Section 40: Repeals s. 585.155, F.S., relating to the inspection and vaccination of cattle for brucellosis.

Section 41: Repeals s. 589.03, F.S., relating to compensation and allowance for members of the Florida Forestry Council.

Section 42: Amends s. 589.19, F.S., renaming the "Wounded Warrior Special Hunt Areas" of the state forests.

Section 43: Amends s. 589.277, F.S., revising requirements for the deposit of contributions for tree planting programs.

Section 44: Amends s. 590.02, F.S., specifying that state and local government agencies other than the Florida Forest Service may not enforce regulations of broadcast burning or agricultural or silvicultural pile burning except under certain circumstances.

Sections 45, 46 and 47: Amends ss. 597.0021, 597.003, and 597.005, F.S., removing references to the Aquaculture Interagency Coordinating Council.

Section 48: Amends s. 597.004, F.S., authorizing the waiver of aquaculture registration fees for certain schools.

Section 49: Repeals s. 597.006, F.S., relating to the Aquaculture Interagency Coordinating Council.

Section 50: Amends s. 616.252, F.S., providing for the reimbursement by the fair authority of members of the Florida State Fair Authority for per diem and travel expenses.

Section 51: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

By amending 580.041, F.S., the department may receive increased revenues as a result of the changes in reporting requirements for distributors of commercial feed. Although the fiscal impact is indeterminate, revenues collected for FY 2010-11 were \$542,580.

By amending s. 590.02, F.S., the department may receive private funds to administer tree-planting programs, but the amount cannot be determined at this time.

General Inspection Trust Fund

	FY 2012-13	FY 2013-14
Milkfat Tester Permits	(\$6,562)	\$0
Commercial Feed Penalties	\$3,600	\$0
Aquaculture Cerification	<u>(\$1,500)</u>	\$0
Subtotal	<u>(\$4,462)</u>	\$0

2. Expenditures:

Division of Licensing Trust Fund

	FY 2012-13	FY 2013-14
Private Investigation, Recovery and Security Advisory Council	(\$11,300)	\$0

General Inspection Trust Fund

	FY 2012-13	FY 2013-14
Milkfat Sampling Costs	(\$400)	\$0

Division of Licensing Trust Fund Net Positive Impact \$11,300

General Inspection Trust Fund Net Negative Impact (\$4,062)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

By amending s. 388.323, F.S., local governments will only be required to offer equipment to other counties or districts engaged in arthropod control. Eliminating the requirement to notify other governmental units and private nonprofit agencies of the sale of mosquito control equipment may reduce advertising costs.

	FY 2012-13	FY 2013-14
Local School Districts with Aquaculture Programs (15 programs x \$100)	(\$1,500)	\$0

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By amending s. 580.131, F.S., persons who have purchased commercial feed that has been distributed in violation of chapter 580, F.S., may seek administrative action, as well as legal action, to recover penalties.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department is given rule-making authority to adopt by reference the current version of the federal food code.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Agriculture and Natural Resources Subcommittee adopted eight amendments to PCB ANRS 12-01.

- Amendment 1 clarifies that the model food code adopted by the department is issued by the Food and Drug Administration and Public Health Service of the Department of Health and Human Services.
- Amendment 2 clarifies that advisory groups created by the department or within the department may not receive travel or per diem reimbursement.
- Amendment 3 clarifies that the Citrus Research and Development Foundation, Inc. is responsible for reimbursing its members for travel and per diem expenses.
- Amendment 4 clarifies that soil and water conservation districts are authorized to work in territories within another district's boundaries subject to the other district's approval or territories not contained within any district's boundaries.
- Amendment 5 corrects a typographical error. The word "social" is changed to "soil."
- Amendment 6 removes section 41 of the bill, which would have revised s. 582.32, F.S., to delete the requirement that the department take responsibility for outstanding contracts of dissolved soil and water conservation districts.
- Amendment 7 repeals s. 589.03, F.S., relating to compensation and allowance for members of the Florida Forestry Council. Since the department no longer pays travel and per diem for members of advisory committees under its jurisdiction, this section of statute is no longer valid.
- Amendment 8 clarifies that the Florida State Fair Authority is responsible for reimbursing its members for travel and per diem expenses.

On January 18, 2012, the Agriculture and Natural Resources Appropriation Subcommittee adopted one amendment to HB 7021.

- The amendment removes section 15 of the bill, which would have added subsection (42) to s. 570.07 authorizing the department to accept grants or other funds to distribute to individuals when such funds are provided pursuant to an agreement, to avoid confusion regarding the department's ability to distribute funds without a legislative appropriation.