

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 137 Department of Citrus

SPONSOR(S): Agriculture & Natural Resources Subcommittee; Raburn and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 298

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

SUMMARY ANALYSIS

In 1949, the Florida Citrus Code was established in chapter 601, Florida Statutes, to regulate and protect the citrus industry. Over the years, various sections of chapter 601, F.S., have been revised and new sections have been added. The Legislature amended chapter 601, F.S., in chapter 2012-182, Laws of Florida, to make substantive changes, as well as to correct various inconsistencies. In the course of amending chapter 601, F.S., certain references to the Department of Citrus (DOC) were incorrectly changed to the Department of Agriculture and Consumer Services (DACS), and an outdated reference to the DOC headquarters being located in Lakeland was inadvertently left in the statutes.

The bill makes the following revisions to chapter 601, F.S., correcting inadvertent references in chapter 2012-182, L.O.F.:

- Deletes the obsolete reference in s. 601.152(1)(d), F.S., to Lakeland since the DOC relocated operations to Bartow about three years ago;
- Amends s. 601.9918, F.S., to revert the reference from the Department of Agriculture and Consumer Services to the Department of Citrus regarding rules related to issuance and use of symbols; and
- Amends s. 601.992, F.S., to revert the reference from the Department of Agriculture and Consumer Services to the Department of Citrus regarding implementation of and rules related to regulation of certain nonprofit corporations that receive payments or dues from their members.

The bill also specifies that the revisions to ss. 601.998 and 601.992, F.S., in this act are remedial in nature and apply retroactively to the effective date of ss. 74 and 75 of chapter 2012-182, L.O.F., respectively.

Finally, the bill specifies that any rules that had been adopted by the DOC to implement ss. 601.9918 and 601.992, F.S., prior to chapter 601 rewrite, and inadvertently transferred to DACS, are returned to the DOC by a type two transfer and apply retroactively to the effective date of the chapter 601, F.S., rewrite.

The bill has no fiscal impact on state or local governments, or the private sector.

The effective date of this legislation is upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

In 1949, the Florida Citrus Code was established in chapter 601, Florida Statutes, to regulate and protect the citrus industry. Over the years, various sections of chapter 601, F.S., have been revised and new sections have been added. The Legislature amended chapter 601, F.S., in chapter 2012-182, Laws of Florida, to make substantive changes, as well as to correct various inconsistencies. In the course of amending chapter 601, F.S., certain references to the Department of Citrus (DOC) were incorrectly changed to the Department of Agriculture and Consumer Services (DACS), and an outdated reference to the DOC headquarters being located in Lakeland was inadvertently left in the statutes.

Section 1

Present Situation

Section 601.152 (1)(d), F.S., specifies that copies of proposed marketing orders must be made available to the public at the offices of the DOC at Lakeland at least 5 days before the public hearing.

Effect of Proposed Changes

The bill deletes from s. 601.152(1)(d), F.S., the obsolete reference to Lakeland. The DOC relocated their operations to Bartow approximately three years ago.

Section 2

Present Situation

Section 601.9918, F.S., states that, in rules related to the issuance and voluntary use of symbols, certification marks, service marks, or trademarks, the Florida Citrus Commission may make general references to national or state requirements that the license applicant would be compelled to meet regardless of the Department of Agriculture and Consumer Service's (DACS) issuance of the license applied for. Chapter 2012-182, L.O.F., amended the above statutory section and made incorrect changes to the section by referencing DACS instead of the DOC.

Effect of Proposed Changes

The bill amends section 601.9918, F.S., to revert the reference to the DOC to correct the incorrect reference to DACS.

Section 3

Present Situation

Section 601.992, F.S., authorizes the DOC or DACS, or their successors, to collect or compel the entities regulated by DACS to collect dues and other payments on behalf of any non-profit corporations located in the state that receive payments or dues from their members. These non-profit corporations must be engaged in market news and grower education solely for citrus growers, and must have at least 5,000 members who are engaged in growing citrus in the state for commercial sale. DACS has the authority to adopt rules to administer this section. The rules may establish indemnity requirements for the requesting corporation and for fees to be charged to the corporation that are sufficient to ensure that any direct costs incurred by DACS in implementing this section are borne by the requesting corporation and not by DACS. Chapter 2012-182, L.O.F., also incorrectly changed, from DOC to DACS, the agency that is responsible for implementing this section of law and adopting rules.

Effect of Proposed Changes

The bill amends section 601.992, F.S., to revert the references to the DOC to correct the incorrect references to DACS.

Section 4

Because chapter 2012-182, L.O.F., mistakenly made DACS, instead of the DOC, the agency responsible for implementing the statutory sections discussed above, the bill specifies that the amendments to s. 601.9918 and 601.992, F.S., are remedial in nature and apply retroactively to the effective date of ss. 74 and 75 of chapter 2012-182, Laws of Florida (LOF).

The bill also specifies that rules 20-109.005 and 20-112.003, F.A.C., adopted by DOC to implement s. 601.9918, F.S., and rules 20-7.001, 20-7.002, 20-7.003, 20-7.004, and 20-7.005, F.A.C., adopted by DOC to implement s. 601.992, F.S., all of which were in effect upon the effective date of ss. 74 and 75 of chapter 2012-182, L.O.F., if transferred to DACS, are transferred by a type two transfer, as defined in s. 20.06(2), F.S., to DOC and apply retroactively to the effective date of ss. 74 and 75 of chapter 2012-182, L.O.F. Since DACS did not adopt or amend rules to implement s. 601.9918 and 601.992, F.S., on or after the effective date of ss. 74 and 75 of chapter 2012-182, L.O.F., only the rules listed in this subsection are subject to transfer.

B. SECTION DIRECTORY:

Section 1. Amends s. 601.152, F.S.; deletes an obsolete reference.

Section 2. Amends s. 601.9918, F.S.; returns certain references to DOC that were changed to reference DACS by chapter 2012-182, Laws of Florida.

Section 3. Amends s. 601.992, F.S.; returns certain references to DOC that were changed to reference DACS by chapter 2012-182, Laws of Florida.

Section 4. Provides for retroactive application; provides for the transfer of certain rules of DACS to DOC; and provides for retroactive application of such rules.

Section 5. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 12, 2013, the Agriculture and Natural Resources Subcommittee adopted one amendment to HB 137. The amendment is a technical amendment ensuring that the rules that were in effect when the rewrite of chapter 601, F.S., took effect are the same rules that are restored to the Department of Citrus when CS/HB 137 takes effect.