

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL: CS/CS/SB 1628

INTRODUCER: Appropriations Subcommittee on General Government; Agriculture Committee and Senator Montford

SUBJECT: Department of Agriculture and Consumer Services

DATE: April 4, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Halley</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Blizzard</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/CS/SB 1628 modifies several programs and activities under the jurisdiction of the Department of Agriculture and Consumer Services (department).

The bill establishes the department, with the cooperation of the Fish and Wildlife Conservation Commission (commission), as the lead managing agency of the state-owned portion of the Babcock Ranch, upon termination or expiration of the existing management agreement approved by the Board of Trustees of the Internal Improvement Trust Fund. That management agreement terminates on July 31, 2016. The department and the commission are authorized to establish fees to offset the costs of operating the ranch. The department and the commission estimate the provisions in the bill related to Babcock Ranch will result in a positive state fiscal impact. (See Section V).

The modifications to the department's programs and activities provided in this bill have an insignificant impact on state revenues and expenditures (see Section V). The Fiscal Year 2013-2014 proposed Senate budget eliminates seven full-time equivalent positions, \$129,768 in

funding from recurring general revenue and \$249,746 in funding from trust funds, due to the elimination of the brucellosis testing at the Suwannee County Laboratory.

The bill makes the following changes to the department's programs and activities:

- Provides that public hearings to discuss a proposed 10-year Resource Management Plan for a state forest must be held in any one of the affected counties rather than in each affected county.
- Provides that Lee County will retain ownership and assume responsibility for a specified portion of the Babcock Ranch acquisition.
- Establishes the department as the lead agency responsible for management of the state-owned portion of the Babcock Ranch. Revises provisions of the Babcock Reserve Ranch Act to conform to the termination or expiration of the management agreement and the dissolution of Babcock Ranch, Inc.
- Creates the Babcock Ranch Advisory Group to assist the department by providing guidance and advice concerning the management and stewardship of the Babcock Ranch Preserve.
- Authorizes the department and commission to establish and implement certain fees.
- Authorizes the Board of Trustees of the Internal Improvement Trust Fund to enter into certain agreements.
- Revises provisions relating to the distribution of funds to aid local mosquito control programs.
- Repeals authorization for the Pesticide Review Council in the pesticide registration process.
- Eliminates a requirement for a triennial report on restricted-use pesticide use in Florida.
- Eliminates all permitting requirements for livestock haulers and the issuance of metal tags or plates to the livestock haulers by the department.
- Removes a reference to land clearing and replaces it with pile burning to provide consistency between the Florida Statutes and the Florida Administrative Code.
- Creates the Division of Food, Nutrition, and Wellness within the department.
- Authorizes the department to enter into agreements or to terminate agreements with Direct Support Organizations without having to file legislation.
- Moves procedures for certain fertilizer analyses from statute to rule to allow for changes in technology and in commercial fertilizer practices.
- Moves numeric criteria for laboratory analysis of fertilizer samples from statute to rule and provides the department with clear authority to adopt rules that address the criteria.
- Deletes statutory references to the animal disease diagnostic laboratory in Suwannee County since this facility is no longer necessary.
- Allows department apiary inspectors to work in the beekeeping industry as long as they do not have any regulatory oversight over their own businesses.
- Authorizes the department to recover costs incurred during enforcement actions related to the adulteration or misbranding of honey.
- Deletes a requirement that the Florida Forestry Council's annual meeting be held the first week in October.
- Expands the Operation Outdoor Freedom Program to provide more recreational opportunities for wounded veterans.
- Gives the Florida Forest Service (FFS) the power, authority, and duty to authorize broadcast burning, prescribed burning, pile burning, and land clearing debris burning.

- Changes the name of the Florida Center for Wildfire and Forest Resources Management Training to the Florida Forest Service Training Center and removes the advisory committee for the training center.
- Defines the term “gross negligence” to limit the liability of the FFS, landowners, and leaseholders when conducting prescribed burns. Authorizes the FFS to delegate land clearing and yard trash burning to special districts as well as to counties and municipalities.
- Revises provisions relating to criminal penalties for obstructing the prevention, detection or suppression of wildfires.
- Creates chapter 595, F.S., entitled “School Food and Nutrition Services.”
- Creates the “Florida School Food and Nutrition Act.”
- Provides state policy for school food service and food service programs.
- Requires each school to electronically submit its local school wellness policy to the Department of Agriculture and Consumer Services rather than to the Department of Education.
- Repeals the Pesticide Review Council.
- Repeals the Gertrude Maxwell Save a Pet Direct Support Organization and provides for disposal of the funds remaining in the DSO’s account.
- Repeals the department’s duties concerning Arabian horse racing and the Arabian Horse Council.
- Repeals a permit requirement for the sale of cypress products.

This bill amends the following sections of the Florida Statutes: 253.034, 259.1052, 259.1053, 388.261, 388.271, 487.160, 487.041, 534.083, 550.2625, 550.2633, 570.64, 570.07, 570.902, 570.903, 576.051, 576.061, 576.181, 585.61, 586.10, 586.15, 589.02, 589.19, 589.30, 590.02, 590.11, 590.125, 590.25, 570.983, 1001.42, and 1003.453.

This bill creates chapter 595, Florida Statutes.

This bill creates the following sections of the Florida Statutes: 570.64, 570.087, 595.401, 595.402, 595.403, and 595.501.

This bill transfers and renumbers the following sections of the Florida Statutes: 570.072, 570.98, 570.981, 570.982, 570.983, and 570.984.

This bill repeals the following sections of the Florida Statutes: 259.10521, 487.0615, 570.382, 570.97, and 590.50.

II. Present Situation:

10-Year Resource Management Plans

The Florida Forest Service oversees the management of Florida’s one million acres of state forests pursuant to adopted land management plans. The purpose of these plans is to incorporate, evaluate, and prioritize all relevant information about the site into a cohesive management strategy, allowing for appropriate access to the managed areas while protecting the long-term health of the ecosystems and their resources. Land management plans are to be updated every 10 years on a rotating basis. In developing land management plans, at least one public hearing shall

be held in each affected county. The bill requires the meetings to be held in one county rather than each county which will result in a cost savings. The public may still provide input through email, phone calls, etc.

Babcock Ranch

The Babcock Ranch covers an area of 143 square miles and is comprised of 81,499 acres in Charlotte County and 9,862 acres in Lee County. In July of 2006, a Palm Beach real estate development firm, Kitson & Partners, purchased the entire 91,361 acre Babcock Ranch. The entity retained approximately 18,000 acres for development and sold to the State of Florida the remaining 73,000 acres. Prior to sale of the property in 2006, these two parcels of land combined were known as the Babcock Ranch.

This acquisition was one of the largest preservation purchases in the history of Florida and was made possible through the Babcock Ranch Preserve Act that was passed by the Legislature in 2006. The Act authorized the Babcock Ranch Preserve (preserve) as a working ranch and to protect regionally important water resources, diverse natural habitats, scenic landscapes and historic and cultural resources in southwest Florida. Public recreational opportunities include hunting, hiking, wildlife viewing, bicycling, fishing, camping and horseback riding.

Kitson & Partners entered into an agreement with the state of Florida to form a public/private partnership to manage the preserve. A subsidiary of Kitson & Partners, Babcock Ranch Management LLC, made up of the original ranch employees, entered into a management agreement with the Board of Trustees of the Internal Improvement Trust Fund and Lee County to provide management services for the preserve.

Section 259.1053, F.S., creates the Babcock Ranch, Inc., (BRI) as a not-for-profit corporation to operate and manage the preserve. Until the management agreement with Babcock Ranch Management, LLC, expires or is terminated, the BRI's officers and employees participate in the management of the preserve in an advisory capacity.

The BRI is comprised of nine members. Four members are appointed by the Board of Trustees of the Internal Improvement Trust Fund; one by the Fish & Wildlife Conservation Commission's executive director; one by the Commissioner of Agriculture; one by the Babcock Florida Company (or its successor); one by the Charlotte County Board of County Commissioners; and one by the Lee County Board of County Commissioners. The members of the BRI serve without compensation, but are entitled to per diem and travel expenses.

The lead managing agencies were established by the legislature as the Department of Agriculture and Consumer Services and the Fish and Wildlife Conservation Commission. The department and the commission are directed by section 259.1052, F.S., to establish resource protection values for the preserve, and the BRI establishes the operational parameters to conduct the business of the ranch within the range of values.

The management agreement was for five years and was signed on July 31, 2006. The agreement contained an automatic extension for five additional years. The management agreement specifies a termination date of July 31, 2016; no additional extensions are provided. At the expiration of

the management agreement, BRI will transition from oversight activities to manager of the preserve, and would be expected to manage the daily activities associated with the operations of the ranch.

The BRI has conducted several meetings and has undertaken activities to prepare to manage the property when the management agreement expires in 2016. During the course of its work, the BRI has concluded that it is not financially prepared to properly manage the property when the management agreement expires. The bill makes no changes to the working ranch management concept and does not alter the activities allowed on the ranch. However, the bill does make changes to the management structure currently in place. The bill addresses the challenge of BRI's limited resources to properly manage the property by establishing management of the property to the department and the commission.

Mosquito Control Programs

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

Current statute provides that the department "prorate" available funds based on the amount of matchable local funds budgeted by a local mosquito control program. In practice, the department distributes available funds equally to all participating programs. This results in programs with large local budgets receiving the same funds as programs with small local budgets. The bill will allow the department to provide most of the available funds to programs in areas with limited budgets that rely on state aid to provide a significant proportion of program resources.

Florida Pesticide Law

Every third year, the department is required to conduct a survey and compile a report on restricted-use pesticides in this state. The report covers types and quantities of pesticides, methods of application, crops treated, dates and locations of application, persons affected, and reports of misuse, damage, and injury. The National Agricultural Statistics Survey of the United States Department of Agriculture (USDA) has been providing pesticide usage surveys that include not only restricted-use pesticides, but general use agricultural pesticides as well. The USDA survey reports are freely available to the public. To reduce expenses, the department has been relying on this information in lieu of conducting resource-intensive surveys. The requirement that the department also produce a report is duplicative and does not provide any additional information on pesticide use to the public.

The Pesticide Review Council was created to advise the Commissioner of Agriculture regarding the sale, use, and registration of pesticides and to advise government agencies of their responsibilities pertaining to pesticides. The council is to serve as a statewide forum for the coordination of pesticide-related activities to eliminate duplication of effort and maximize protection of the environment of the state and the health of the public. The council was created at a time when the department and other state agencies were involved in jurisdictional conflicts

over the regulation of pesticides. Such conflicts have long since been resolved, as department staff and other state agencies routinely work in close coordination and cooperation to address ongoing and emerging issues. In its present form, the council does not consider or review pesticide registration issues, as they are dealt with through routine inter-agency consultation at the professional staff level through monthly meetings of the Pesticide Registration Evaluation Committee. The council typically meets three times per year, but they are essentially informational in nature and rarely, if ever, result in recommendations to the Commissioner of Agriculture.

Livestock Hauler's Permit

Persons engaging in the business of transporting or hauling for hire livestock on any street or highway must apply for and obtain a \$5 annual permit. The purpose of the permit is to improve control over livestock thefts and other illicit livestock operations. Elimination of this requirement will save livestock haulers both time and money. The department issues a metal tag or plate that bears a serial number to applicants to be attached to each vehicle used for transporting or hauling livestock. The bill would eliminate this requirement and save the state money. The department has indicated that it does not utilize the permitting process for any regulatory activity, neither is it used for animal traceability or identification.

Pile Burning

The Florida Forest Service (FFS) has the primary responsibility for prevention, detection, and suppression of wildfires wherever they may occur. It controls and authorizes open burning for the maintenance and continuous clearing of agricultural land. During Fiscal Years 2005-2006 and 2006-2007, the FFS in cooperation with the University of Florida Institute for Food and Agricultural Sciences developed a certification program for Florida Pile Burners to raise the overall quality of the open burning program in Florida. In Fiscal Year 2009-2010, the DACS amended the open burning rules and regulations to include the pile burner certification program. Rule 5I-2, Florida Administrative Code, outlines the steps necessary to become certified and the requirements to keep that certification. A burn permit must be obtained for burns relating to agriculture, silviculture, and rural land clearing. Current statutory references to land-clearing burning were not updated after changes were made to the Florida Administrative Code. The proposed changes in the bill will clear up any confusion about the FFS's ability to issue open burning authorizations for all types of pile burning.

Best Management Practices

For the past several years, the department has worked cooperatively with the Department of Environmental Protection, Water Management Districts, and other interested parties to develop and implement water quality best management practices (BMPs) for agriculture. These practices are designed to protect water quality by reducing the runoff and leaching of nutrients into Florida's surface and ground waters, and to enhance water conservation. BMPs are practical measures agricultural producers can take to improve water quality while maintaining agricultural production. Currently, the BMP programs being implemented address water quality issues. There are no BMPs relating to wildlife management in an agricultural setting.

Division of Food, Nutrition and Wellness

The 2011 Legislature created the Healthy Schools for Healthy Lives Act, which provides for a type two transfer of administration of school food and nutrition programs from the Department of Education to the Department of Agriculture and Consumer Services, pending a waiver from the United States Department of Agriculture. That waiver was granted in October 2011 and on January 1, 2012, the department assumed administration of the state's school food and nutrition programs. The Commissioner of Agriculture indicates that the department is the most experienced and best positioned to manage Florida's school food and nutrition programs. Furthermore, it is the commissioner's position that the transfer will foster increased coordination between Florida farmers and the school programs that provide food for Florida's children. Currently, the Division of Food, Nutrition, and Wellness is not created and given duties in the department's authorizing statute, nor is its division director. A new chapter, dedicated to the division, would consolidate all statutory sections dealing with the division, highlight the importance of nutrition, and provide the division and its constituents one place to find all necessary authority to operate.

Direct-Support Organizations

Currently, the legislature authorizes the establishment of a direct-support organization (DSO) to provide assistance for museums, the Florida Agriculture in the Classroom Program, the Florida State Collection of Arthropods, the Friends of the Florida State Forests Program of the Florida Forest Service, the Forestry Arson Alert Program, and other programs of the department. Other state agencies such as the Department of Corrections, Department of Environmental Protection, Department of Military Affairs, Department of Veterans Affairs, and the Fish and Wildlife Conservation Commission have the authority to create DSOs at their discretion. DSOs epitomize public-private partnerships, because individuals who use the services of a particular program can directly support and assist that program through the DSO.

Florida Commercial Fertilizer Law

Fertilizer companies that plan to market fertilizer in Florida are required to be licensed with the department and to provide proof of a Surety Bond or Certificate of Deposit in the amount of \$1,000. All registered licensees report monthly tonnage using the Fertilizer Regulatory Website and pay an inspection fee of \$1.00 per ton for mixed fertilizer materials, including an additional 50 cents per ton if the fertilizer contains nitrogen or phosphate. The inspection fee for liming materials and untreated phosphatic materials is 30 cents per ton.

When a fertilizer sample is determined by the department's laboratory to be deficient in the amount of a nutrient guaranteed to be in the product, the manufacturer has the right to send a portion of the official sample to a third party laboratory. This portion is termed a "referee sample." The referee process for deficient fertilizer samples, as defined in statute, establishes an allowance of 0.3 percent of a nutrient value for difference in laboratory results. Currently, the statute specifies analysis results from the department and a referee laboratory that check within 0.3 percent of each other are averaged to determine the final result. If the results do not agree within 0.3 percent, a second referee analysis may be requested and the two closest results would be averaged. This 0.3 percent matching result spread is applicable to all label guarantees ranging

from 0.001 percent to 62 percent. The proposed revision in the bill would replace the 0.3 percent criteria for checking results with criteria established in rule and allow for a percent guarantee based criteria to be added for the lower percent guarantees. By placing this criterion in rule, the allowance can be varied as analytical techniques and fertilizer manufacturing processes evolve. Rulemaking also allows stakeholder input into the development of these allowances.

Brucellosis Testing

Bovine brucellosis is a cattle disease that is near eradication in the United States after more than fifty years of efforts by state departments of agriculture, the United States Department of Agriculture (USDA), and the cattle industry. The Cooperative State-Federal Brucellosis Eradication Program is administered under a Memorandum of Understanding between the appropriate agency in each of the states and the U.S. Department of Agriculture. This program includes all of the activities associated with detecting, controlling, and eliminating brucellosis from domestic livestock in the United States. One of the long term responsibilities of the department's Division of Animal Industry has been the administration of Florida's Brucellosis Eradication Program. Each owner of a herd of cattle in the state must enroll the herd in the program to determine whether the herd is infected with brucellosis. Florida was declared "Brucellosis Class Free" in 2001 and, except for specific geographic regions surrounding Yellowstone National Park, the remainder of the United States is also "Brucellosis Class Free." Although calfhood vaccination continues on a voluntary basis by some Florida producers, vaccine is no longer provided at state expense. Whole-herd vaccination is no longer needed or available to producers.

The USDA contracts with the laboratory in Suwannee County to test brucellosis surveillance samples. These samples represent approximately 90 percent of the diagnostic tests performed at this specific laboratory. The USDA has determined it will reduce brucellosis surveillance nationwide and utilize a single federal laboratory to carry out testing for all states. USDA will discontinue funding of state laboratories for this purpose, effective March 31, 2013. A decision was made to stop performing diagnostic testing at the Suwannee County facility and to move the remaining testing to the Bronson Animal Disease Diagnostic Laboratory in Kissimmee, Florida, effective June 30, 2013.

Apiary Inspections

Apiary inspection plays a vital role in Florida Agriculture as inspectors work to prevent the introduction and establishment of honey bee pests and diseases. A healthy and secure Florida honey bee industry is valuable to all. Florida's honey industry is consistently ranked among the top five in the nation with an annual worth of \$13 million. In addition, the Florida honey bee industry benefits our state's fruit and vegetable industry by providing an estimated \$20 million in increased production numbers created by managed pollination services that are available in no other way. There are over 100 varieties of popular fruits and vegetables that use pollination to ensure fruitful crops. Florida Apiary Inspectors certify movement of honey bee colonies throughout the state and the nation. The department has the most comprehensive state program (e.g., number of inspectors and traps) to prevent the accidental introduction of the unwanted Africanized honey bee. Seventeen million pounds of honey are produced in Florida each year and consumed worldwide.

Operation Outdoor Freedom

The 2011 Legislature directed the FFS to designate areas of state forests as “Wounded Warrior Special Hunt Areas” to honor wounded veterans and service members, and to provide outdoor recreational opportunities for eligible veterans and service members. The 2012 Legislature renamed it the “Operation Outdoor Freedom Special Hunt Area” because it came to the attention of the department that another organization was using the term “Wounded Warrior.”

Operation Outdoor Freedom, as currently in statute, is the basic framework for a program with the goal to provide wounded veterans with the opportunity to hunt and participate in outdoor activities on state forests in an atmosphere that encourages camaraderie and healing. The department is interested in expanding the program for this worthy user group and can do so at minimal cost. Currently, the statute does not encourage private landowner participation or encourage the FFS to work with other agencies and the private sector to make the program successful.

Arabian Horse Racing

The 1992 Legislature found that breed improvement and encouragement of Arabian horse breeding farms would greatly enhance tax revenues for the state and counties. The department was directed to establish a registry, to establish a stallion awards program, and to maintain complete records. The last Arabian horse race was run in the 1980s and the Arabian Horse Council has been inactive since the 1990s. Funds have not been deposited into the Florida Arabian Horse Racing Account since 2005. There are no other such laws present in the statutes for a specific breed of horse.

Gertrude Maxwell Save A Pet Act

The 2008 Legislature created the Gertrude Maxwell Save a Pet Direct-Support Organization within the Department of Agriculture and Consumer Services. The DSO was created for the purposes of providing grants to animal shelters for spaying and neutering, for sheltering and providing services during times of emergencies, and for developing and disseminating educational materials concerning the care of pets. The department’s Division of Animal Industry assisted with the initial incorporation of the DSO. The Commissioner of Agriculture appointed a Board of Directors made up of eight members in August of 2008, and the group met in December of 2008 to elect officers. There has been no activity of the board since that meeting. Division staff has been in contact with the various officers to determine progress, but the DSO has never set up a bank account to allow the transfer of the remaining monies left from the initial donation by Ms. Maxwell. Ms. Maxwell’s original donation was \$62,000 and \$59,239 still remains in the department trust fund.

III. Effect of Proposed Changes:

Section 1 amends s. 253.034, F.S., to change public hearing requirements. Hearings for proposed 10-year Resource Management Plans for a state forest shall be held in any one of the affected counties rather than in each affected county.

Section 2 amends s. 259.1052, F.S., providing for Lee County to retain ownership and assume responsibility for management of a specified portion of the Babcock Crescent B Ranch Florida Forever acquisition upon termination or expiration of the management agreement approved by the Board of Trustees of the Internal Improvement Trust Fund on November 20, 2005.

Section 3 repeals s. 259.1053, F.S., relating to the citizen support organization for the Babcock Crescent B Ranch and use of the ranch property.

Section 4 amends s. 259.1053, F.S., to:

- Revise provisions of the Babcock Ranch Preserve Act to conform to the termination or expiration of the management agreement and the dissolution of Babcock Ranch, Inc.
- Create the Babcock Ranch Advisory Group to assist the department by providing guidance and advice concerning the management and stewardship of the Babcock Ranch Preserve. The nine member group will be appointed by the Commissioner of Agriculture and Consumer Services and will serve five-year terms without compensation or reimbursement for travel expenses.
- Provide for the department to manage and operate the Babcock Ranch Preserve upon termination or expiration of the management agreement approved by the Board to Trustees of the Internal Improvement Trust Fund on November 22, 2005, and by Lee County on November 20, 2005.
- Authorize the department to assess fees for admission to, use of, and occupancy of the preserve to offset the cost of operations of the working ranch. The revenue from the fees will be deposited into the Incidental Trust Fund of the Florida Forest Service within the department, subject to appropriation by the Legislature.
- Authorize the Fish and Wildlife Commission to establish and administer permit fees for specific public hunting to help ensure that the preserve is financially self-sufficient. The revenue from the permit fees will be deposited into the State Game Trust Fund within the commission, to offset costs of providing public hunting, fish and wildlife, and land management activities.
- Authorize the Board of Trustees of the Internal Improvement Trust Fund to negotiate and enter into certain agreements.
- Terminate the Babcock Ranch Advisory Group on June 30, 2018, and allows for funds to revert to the department's Incidental Trust Fund upon dissolution of the group.

Section 5 amends s. 388.261, F.S., to authorize the Department of Agriculture and Consumer Services (department) to adopt a rule that would specify how to distribute funds to aid local mosquito control programs. It specifies that programs in areas with limited budgets of less than one million dollars, which rely on state aid to provide a significant proportion of program resources, shall receive 80 percent of the funds. The bill allows for any remaining funds to be used to support research, education, and outreach.

Section 6 amends s. 388.271, F.S., to correct an omission from a previous statute revision in the 2012 Legislative Session. It revises the date by which mosquito control districts must submit their certified budgets for approval by the department.

Section 7 amends s. 487.160, F.S., to eliminate a requirement for a triennial report on restricted-use pesticide use in Florida.

Section 8 amends s. 534.083, F.S., to eliminate all permitting requirements for livestock haulers. It also eliminates the requirement for the department to issue a metal tag or plate for each vehicle used by permitted livestock haulers.

Section 9 amends s. 570.07, F.S., to delete a reference to land clearing and replace it with the term “pile burning” to provide consistency between the Florida Statutes and the Florida Administrative Code.

Section 10 creates s. 570.087, F.S., to require the Department of Agriculture and Consumer Services to enter into a memorandum of agreement (MOA) with the Fish and Wildlife Conservation Commission for the purpose of developing voluntary best management practices for protecting freshwater aquatic life and wild animal life on agricultural lands. The MOA allows for selected pilot projects in order to facilitate development of the best management practices. The bill provides rulemaking authority to implement the best management practices. It also restricts the adoption or enforcement of any law regarding the best management practices on agricultural lands pursuant to s. 193.461, F.S.

Section 11 creates s. 570.64, F.S., to create the Division of Food, Nutrition, and Wellness within the department. It authorizes the Commissioner of Agriculture to appoint a division director and provides powers and duties as authorized by the commissioner.

Section 12 amends s. 570.902, F.S., to clarify the applicability of definitions relating to certain designated programs and direct-support organizations.

Section 13 amends s. 570.903, F.S., to authorize the department to establish direct-support organizations at its discretion, as follows:

- Deletes provisions that limit the establishment of direct-support organizations to particular museums and programs.
- Deletes provisions authorizing direct-support organizations to enter into certain contracts or agreements.
- Clarifies provisions prohibiting department employees, direct-support organizations, or museum employees, volunteers, or directors from receiving commissions, fees, or financial benefits in connection with the sale or exchange of real property and historical objects.
- Provides for the termination of agreements between the department and direct-support organizations if the department determines that the direct-support organization no longer meets the necessary objectives.
- Deletes provisions requiring the department to establish certain procedures relating to museum artifacts and records.
- Provides for the distribution of the assets of the direct-support organization.

Section 14 amends s. 576.051, F.S., Florida’s Commercial Fertilizer Law, to move procedures for referee sample analysis from statute to department rule, allowing this process to be adjusted as technology and commercial fertilizer practices change.

Section 15 amends s. 576.061, F.S., to move numeric criteria for laboratory analysis of fertilizer samples that determine whether a fertilizer is deficient in plant food samples from statute to department rule.

Section 16 amends s. 576.181, F.S., to revise the department's authority to adopt rules establishing certain criteria for fertilizer analysis.

Section 17 amends s. 585.61, F.S., to delete references to the animal disease diagnostic laboratory in Suwannee County. The department will be closing the laboratory on June 30, 2013.

Section 18 amends s. 586.10, F.S., to allow department apiary inspectors to participate in the beekeeping industry as long as they do not have regulatory oversight of their own apiary.

Section 19 amends s. 586.15, F.S., to authorize the department to recover costs incurred during enforcement actions related to the adulteration or misbranding of honey. The bill directs that this revenue be deposited in the General Inspection Trust Fund within the department.

Section 20 amends s. 589.02, F.S., to delete a requirement that the Florida Forestry Council annual meeting be held the first Monday in October of each year.

Section 21 amends s. 589.19, F.S., to expand the Operation Outdoor Freedom Program to provide hunting and other activities for disabled veterans and injured active duty servicemembers in designated state forest areas and on designated public and private lands. It defines wounded American veteran and provides eligibility requirements. The bill authorizes the department to cooperate with state and federal agencies, local governments, private landowners, and other entities. It encourages private landowners to participate and gives them certain liability protection for doing so. The bill directs donations to the Operation Outdoor Freedom Program to be deposited into the account of the Friends of Florida State Forest Program. It designates the second Saturday of each November as Operation Outdoor Freedom Day.

Section 22 amends s. 589.30, F.S., to delete the title of district forester and insert the correct title of either district manager or center manager.

Section 23 amends s. 590.02, F.S., pertaining to the powers and authority of the FFS regarding wildfire protection, as follows:

- Deletes the word "extinguish." The definition of "extinguish" has two separate meanings as currently used in statute, one for wildfires and one for open burning, resulting in confusion and misinterpretation in the wildfire and forestry community.
- Provides the FFS the power, authority, and duty to authorize broadcast burning, prescribed burning, pile burning, and land clearing debris burning.
- Provides the Florida Forest Service's employees and firefighting crews' authority to enter property to detect fires.
- Specifies that sovereign immunity applies to the manner in which the FFS monitors a smoldering wildfire, smoldering prescribed fire, or fights any wildfire.
- Changes the name of the FFS training facility to "Florida Forest Service Training Center."

- Deletes provisions relating to the composition and duties of the Florida Forest Training Center advisory committee.
- Prohibits government entities from banning open agricultural, silvicultural, and land clearing debris.
- Authorizes the FFS to delegate authority for certain types of burning to special districts as well as counties and municipalities.

Section 24 amends s. 590.11, F.S., to better define how recreational fires are to be considered extinguished, since there is no current definition for un-distinguished. This change also reflects the proposed change to the definition of extinguished in s. 590.125(1)(f), F.S.

Section 25 amends s. 590.125, F.S., to revise and provide definitions related to open burning authorized by the FFS. It revises requirements for certified and noncertified burning. The bill more clearly defines “gross negligence.” This will limit the liability of the FFS, landowners, and leaseholders when conducting statutorily required prescribed burns, without fear of unreasonable liability.

Section 26 amends s. 590.25, F.S., to revise provisions relating to criminal penalties for obstructing the prevention, detection, or suppression of wildfires.

Section 27 creates chapter 595, F.S., entitled “School Food and Nutrition Services.”

Section 28 creates s. 595.401, F.S., to be cited as the “Florida School Food and Nutrition Act.”

Section 29 creates s. 595.402, F.S., to provide definitions to be used in chapter 595, F.S.

Section 30 creates s. 595.403, F.S., to provide state policy with respect to school food service and food service programs. The state must provide standards for school food service and require each school district to establish and maintain an appropriate school food service program consistent with the nutritional needs of students. To implement that policy, the state must provide funds to meet the state National School Lunch Act matching requirements. The funds provided must be distributed in compliance with the requirements of the National School Lunch Act.

Section 31 transfers, renumbers, and amends s. 570.98 as s. 595.404, F.S., to provide for the following powers and duties of the Division of Food, Nutrition, and Wellness, granted in section 570.64, F.S., as follows:

- Supervises and administers all school food and nutrition programs.
- Cooperates with the federal government and its instrumentalities to receive the benefit of all federal financial allotments.
- Implements and adopts by rule federal regulations to maximize federal assistance.
- Acts as an agent of or contract with the federal government, another agency, or any county or municipal government for the administration of the school food and nutrition programs.
- Ensures that “severe need schools” receive the highest rate of reimbursement entitled under federal regulations for each breakfast meal served.

- Develops and proposes legislation necessary to implement, encourage innovation, and expand participation in school food and nutrition programs.
- Annually allocates funds provided from the school breakfast supplement in the General Appropriations Act among sponsors based on each district's total number of free and reduced-price breakfast meals served.
- Employs persons as necessary to perform these duties.
- Adopts rules covering the administration, operation and enforcement of the program.
- Adopts and implements an appeals process by rule for program applicants and participants.
- Assists, trains, and reviews each sponsor in its program implementation.
- Advances funds to sponsors when requested in order to implement program provisions in accordance with federal regulations.

Section 32 transfers, renumbers, and amends s. 570.981 as s. 595.405, F.S., to provide the following program requirements for school districts and sponsors, as follows:

- Adopts policies to provide for an appropriate food and nutrition service program consistent with department rules and federal regulations.
- Implements school breakfast programs in each elementary school.
- Offers universal school breakfast in schools with 80 percent or more of the student eligible for free or reduced-price meals.
- Makes breakfast meals available at an alternative site when practicable.
- Sets prices annually for breakfast meals at sufficient rates.
- Makes a breakfast meal available to students who arrive at school on the school bus less than 15 minutes before the first bell rings and allows those students at least 15 minutes to eat the breakfast.
- Annually provides students with information regarding school breakfast programs through school announcements and written notices sent to all parents.
- Completes all corrective action plans required by the department or a federal agency to be in compliance with the program.

Section 33 transfers, renumbers, and amends s. 570.981, F.S., as s. 595.406, F.S., to provide for the Florida Farm Fresh Schools Program within the department. To implement the program, the department is required to develop policies pertaining to school food services which encourage:

- Sponsors to buy fresh and high-quality foods grown in this when feasible.
- Farmers in this state to sell their products to sponsors, school districts.
- Sponsors to demonstrate a preference for competitively priced organic food products.
- Sponsors to make reasonable efforts to select foods based on a preference for those that have maximum nutritional content.

The bill also requires the department to provide outreach, guidance, and training to sponsors, schools, school food service directors, parent and teacher organizations, and students about the benefits of fresh food products from farms in this state.

Section 34 transfers, renumbers, and amends s. 570.982, F.S., as s. 595.407, F.S., to clarify provisions of the children's summer nutrition program.

Section 35 transfers and renumbers s. 570.072, F.S., as s. 595.408, F.S., relating to responsibilities of the department for commodity distribution.

Section 36 creates s. 595.501, F.S., to provide for penalties for violation of or non-compliance with the statutory provisions of chapter 595, F.S., or of any rules adopted thereunder.

Section 37 transfers, renumbers, and amends s. 570.983, F.S., as s. 595.601, F.S., relating to the Food and Nutrition Services Trust Fund. It corrects a cross-reference to conform to the transfer.

Section 38 transfers and renumbers s. 570.984, F.S., as s. 595.701, F.S., relating to the Healthy Schools for Healthy Lives Council.

Section 39 amends s. 1001.42, F.S., to require district school boards to perform duties relating to school lunch programs as required by the department's rules rather than those of the State Board of Education.

Section 40 amends s. 1003.453, F.S., to require each school to electronically submit its local school wellness policy to the department rather than to the Department of Education.

Section 41 repeals s. 487.0615, F.S., to eliminate the Pesticide Review Council; repeals s. 570.382, F.S., to eliminate the Arabian Horse Council and provisions regarding Arabian horse racing; repeals s. 570.97, F.S., to eliminate the Gertrude Maxwell Save a Pet Direct Support Organization; and repeals s. 590.50, F.S., to eliminate a permit requirement for the sale of cypress products.

Section 42 amends s. 487.041, F.S., to conform this section to the elimination of the Pesticide Review Council.

Section 43 amends s. 550.2625, F.S., to eliminate the department's responsibility in administering funds for Arabian Horse race prizes. The funds will be administered by the Division of Pari-mutuel Wagering as are all of the other race horse prizes.

Section 44 amends s. 550.2633, F.S., to eliminate a requirement that funds for Arabian horse races be deposited into the Florida Arabian Horse Racing Promotion Account. This conforms to the repeal in section 35 of the bill.

Section 45 provides that to effectuate the repeal of the Gertrude Maxwell Save a Pet Direct Support Organization, and to honor the wishes of the donor, the sum of \$59,239 is appropriated to the department to be used by the Division of Animal Industry for disbursement to Florida Animal Friend, Inc.

Section 46 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The revisions to s. 534.083, F.S., eliminate all permitting requirements for livestock haulers. Elimination of this regulatory function will save livestock haulers \$5 per year.

Revisions to s. 590.02, F.S., could result in additional areas where land clearing operations would have to pay for an authorization from a local government when they have not been required to in the past. Currently, there are some areas where fees have been collected for many years, and there would be no additional impact.

C. Government Sector Impact:

Local Governments

Local mosquito control programs with a budget of less \$1,000,000 may receive additional funding under the bill's proposed distribution. Local mosquito control programs with budgets of over \$1,000,000 would receive less. The FY 2012-2013 General Appropriations Act provided \$1,044,368 to local mosquito control programs, and most programs received a distribution of \$18,333 from the department.

Local governments that choose to have open burning delegated to them and do not have infrastructure and personnel in place may incur costs. Currently, some local governments charge a fee for burning authorizations, and this delegated authority could generate revenue.

State Government

The department estimates reductions to revenues and expenditures will occur due to the elimination of the livestock haulers permits, the Pesticide Review Council and brucellosis

testing at the animal diagnostic laboratory in Suwannee County. In addition, the bill specifies that the amount of \$59,239 of the remaining funds of the Gertrude Maxwell Save A Pet DSO be transferred from the General Inspection Trust Fund to Florida Animal Friend, Inc.

REVENUES	FY 2013-14
General Inspection Trust Fund:	
Livestock Haulers Permits	(\$8,500)
Gertrude Maxwell Save a Pet DSO Donation	<u>\$59,239</u>
Total General Inspection Trust Fund	\$50,739
Federal Grants Trust Fund:	
Suwannee County Laboratory	<u>(\$194,870)</u>
Total Federal Grants Trust Fund	(\$194,870)
Total Revenues	(\$144,131)
EXPENDITURES	
General Revenue:	
Suwannee County Laboratory	<u>(\$129,768)</u>
Total General Revenue	(\$129,768)
General Inspection Trust Fund:	
Livestock Haulers Permits	(\$3,225)
Gertrude Maxwell Transfer to Florida Animal Friend, Inc.	\$59,239
Suwannee County Laboratory	(\$54,876)
Pesticide Review Council	<u>(\$20,000)</u>
Total General Inspection Trust Fund	(\$18,862)
Federal Grants Trust Fund:	
Suwannee County Laboratory	<u>(\$194,870)</u>
Total Federal Grants Trust Fund	(\$194,870)
Total Expenditures	(\$343,500)
Total FTE	(7.00)

The Fiscal Year 2013-2014 Senate budget eliminates seven full-time equivalent positions, \$129,768 in funding from recurring general revenue and \$249,746 in funding from trust funds, due to the elimination of the brucellosis testing at the Suwannee County Laboratory.

According to the department, costs recovered through the enforcement actions related to the adulteration or misbranding of honey are indeterminate.

Babcock Ranch

REVENUES

Department of Agriculture and Consumer Services	FY 2016-17	FY 2017-18
Incidental Trust Fund:		
Cattle Grazing Leases	\$190,000	\$190,000
Tenant Farming	\$250,000	\$250,000
Timber Sales	\$40,000	\$40,000
Babcock Wilderness Adventure	\$568,000	\$568,000
Other Revenue	<u>\$48,000</u>	<u>\$48,000</u>
Total Incidental Trust Fund	\$1,096,000	\$1,096,000
Fish and Wildlife Conservation Commission		
State Game Trust Fund:		
Hunting Permits	<u>\$483,000</u>	<u>\$483,000</u>
Total State Game Trust Fund	\$483,000	\$483,000
Total Revenues	\$1,579,000	\$1,579,000

EXPENDITURES

Department of Agriculture and Consumer Services

Incidental Trust Fund:		
Babcock Wilderness Adventure	\$346,000	\$346,000
Expense	\$258,000	\$258,000
Nonrecurring Expense & OCO	<u>\$100,000</u>	<u>\$0</u>
Total Incidental Trust Fund	\$704,000	\$604,000
Fish and Wildlife Conservation Commission		
State Game Trust Fund:		
Salaries & Benefits – 2 FTE	\$97,000	\$97,000
Non Carl Wildlife Management	<u>\$160,000</u>	<u>\$56,000</u>
Total State Game Trust Fund	\$257,000	\$153,000
Total Expenditures	\$961,000	\$757,000

The department and commission estimate a positive revenue impact of \$618,000 beginning in Fiscal Year 2016-2017 relating to the operations of the Babcock Ranch. The commission estimates a need for two full-time equivalent positions to manage public hunting activities and wildlife populations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

Recommended CS/CS by Appropriations Subcommittee on General Government on April 4, 2013:

The committee substitute does the following:

- Establishes the Department of Agriculture and Consumer Services, with the cooperation of the Fish and Wildlife Conservation Commission, as the lead agency responsible for management of the Babcock Ranch, upon termination or expiration of the management agreement approved by the Board of Trustees of the Internal Improvement Trust Fund on November 22, 2005, and by Lee County on November 20, 2005.
- Provides for Lee County to retain ownership and assume responsibility for management of a specified portion of the Babcock Ranch.
- Creates the Babcock Ranch Advisory Group.
- Requires the Department of Agriculture and Consumer Services and the Fish and Wildlife Conservation Commission to establish fees and permits to offset the operating expenses of the state owned portion of the Babcock Ranch.
- Authorizes the Department of Agriculture and Consumer Services to collect certain costs relating to enforcement prohibitions against the adulteration or misbranding of honey.
- Makes minor clarifying changes.
- Provides that leaseholders are not liable pursuant to s. 590.13, F.S., for damage or injury caused by a certified prescribed burn.
- Requires the Department of Agriculture and Consumer Services to enter into a memorandum of agreement with the Fish and Wildlife Conservation Commission for the purpose of developing wildland best management practices on agricultural lands.
- Provides rulemaking authority and voluntary implementation for the best management practices.
- Restricts the adoption or enforcement of any law regarding the best management practices on agricultural lands pursuant to s. 193.46, F.S.

CS by Agriculture on March 18, 2013:

Includes a technical amendment that would transfer s. 570.072, F.S., to the new chapter 595, F.S., created by the bill. It also adds a new section 35 to the bill that requires each school to electronically submit its local school wellness policy to the Department of Agriculture and Consumer Services rather than to the Department of Education.

B. Amendments:

None.

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