

**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 Committee on Agriculture

BILL: SB 1628

INTRODUCER: Senator Montford

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 13, 2013

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Akhavein	Halley	AG	<b>Pre-meeting</b>
2.		AGG	
3.		AP	
4.			
5.			
6.			

### I. Summary:

SB 1628 addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). It:

- Provides that public hearings to discuss a proposed 10-year Resource Management Plan for a state forest shall be held in any one of the affected counties rather than in each affected county;
- Changes how funds are distributed 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, because it will be closed effective June 30, 2013;

- Allows department apiary inspectors to work in the beekeeping industry as long as they do not have any regulatory oversight over their own business;
- 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;
- Clearly defines the term "gross negligence" to limit the liability of the FFS and landowners 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;
- Authorizes the department to conduct, supervise, and administer the United States Department of Agriculture's surplus commodity food distribution program;
- Repeals the Pesticide Review Council;
- Repeals the Gertrude Maxwell Save a Pet Direct Support Organization;
- Appropriates \$59,239 from the Gertrude Maxwell Save a Pet Direct Support Organization to Florida Animal Friends, Inc.;
- Repeals the department's duties concerning Arabian horse racing and the Arabian Horse Council; and
- Repeals a permit requirement for the sale of cypress products;

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

This bill creates chapter 595 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 570.64, 595.401, 595.402, 595.403, 595.408, and 595.501.

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

This bill repeals the following sections of the Florida Statutes: 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. 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.

### **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 cut 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.

### **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. Florida Agriculture Commissioner Adam Putnam 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. In addition, unlike all of the other divisions in the department, the Division of Food, Nutrition, and Wellness does not have its own chapter. 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 with a one-stop 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 the 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**

The Fertilizer Law requires fertilizer companies who plan to market fertilizer in Florida 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 the laboratory in Live Oak, Florida, 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 Live Oak 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. This 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. Commissioner Bronson 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 \$59,239.57 still remains in the department trust fund. Ms. Maxwell died in January of 2011, at the age of 99.

### **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. 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 3** 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 4** amends s. 487.160, F.S., to eliminate a requirement for a triennial report on restricted-use pesticide use in Florida.

**Section 5** 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 6** 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 7** 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 8** amends s. 570.902, F.S., to clarify the applicability of definitions relating to certain designated programs and direct-support organizations.

**Section 9** amends s. 570.903, F.S., to authorize the department to establish direct-support organizations at its discretion. It:

- 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 employee, volunteer, or director 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; and
- provides for the distribution of the assets of the direct-support organization.

**Section 10** 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 11** 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 12** amends s. 576.181, F.S., to revise the department's authority to adopt rules establishing certain criteria for fertilizer analysis.

**Section 13** amends s. 585.61, F.S., to delete references to the animal disease diagnostic laboratory in Suwannee County, because the department will be closing the laboratory on June 30, 2013.

**Section 14** 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 15** 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 16** 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. It 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 17** 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 18** amends s. 590.02, F.S., pertaining to the powers and authority of the FFS regarding wildfire protection, to:

- delete 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. This has impeded the FFS from stopping potential wildfires;
- give the FFS the power, authority, and duty to authorize broadcast burning, prescribed burning, pile burning, and land clearing debris burning;
- give the Florida Forest Service’s employees and firefighting crews’ authority to enter property to detect fires. They are currently only authorized to enter a person’s property to prevent and suppress wildfires;
- specify that sovereign immunity applies to the manner in which the FFS monitors a smoldering wildfire, smoldering prescribed fire, or fights any wildfire;
- change the name of the FFS training facility to “Florida Forest Service Training Center”;
- delete provisions relating to the composition and duties of the Florida Forest Training Center advisory committee;
- prohibit government entities from banning open burning related to agricultural, silvicultural, and land clearing; and

- authorize the FFS to delegate authority for certain types of burning to special districts as well as counties and municipalities.

**Section 19** 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 20** 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 and landowners when conducting statutorily required prescribed burns, without fear of unreasonable liability.

**Section 21** amends s. 590.25, F.S., to revise provisions relating to criminal penalties for obstructing the prevention, detection, or suppression of wildfires.

**Section 22** creates chapter 595, F.S., entitled “School Food and Nutrition Services.”

**Section 23** creates s. 595.401, F.S., to be cited as the “Florida School Food and Nutrition Act.”

**Section 24** creates s. 595.402, F.S., to provide definitions to be used in chapter 595, F.S.

**Section 25** creates s. 595.403, F.S., to provide state policy with respect to school food service and food service programs. The state shall 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 shall provide funds to meet the state National School Lunch Act matching requirements. The funds provided shall be distributed in compliance with the requirements of the National School Lunch Act.

**Section 26** 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 s. 570.64, F.S.:

- Supervise and administer all school food and nutrition programs;
- Cooperate with the federal government and its instrumentalities to receive the benefit of all federal financial allotments;
- Implement and adopt by rule federal regulations to maximize federal assistance;
- Act 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;
- Ensure that “severe need schools” receive the highest rate of reimbursement entitled under federal regulations for each breakfast meal served;
- Develop and propose legislation necessary to implement, encourage innovation, and expand participation in school food and nutrition programs;
- Annually allocate 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;
- Employ persons as necessary to perform these duties;

- Adopt rules covering the administration, operation and enforcement of the program;
- Adopt and implement an appeals process by rule for program applicants and participants;
- Assist, train, and review each sponsor in its program implementation; and
- Advance funds to sponsors when requested in order to implement program provisions in accordance with federal regulations.

**Section 27** transfers, renumbers, and amends s. 570.981 as s. 595.405, F.S., to provide the following program requirements for school districts and sponsors:

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

**Section 28** 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; and
- 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 29** 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 30** creates s. 595.408, F.S., to authorize the department to conduct, supervise, and administer the United States Department of Agriculture's surplus commodity food distribution program through the newly created Division of Food, Nutrition, and Wellness.

**Section 31** 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 32** 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 33** transfers and renumbers s. 570.984, F.S., as s. 595.701, F.S., relating to the Healthy Schools for Healthy Lives Council.

**Section 34** 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 the State Board of Education.

**Section 35** 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 36** amends s. 487.041, F.S., to conform this section to the elimination of the Pesticide Review Council.

**Section 37** 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 38** 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 39** 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 40** 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:

**Section 5:**

Revisions to s. 534.083, F.S., eliminate all permitting requirements for livestock haulers. Reduced government regulations would save livestock haulers both time and \$5 per year.

**Section 18:**

Revisions to s. 590.02, F.S., could result in some 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 these fees have been collected for many years, and thus there would be no additional impact.

**Section 35:**

Deletion of s. 570.97, F.S., The Gertrude Maxwell Save a pet Direct Service Organization, would provide a one-time positive appropriation of \$59,239 to Florida Animal Friends, Inc.

C. Government Sector Impact:

**Local Governments:**

**Section 2:**

Local mosquito control programs with a budget of less than one million dollars would receive more funding under the bill's proposed distribution. Local mosquito control programs with budgets of over one million dollars would receive less. The amount will depend on the total amount appropriated by the Legislature.

**Section 18:**

If a local government currently has the personnel and infrastructure in place to manage the burning of land clearing debris and yard trash, there should be no impact. If the local government decides to have open burning delegated to them, but they do not have the infrastructure in place, there may be some costs involved depending upon how they structure the new program. Some local governments charge a fee for burning authorizations, so having this delegated authority could generate revenues.

**State Government:****Section 4:**

Revisions to s. 487.160, F.S., eliminate a requirement for the department to conduct a triennial survey and report on restricted-use pesticides in this state. In the past, the department has conducted elaborate and resource intensive surveys to characterize restricted-use pesticide usage patterns. The National Agricultural Statistics Survey of the United States Department of Agriculture has been providing pesticide usage surveys that are statistically robust and that include not only restricted-use pesticides, but general use agricultural pesticides, as well. The USDA survey reports are freely available to the public. Elimination of this duplicative report will have negligible fiscal impact on the department.

**Section 5:**

Section 534.083, F.S., requires anyone engaging in the business of transporting or hauling for hire livestock on any street or highway to apply for and obtain a \$5 per year permit. The recurring revenue from permit fees is \$8,500 per year and is deposited into the General Inspection Trust Fund. The bill eliminates this permitting requirement which would discontinue the recurring revenue. The department is required to issue a metal tag or plate that bears a serial number to every person or company required to obtain a permit. Permit expenses for the department are the cost of the tag or plate and shipping and postage for renewal letters. These recurring expenses are \$3,225 per year, which will also be eliminated.

**Section 13:**

Section. 585.61, F.S., establishes an animal diagnostic laboratory in Live Oak, Florida. It conducts state testing, as well as brucellosis surveillance testing for the USDA. The USDA has decided to reduce brucellosis surveillance nationwide and to utilize a single federal laboratory to carry out testing for all states. It will discontinue funding of state laboratories for this purpose, effective March 31, 2013. Since 90 percent of the testing performed at this specific laboratory will no longer be needed, the department will move the remaining diagnostic testing to the Bronson Animal Disease Diagnostic Laboratory in Kissimmee, Florida, effective June 30, 2013. The state will save \$424,796 annually with the closure.

**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.)

None.

- B. **Amendments:**

None.

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

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