HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/HB 7087	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	State Affairs Committee; Agriculture & Natural Resources Subcommittee; Beshears	115 **Y's**	0 **N's**
COMPANION BILLS:	(CS/CS/SB 1628)	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/HB 7087 passed the House on April 24, 2013, and subsequently passed the Senate on May 2, 2012. The bill addresses various issues relating to the powers and duties of the Department of Agriculture and Consumer Services (department). The bill:

- Expands the provision in current law prohibiting any state or local government entity, other than the Florida Forest service (FFS), from adopting or enforcing any laws or policies pertaining to broadcast or pile burning to apply even when an emergency order is declared; authorizes the FFS to delegate the open burning of land clearing debris to a local government or special district through authority delegated to the FFS by the Department of Environmental Protection (DEP); specifies that the responsible person named in the burn authorization for pile burns and a certified prescribed burn manager for certified prescribed burns must remain at the burn site until the burn is completed; specifies that fire spreading outside the authorized burn area on the day of the certified prescribed burn ignition does not constitute conclusive proof of inadequate firebreaks, insufficient personnel, or a lack of firefighting equipment; specifies that during the authorization period if the certified prescribed burn is contained within the authorized burn area then a strong rebuttable presumption exists that adequate firebreaks, sufficient personnel, and sufficient firefighting equipment were present; authorizes the FFS to enter any lands for the purpose of detecting wildfires, in addition to preventing and suppressing wildfires as allowed under current law; specifies that recreational fires may not be left unattended until no visible flames, smoke, or emissions exist; specifies that the FFS is not liable for burns for which it issues authorizations or burns it conducts on state-owned land.
- Expands Operation Outdoor Freedom (OOF) activity locations to include designated public and private lands. Changes the public hearing requirement for developing land management plans to specify that at least one public hearing must be held in one affected county instead of each affected county.
- Grants the department rulemaking authority to distribute up to 80 percent of state matching funds to local mosquito control programs having a budget of less than $1 million when the amount of matching funds appropriated by the Legislature is insufficient to grant each local program state funds on a dollar-for-dollar matching basis.
- Codifies the organization and duties of the Division of Food, Nutrition and Wellness in the department's authorizing statute (ch. 570), and establishes a separate chapter (ch. 595) in statute for the division. The division is responsible for the school lunch program that was transferred from the state Department of Education to the department.
- Moves the nutrient standards and thresholds for fertilizer sold in the state from statute to rule.
- Authorizes the department and the Fish and Wildlife Conservation Commission (FWC) to develop and implement best management practices for protecting freshwater aquatic and wild animal life on agricultural lands within the state.
- Transfers the management of the Babcock Ranch Preserve (preserve) from Babcock Ranch, Inc. to the department in cooperation with the FWC; establishes an advisory group to provide guidance and assistance to the department and the FWC in the management of the preserve; and authorizes the FWC to establish and implement public hunting and other fish and wildlife management activities.

The bill appears to have an insignificant fiscal impact on state and local governments (See Fiscal Analysis). The bill was approved by the Governor on June 28, 2013, ch. 2013-226, L.O.F., and takes effect upon becoming law.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Florida Forest Service

Land Management Plans

Present Situation

Section 253.034(5), F.S., requires that managers of conservation lands submit a land management plan (plan) to the Division of State Lands (division) every 10 years. The plans must be updated whenever new facilities are proposed or substantive land use or management changes are made that were not addressed in the approved plan, or within one year of the addition of significant new lands. Managers of non-conservation lands must also submit a plan to the division every 10 years.

The division reviews the plans to ensure compliance with s. 253.034(5), F.S., and the rules established by the Board of Trustees of the Internal Improvement Trust Fund (BOT) pursuant to s. 253.034(5), F.S. Land use plans, whether for single-use or multiple-use properties, must include an analysis of the property to determine whether any significant natural or cultural resources are located on the property. Such resources include archaeological and historic sites, state and federally listed plant and animal species, imperiled natural communities, and unique natural features. If such resources are located on a property, the land manager, in consultation with the division and other appropriate agencies, must develop a management strategy to protect these resources. Land use plans must also provide for the control of invasive non-native plants and the conservation of soil and water resources. Descriptions of how the land manager plans to control and prevent soil erosion and soil or water contamination must be included in the plans. Land use plans must include reference to appropriate statutory authority for all uses and must conform to the appropriate policies and guidelines of the state land management plan.

Plans for managed areas larger than 1,000 acres must contain an analysis of the multiple-use potential of the property and include the potential of the property to generate revenues to enhance the management of the property. The plan must also include an analysis of the potential use of a private land manager to facilitate the restoration or management of the land.

In cases where a newly acquired property has a valid conservation plan that has been developed by a soil and water conservation district, that plan should be used until a formal land use plan is completed.

Currently, when developing land management plans, at least one public hearing is held in each affected county.

Effect of Proposed Change

The bill amends s. 253.034(5), F.S., to specify that when developing land management plans, at least one public hearing must be held in one affected county, rather than each affected county. The Department of Agriculture and Consumer Services (department) suggests that holding one meeting in one centrally-located county is a better use of department time and resources.

Operation Outdoor Freedom

Present Situation

During the 2011 legislative session, the Florida Forest Service (FFS) was directed to designate areas of state forests as “Wounded Warrior Special Hunt Areas” to honor wounded veterans and service members, and provide outdoor recreational opportunities for eligible veterans and servicemembers. Section 589.19(4), F.S., specifies that admittance to these areas is limited to persons who are an active

duty member of any branch of the U.S. Armed Forces and have a combat-related injury or veterans who served during a period of wartime service or peacetime service and have a service-connected disability or were discharged from military service due to a disability acquired or aggravated while serving on active duty. Persons, who are not eligible veterans or servicemembers but are accompanying an eligible veteran or servicemember who requires the person's assistance to use the designated areas, may be allowed entry by the FFS.

Funding required for specialized accommodations is provided through the Friends of Florida State Forests program.

After the enactment of ch. 2011-116, L.O.F., it came to the attention of the department that another organization had adopted and was using the term "Wounded Warrior." During the 2012 legislative session, s. 589.19(4)(a), F.S., was amended to rename the "Wounded Warrior Special Hunt Area" the "Operation Outdoor Freedom Special Hunt Area."

Section 375.251, F.S., specifies that an owner or lessee who provides the public with an area for outdoor recreational purposes owes no duty of care to keep that area safe for entry or use by others, or to give warning to persons entering or going on that area of any hazardous conditions, structures, or activities on the area. An owner or lessee who provides the public with an area for outdoor recreational purposes:

- Is not presumed to extend any assurance that the area is safe for any purpose;
- Does not incur any duty of care toward a person who goes on the area; or
- Is not liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the area.

An owner or lessee who makes available to any person an area primarily for the purposes of hunting, fishing, or wildlife viewing is entitled to the limitation of liability so long as the owner or lessee provides written notice of this provision to the person before or at the time of entry upon the area or posts notice conspicuously in the area. While an area offered for outdoor recreational purposes may be subject to multiple uses, the limitation of liability extended to an owner or lessee applies only if no fee is charged for entry to or use of the area for outdoor recreational purposes and no other revenue is derived from patronage of the area for outdoor recreational purposes.

An owner or lessee who enters into a written agreement with the state concerning the area for outdoor recreational purposes, where such agreement recognizes that the state is responsible for personal injury, loss, or damage resulting in whole or in part from the state's use of the area under the terms of the agreement subject to the limitations and conditions specified in s. 768.28, F.S., owes no duty of care to keep the area safe for entry or use by others, or to give warning to persons entering or going on the area of any hazardous conditions, structures, or activities thereon. An owner who enters into a written agreement concerning the area with the state for outdoor recreational purposes:

- Is not presumed to extend any assurance that the area is safe for any purpose;
- Does not incur any duty of care toward a person who goes on the area; or
- Is not liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the area.

This applies to all persons going on the area that is subject to the agreement, including invitees, licensees, and trespassers. The intent of the law is that an agreement entered into pursuant to this subsection of law should not result in compensation to the owner of the area above reimbursement of reasonable costs or expenses associated with the agreement. An agreement that provides for such does not subject the owner or the state to liability even if the compensation exceeds those costs or expenses. This provision only applies to agreements executed after July 1, 2012.

A person is not relieved of liability that would otherwise exist for deliberate, willful, or malicious injury to persons or property. The limitation of liability provision does not create or increase the liability of any person.

Effect of Proposed Changes

The bill amends s. 589.19(4), F.S., replacing the Operation Outdoor Freedom Special Hunt Area Program with the Operation Outdoor Freedom Program and directing the FFS to develop the program to offer hunting or other activities for injured active duty members or injured veterans of any branch of the U.S. Armed Forces in designated forest areas and other designated public and private lands. The bill offers legislative findings that it is in the public interest for the FFS to develop partnerships with the Florida Fish and Wildlife Conservation Commission (FWC) and other public and private organizations in order to provide the needed resources and funding to make this program successful.

Participation in the program is limited to Florida residents who:

- Are honorably discharged military veterans certified by the U.S. Department of Veterans Affairs or its predecessor or by any branch of the U.S. Armed Forces to be at least 30 percent permanently service-connected disabled;
- Have been awarded the Military Order of the Purple Heart; or
- Are active duty service members with a service-connected injury as determined by his/her branch of the U.S. Armed Forces.

The FFS may require proof of eligibility for participation in the program. Notwithstanding the eligibility requirements discussed above, the program may conduct guided or unguided invitation-only activities as part of the Operation Outdoor Freedom Program for injured or disabled veterans and injured or disabled active duty service members of any branch of the U.S. Armed Forces in designated state forest areas and on designated public and private lands. Persons granted admission to designated program areas who are not eligible veterans or service members must be there for the sole purpose of accompanying an eligible veteran or service member who requires said person's assistance to use the designated areas.

The FFS is authorized to cooperate with state and federal agencies, local governments, private landowners, and others in connection with Operation Outdoor Freedom. Monetary donations to the program must be deposited into the Friends of Florida State Forests Program and used for Operation Outdoor Freedom Program activities.

The bill also specifies that a private landowner who allows their land to be designated and used as an Operation Outdoor Freedom Program hunting site has the same limited liability protection afforded other landowners pursuant to s. 375.251, F.S, as discussed above. Private landowners who consent to the designation and use of their land as part of the program without compensation are considered a volunteer and are covered by state liability protection. The liability protections do not relieve any person from liability that would otherwise exist for deliberate, willful, or malicious injury to persons or property, nor do they create or increase the liability of any person.

The bill designates the second Saturday of each November as Operation Outdoor Freedom Day.

<u>Annual Meeting of the Florida Forestry Council</u>

Present Situation

Section 589.02, F.S., designates Tallahassee as the official headquarters of the Florida Forestry Council (council), although the council may hold meetings at other locations in the state as determined by resolutions or selected by a majority of the members of the council. Currently, the annual meeting is held on the first Monday in October of each year. Special meetings may be called at any time by the

chair or upon the written request of a majority of the members. Each year at the annual meeting, the council elects a chair, vice chair, and secretary from its membership. A majority of members of the council constitutes a quorum for such purpose.

Effect of Proposed Changes

The bill amends s. 589.02, F.S., to eliminate the requirement for the council to hold its annual meeting the first Monday in October, as well as a provision allowing special meetings to be called at any time by the chair or upon the written request of a majority of the members. The bill also removes the provision requiring the election to be held at the annual meeting.

According to the department, in the recent past, the council has held its annual meeting in conjunction with the Florida Forestry Association annual meeting during the week of Labor Day.

Duty of Florida Forest Service District or Center Managers

Present Situation

Section 589.30, F.S., specifies that district foresters are responsible for directing all work in accordance with the law and regulations of the FFS; gathering and disseminating information in the management of commercial timber, including establishment, protection and utilization; and assisting in the development and use of forest lands for outdoor recreation, watershed protection, and wildlife habitat. The district forester is also responsible for providing encouragement and technical assistance to individuals and urban and county officials in the planning, establishment, and management of trees and plant associations to enhance the beauty of the urban and suburban environment and meet outdoor recreational needs.

The department reports that, in the mid-1980s, district foresters titles were changed to district managers. Also, when Blackwater River State Forest was merged with the Milton district and Withlacoochee State Forest merged with the Brookville district, both facilities became centers. The persons heading those units were titled as center managers.

Effect of Proposed Changes

The bill amends s. 589.30, F.S., to change the title of the district forester to district manager. The bill also creates a position known as a center manager. These changes bring the statutes in line with the terminology currently used in the field.

Open Burning

Present Situation

Section 570.07(28), F.S., requires the department, for the purposes of pollution control and the prevention of wildfires, to regulate open burning connected with land clearing, agricultural, or forestry operations.

Section 590.02(1), F.S., provides the department with the power, authority, and duty to prevent, detect, and extinguish wildfires whenever they occur on public or private land in the state and to do all things necessary in the exercise of such powers, authority, and duties.

Section 590.02(2), F.S., authorizes the FFS's employees, and the firefighting crews under their control and direction, to enter any lands for the purpose of preventing and suppressing wildfires and investigating smoke complaints or open burning not in compliance with authorization and to enforce the provisions of chapter 590, F.S.

Section 590.02(3), F.S., authorizes the employees of the FFS and of federal, state, and local agencies to, in the performance of their duties, set counterfires, remove fences and other obstacles, dig trenches, cut firelines, use water from public and private sources, and carry on all other customary activities in the fighting of wildfires without incurring liability to any person or entity. This provision applies to all other persons and entities that are under contract or agreement with the FFS to assist in firefighting operations as well as those entities called upon by the FFS to assist in firefighting.

Section 590.02(10), F.S., specifies that the FFS has exclusive authority to require and issue authorizations for broadcast burning and agricultural and silvicultural pile burning. An agency, commission, department, county, municipality, or other political subdivision of the state may not adopt or enforce laws, regulations, rules, or policies pertaining to agricultural and silvicultural pile burning unless an emergency order is declared in accordance with s. 252.38(3), F.S., The FFS may delegate to a county or municipality its authority, as delegated by the Department of Environmental Protection, to require and issue authorizations for the burning of yard trash and debris from land clearing operations.

Section 590.11, F.S., specifies that it is unlawful for any individual or group of individuals to build a warming fire, bonfire, or campfire and leave it unattended or unextinguished.

Section 590.125, F.S., provides statutory authority for open burning authorized by the FFS. Currently, the statutes provide definitions for "certified pile burner," "certified prescribed burn manager," "extinguished," "land-clearing operation," "pile burning," "prescribed burning," "prescription," and "yard trash."

"Extinguished" means that for:

- Wildland burning or certified prescribed burning, no spreading flames exist.
- Vegetative land-clearing debris burning or pile burning, no visible flames exist.
- Vegetative land-clearing debris burning or pile burning in an area designated as smoke sensitive by the FFS, no visible flames, smoke, or emissions exist.

"Pile burning" means the burning of silvicultural, agricultural, or land-clearing and tree-cutting debris originating onsite, which is stacked together in a round or linear fashion, including but not limited to, a windrow.

"Prescribed burning" means the controlled application of fire by broadcast burning in accordance with a written prescription for vegetative fuels under specified environmental conditions, while following appropriate precautionary measures that ensure that the fire is confined to a predetermined area to accomplish the planned fire or land management objectives.

"Prescription" means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a prescribed burn.

Section 590.125(2), F.S., specifies that persons may be authorized to burn wild land or vegetative land-clearing debris if:

- There is specific consent of the landowner or his/her designee;
- Authorization has been obtained from the FFS or its designated agent before starting the burn;
- There are adequate firebreaks at the burn site and sufficient personnel and firefighting equipment for the control of the fire;
- The fire remains within the boundary of the authorized area;
- An authorized person is present at the burn site until the fire is extinguished; The FFS does not cancel the authorization; and
- The FFS determines that air quality and fire danger are favorable for safe burning.

Persons who burn wild land or vegetative land-clearing debris in a manner that violates any of the requirements listed above is guilty of a misdemeanor of the second degree, punishable by a definite term of imprisonment not exceeding 60 days or a fine not exceeding $500.

Section 590.125(3), F.S., specifies that prescribed burning is a land management tool that benefits the safety of the public, the environment, and the economy of the state. Certified prescribed burning pertains only to broadcast burning for purposes of silviculture, wildland broadcast burning for purposes of silviculture, wildland fire hazard reduction, wildlife management, ecological maintenance and restoration, and range and pasture management. It must be conducted in accordance with s. 590.125(3), F.S., and:

- May be accomplished only when a certified prescribed burn manager is present on site with a copy of the prescription from ignition of the burn to its completion.
- Requires that a written prescription be prepared before receiving authorization to burn from the FFS.
- Requires that the specific consent of the landowner or his/her designee be obtained before requesting an authorization.
- Requires that an authorization to burn be obtained from the FFS before igniting the burn.
- Requires that there be adequate firebreaks at the burn site and sufficient personnel and firefighting equipment for the control of the fire.
- Is considered to be in the public interest and does not constitute a public or private nuisance when conducted under applicable state air pollution statutes and rules.
- Is considered to be a property right of the property owner if vegetative fuels are burned as required in s. 590.125(3), F.S.

Neither a property owner nor his/her agent is liable pursuant to s. 590.13, F.S., for damage or injury caused by the fire or resulting smoke or considered to be in violation for burns conducted in accordance with the above conditions unless gross negligence is proven. Any certified burner violating these provisions is guilty of a misdemeanor of the second degree, punishable by a definite term of imprisonment not exceeding 60 days or a fine not exceeding $500.

The FFS is authorized to adopt rules for the use of prescribed burning and for certifying and decertifying prescribed burn managers based on their past experience, training, and record of compliance with these provisions.

Section 590.125(4), F.S., specifies that certified pile burning pertains to the disposal of piled, naturally occurring debris from an agricultural, silvicultural, or temporary land-clearing operation. A land-clearing operation is temporary if it operates for 6 months or less. Certified pile burning must be conducted in accordance with the following:

- A certified pile burner must ensure, before ignition, that the piles are properly placed and that the content of the piles is conducive to efficient burning.
- A certified pile burner must ensure that the piles are properly extinguished no later than 1 hour after sunset.
- If the burn is conducted in an area designated by the FFS as smoke sensitive, a certified pile burner must ensure that the piles are properly extinguished at least 1 hour before sunset.
- A written pile burning plan must be prepared before receiving authorization from the FFS to burn.
- The specific consent of the landowner or his/her agent must be obtained before requesting authorization to burn.
- An authorization to burn must be obtained from the FFS or its designated agent before igniting the burn.
- There must be adequate firebreaks and sufficient personnel and firefighting equipment at the burn site to control the fire.

Section 590.25, F.S., specifies that anyone who interferes with, obstructs, or commits any act aimed to obstruct the extinguishment of wildfires by the employees of the FFS or any other person engaged in the extinguishment of a wildfire, or who damages or destroys any equipment being used for such purpose, is guilty of a felony of the third degree, punishable by a term of imprisonment not exceeding 5 years or a fine not exceeding $5,000.

Effect of Proposed Changes

The bill amends s. 570.07(28), F.S., to remove the term "land clearing" and replace it with "pile burning." This provides consistency between the Florida Administrative Code and the Florida Statutes.

The bill amends s. 590.02(1), F.S., to specify that the FFS has the power and duty to authorize broadcast burning, prescribed burning, pile burning, and land clearing debris burning to carry out the duties of chapter 590, F.S., and the rules under chapter 590, F.S. The bill deletes the term "extinguish" as it relates to the wildfire control duties of the FFS. This term is redundant in statute.

The bill amends s. 590.02(2), F.S., to specify that FFS employees can enter upon any lands for the purpose of detecting wildfires. Current law already authorizes such activity for the purpose of preventing and suppressing wildfires.

The bill amends s. 590.02(3), F.S., to specify that the manner in which the FFS monitors a smoldering wildfire, or a smoldering prescribed fire or fights any wildfire is a planning level activity for which sovereign immunity applies and is not waived.

The bill amends s. 590.02(10), F.S., to specify that the FFS has exclusive authority to require and issue authorizations for broadcast burning and agricultural and silvicultural pile burning even if an emergency order is declared by a local government. The bill authorizes the FFS to delegate its authority pertaining to open burning to a special district. The bill modifies the duties of the counties, municipalities and special districts that choose to have open burning delegated to them. The bill requires these entities to manage and enforce regulations pertaining to the burning of yard trash and to manage the open burning of land clearing debris. The department states these changes provide clarification pertaining to their authority regarding open burning in the state.

The bill amends section 590.11, F.S., to specify that it is unlawful for any individual or group of individuals to leave a campfire or bonfire unattended while visible flame, smoke, or emissions exist.

The bill amends the definitions in s. 590.125, F.S., to include new definitions for "Certified pile burning," "Certified prescribed burning," "Contained," "Gross negligence," "Pile burn plan," and "Smoldering." "Certified pile burning" means a pile burn conducted in accordance with a written pile burning plan by a certified pile burner. "Certified prescribed burning" means prescribed burning in accordance with a written prescription conducted by a certified prescribed burn manager. "Contained" means that fire and smoldering exist entirely within established firelines or firebreaks. "Gross negligence" means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct. "Pile burn plan" means a written plan establishing the method of conducting a certified pile burn. "Smoldering" means the continued consumption of fuels, which may emit flames and smoke, after a fire is contained.

The bill also replaces the term "Extinguished" with "Completed" and amends the definition to mean that for:

- Broadcast burning, no continued lateral movement of fire across the authorized area into entirely unburned fuels within the authorized area.
- Certified pile, no visible flames exist for pile burning or certified pile burning.

- Certified pile, no visible flames, smoke, or emissions exist for pile burning or certified pile burning in an area designated as smoke sensitive by the FFS.

The definition of "pile burning" is amended to specify that pile burning authorized by the FFS is a temporary procedure, operating on the same site for 6 months or less. The definition of "prescribed burning" is amended to ensure the persons conducting prescribed burns must follow appropriate measures to guard the fire against spreading outside of the authorized burn area.

The bill amends s. 590.125(2), F.S., requiring that the person named responsible in the burn authorization or a designee is present at the burn site until the fire is completed. The bill also amends terminology to incorporate new and amended phrases as appropriate. The insertion of the new and amended phrases does not change the substantive nature of the bill.

The bill amends s. 590.125(3), F.S., to replace "range and pasture management" with "agriculture" as it pertains to certified prescribed burning. The bill also provides that certified prescribed burning can only occur when a certified prescribed burn manager (manager) directly supervises the certified prescribed burn until the burn is completed, after which the manager is not required to be present. The bill also specifies that a new prescription or authorization is not required for smoldering that occurs within the authorized burn area unless new ignitions are conducted by the manager, and that monitoring of the smoldering activity of a certified prescribed burn does not require a prescription or an additional authorization even if flames begin to spread within the authorized burn area due to ongoing smoldering.

The bill requires that there be adequate firebreaks at the burn site and sufficient personnel and firefighting equipment to contain the fire within the authorized burn area. Fire that spreads outside the authorized burn area on the day of the certified prescribed burn ignition does not constitute conclusive proof of inadequate firebreaks, insufficient personnel, or a lack of firefighting equipment. During the authorization period, if the certified prescribed burn is contained within the authorized burn area then a strong rebuttable presumption exists that adequate firebreaks, sufficient personnel, and sufficient firefighting equipment were present. Continued smoldering of a certified prescribed burn resulting in a subsequent wildfire does not by itself constitute evidence of gross negligence. A property owner, leaseholder, his/her agent, contractor or legally authorized designee is not liable for damage or injury caused by the fire, including a re-ignition of a smoldering, previously contained burn unless gross negligence is proven. The FFS is not liable for burns for which it issues authorizations.

The bill amends s. 590.125(4), F.S., to specify that certified pile burning pertains to the disposal of tree cutting debris originating on site. The bill deletes a reference to land clearing being temporary as well as a reference to land clearing operation being temporary if it operates for 6 months or less. The bill requires the written pile burning plan to be on site and available for inspection by a FFS representative. The bill also replaces the term "extinguished" with the term "completed" to conform to the changes in terminology.

The bill amends s. 590.25, F.S., specifying that anyone who interferes with, obstructs, or commits any act aimed to obstruct the prevention, detection, or suppression of wildfires by the employees of the FFS or any other person engaged in the prevention, detection, or suppression of a wildfire, or who damages or destroys any equipment being used for such purpose, is guilty of a felony of the third degree, punishable by a term of imprisonment not exceeding 5 years or a fine not exceeding $5,000.

Florida Forest Service Training Center

Present Situation

Section 590.02(7), F.S., authorizes the FFS to organize, staff, equip, and operate the Florida Center for Wildfire and Forest Resource Management Training (center). The center serves as a site where fire and resource managers may obtain current knowledge, techniques, skills, and theory as they relate to their respective disciplines. The center is authorized to establish cooperative efforts involving federal,

state, and local entities; hire appropriate personnel; and engage others by contract or agreement with or without compensation to assist in carrying out the training and operations of the center. The center provides wildfire suppression training opportunities for rural fire departments, volunteer fire departments, and other local fire response units. The center focuses on a curriculum related to, but not limited to, fuel reduction, an incident management system, prescribed burning certification, multiple-use land management, water quality, forest health, environmental education, and wildfire suppression training for structural firefighters. The center is authorized to assess appropriate fees for food, lodging, travel, course materials, and supplies in order to meet its operational costs and may grant free meals, room, and scholarships to persons and other entities in exchange for instructional assistance.

An advisory committee consisting of the following individuals or their designees must review program curriculum, course content, and scheduling:

- Director of the FFS,
- Assistant director of the FFS,
- Director of the School of Forest Resources and Conservation of the University of Florida,
- Director of the Division of Recreation and Parks at the Department of Environmental Protection,
- Director of the Division of State Fire Marshall,
- Director of the Florida chapter of The Nature Conservancy,
- Executive vice president of the Florida Forestry Association,
- President of the Florida Farm Bureau Federation,
- Executive director of the FWC,
- Executive director of a water management district as appointed by the Commissioner of Agriculture,
- Supervisor of the National Forests in Florida,
- President of the Florida Fire Chief's Association, and
- Executive director of the Tall Timbers Research Station.

Effect of Proposed Changes

The bill amends s. 590.02(7), F.S., to change the name of the Florida Center for Wildfire and Forest Resource Management Training to the FFS Training Center. The bill also eliminates the advisory committee associated with the center.

Sale of Cypress Products

Present Situation

Section 590.50, F.S., specifies that no person is allowed to sell or offer for sale articles made from unfinished cross-sectional slabs cut from buttresses of trees of the species Taxodium distichum, commonly known as cypress, without first obtaining a permit from the department. This does not apply to the owner of the property on which the cypress trees are grown.

Effect of Proposed Changes

The bill repeals s. 590.50, F.S.

Agricultural Environmental Services

State Aid to Local Programs for Mosquito Control

Present Situation

Section 388.261, F.S., specifies that counties and districts (local programs) that budget local funds for the control of mosquitoes are eligible to receive state funds on a dollar-for-dollar matching basis. If the funds appropriated by the Legislature are insufficient to grant each local program state funds on a dollar-for-dollar matching basis for the amount budgeted in local funds, the department prorates available funds based on the amount of matchable local funds budgeted by a local program. This results in programs with large local budgets receiving the same funds as programs with small local budgets.

Effect of Proposed Change

The bill amends s. 388.261, F.S., to authorize the department to adopt rules specifying how state funds are distributed to local mosquito control programs when the funds appropriated by the Legislature are insufficient to grant each county or district funds on a dollar-for-dollar matching basis. The bill requires the rules to provide for up to 80 percent of the funds appropriated by the state to be distributed to local mosquito control programs with budgets of less than $1 million, if the local programs meet the eligibility requirements. The remaining funds shall be distributed by rule among the remaining counties to support mosquito control and to support research, education, and outreach. The department states that this change ensures that small local programs that rely heavily on state matching dollars will receive a larger share of the monies available.

Mosquito Control District Budgets

Present Situation

During the 2012 legislative session, the date on which the certified budget of a mosquito control district is due to the department was changed from September 15 to September 30 of each year. However, a reference to this date was inadvertently overlooked in s. 388.271, F.S.

Effect of Proposed Change

The bill amends s. 388.271, F.S., to change the date on which the certified budget of a mosquito control district is due to the department from September 15 to September 30 of each year to conform to s. 388.201, F.S. This change reduces the burden on local governments by providing additional time for budget preparation.

Pesticide Review Council

Present Situation

Section 487.0615, F.S., created the Pesticide Review Council (council) in 1983 to advise the Commissioner of Agriculture regarding the sale, use, and registration of pesticides and to advise government agencies regarding pesticides as they relate to activities under their jurisdiction.

The council consists of 11 members of the scientific community: a representative from the department, a representative from the Department of Environmental Protection (DEP), a representative from the Department of Health (DOH), a representative from the FWC, the dean of research of the Institute of Food and Agricultural Sciences of the University of Florida, and six members appointed by the Governor. The representatives from the department, DEP, DOH, and the FWC are appointed by their respective agencies. The Governor's appointees must represent the pesticide industry, an

environmental group, hydrology interests, toxicology interests, one of the five water management districts, and a grower association. The grower representative must be chosen from a list of three persons nominated by statewide grower associations. Members are appointed for a term of 4 years and serve until a successor is appointed. Vacancies are filled for the remainder of the unexpired term. Members of the council receive no compensation for their services.

The council has authority to:

- Recommend appropriate studies on a registered pesticide when preliminary data indicates the product may pose an unreasonably adverse effect on the environment or human health. The council's recommendations may include using available services of state agencies to conduct scientific studies or may advise that the agencies seek funding to conduct the studies. The council has the authority to conduct scientific studies if specific funding is provided to the department or other governmental agency by the Legislature.
- With a majority vote, make recommendations to the Commissioner of Agriculture relating to the sale or use of a pesticide that the council has reviewed. When the review is performed in conjunction with the registration of a pesticide, the council must adhere to the time framework of the registration process pursuant to Chapter 120, F.S., and as implemented by department rules.
- Provide advice or information to appropriate government agencies regarding pesticides as they relate to activities under their jurisdiction. However, any confidential data received from the U.S. Environmental Protection Agency or the registrant must be kept confidential and exempt from provisions relating to inspecting, copying and photographing public records. It is illegal for any member of the council to use the data for his/her own benefit or to reveal the data to the general public.
- Review biological and alternative controls to replace or reduce the use of pesticides. Consider, at the request of any member of the council, the development of advice or recommendations for a pesticide when preliminary data indicates the product may pose an unreasonably adverse effect on the environment or human health.
- Assist the department in the review of registered pesticides selected for special review due to potential environmental or human health effects. The special review process must include, at a minimum, selecting pesticides for special review, providing periodic updates to the council on preliminary findings as a special review progresses, and formulating final recommendations on any pesticide which was the subject of a special review.

The council is required to submit a report by November 1 of each year to the Commissioner of Agriculture, the Speaker of the House, and the President of the Senate, documenting the council's activities, recommendations regarding any pesticide reviewed by the council, and recommendations related to any other duty of the council and its purpose.

The council is defined as a "substantially interested person" and has standing under chapter 120, F.S., in any proceeding conducted by the department relating to the registration of a pesticide. The standing of the council in no way prevents individual members of the council from exercising standing in these matters.

Effect of Proposed Changes

The bill repeals s. 487.0615, F.S., relating to the Pesticide Review Council. According to the department, the council has outlived its usefulness. The department states that many of the functions of the council are being dealt with at the professional staff level through monthly meetings of the Pesticide Registration Evaluation Committee. The bill also deletes a reference to the council in s. 487.041(5), F.S.

Triennial Pesticide Reports

Present Situation

Section 487.160, F.S., specifies that licensed private applicators of pesticides, licensed public applicators, and licensed commercial applicators must maintain records, as mandated by the department, regarding the application of restricted pesticides, including, but not limited to, the type and quantity of pesticide, method of application, crop treated, and dates and location of application. Other licensed private applicators must maintain records as well in regard to the date, type, and quantity of restricted-use pesticides used.

Licensees are required to keep the records for a period of two years from the date of application of the pesticide and must furnish a copy of the records at the department's written request. Every third year, the department conducts a survey and compiles a report on restricted-use pesticides in the state. The report must include, at a minimum, types and quantities of pesticides, methods of application, crops treated, and dates and locations of application, records of persons working under direct supervision, and reports of misuse, damage, or injury.

The department reports that the National Agricultural Statistics Survey of the USDA provides pesticide usage surveys that include not only restricted-use pesticides but also general-use pesticides. The USDA survey reports are freely available to the public. In an effort to cut expenses, the department relies on this information in lieu of conducting their own resource-intensive surveys.

Effect of Proposed Changes

The bill amends s. 487.160, F.S., to remove the duplicative state triennial reporting requirement.

Referee Sample Analysis

Present Situation

Section 576.051, F.S., directs the department to sample, test, inspect and make analyses of fertilizer sold or offered for sale in the state. When analyzing fertilizer, section 576.051(3), F.S., authorizes the department to obtain an official sample of the fertilizer from the licensee. The department must obtain enough fertilizer to set some aside as a check sample, properly sealed, labeled, dated and identified by number, until the official analysis is completed. Once the official analysis has been completed, a true copy of the fertilizer analysis report must be mailed to the licensee and to the dealer or agent, if any, and purchaser, if known. The analysis must show all determinations of plant nutrient and pesticides. If the analysis conforms to the provisions of s. 576.061, F.S., the check sample may be destroyed.

If the official analysis does not conform to said provisions, the check sample is retained for a period of 90 days from the date of the fertilizer analysis report of the official sample. During that time, the licensee of the fertilizer from whom the official sample was taken, after receiving the official analysis report, may make a written demand for analysis of the check sample by a referee chemist, who must be mutually acceptable to the licensee and the department. The department then sends a portion of the check sample to the referee chemist for analysis. This is done at the expense of the licensee. Upon completion of the analysis, the referee chemist must forward the fertilizer analysis report to the department and licensee. The fertilizer analysis report must contain an identifying mark or number and be verified by an affidavit of the person making the analysis. If the fertilizer analysis report checks within three-tenths of 1 actual percent with the department's analysis on each element for which the analysis was made, the mean average of the two analyses is accepted as final and binding on all concerned.

If the referee's fertilizer analysis report shows a variation greater than three-tenths of 1 actual percent from the department's analysis in any one or more elements for which an analysis was made, however,

either the department or the licensee may request that a portion of the check sample sufficient for analysis be submitted to a second referee chemist, mutually acceptable to both the department and the licensee. This is at the expense of the party requesting the analysis by the second referee chemist. The second referee chemist, upon completing the analysis, must make a fertilizer analysis report in the same manner as the first referee chemist did. The mean average of the two analyses nearest in conformity to each other will be accepted as final and binding on all concerned. If no demand is made for an analysis by a second referee chemist, the department's fertilizer analysis report is final and considered binding on all concerned.

Effect of Proposed Changes

The bill amends ss. 576.051 and 576,061, F.S., specifying that the three-tenths of 1 actual percent measure currently used for determining whether a fertilizer is deficient in plant food be replaced with criteria established by rule of the department. The bill also specifies that a commercial fertilizer is deemed deficient if the analysis of any nutrient is below the guarantee by an amount exceeding the investigational allowances. The bill directs the department to establish by rule these investigational allowances used to determine whether fertilizer is deficient in plant food. The rule must take effect on July 1, 2014. After July 1, 2014, the investigational allowances currently in statute are superseded by the rule and will be repealed.

The bill also amends s. 576.181, F.S., to incorporate the above changes. These changes do not alter the substantive nature of the current law.

The department states that while the three-tenths of 1 actual percent measure is reasonable for higher guarantees (e.g., 10 percent of the weight of the fertilizer), it does not make sense for the low level guarantees (e.g., 5 percent of the weight of the fertilizer) such as for micronutrients. In some cases, the three-tenths of 1 actual percent amount is greater than the micronutrient guarantee percentage. The department further states that, by setting the allowance by rule, the allowances can be varied as analytical techniques and fertilizer manufacturing processes evolve.

Animal Industry

Livestock Hauler's Permit

Present Situation

Section 534.083, F.S., requires persons transporting or hauling livestock on any street or highway in the state to obtain a permit from the department. The information provided by the applicant on the application for permit must be certified under oath. The cost of the permit is $5 and the permit expires on December 31 of each year. Upon obtaining a permit, the department will issue a metal tag/plate bearing the serial number of the permit to the applicant. Each vehicle used by the hauler will be issued a tag/plate. State law requires the tag/plate to be attached in a conspicuous place in an upright position on the rear of each vehicle used for transporting or hauling livestock. If the livestock is transported in a trailer type vehicle propelled by a motor truck or tractor, the tag/plate must be placed on the rear of the trailer. It is not necessary to have a tag/plate attached to the truck or tractor propelling the trailer.

Persons engaged in the business of hauling or transporting livestock, upon receiving livestock for transport, must issue a waybill or bill of lading (bill) for any livestock hauled or transported. The bill must accompany the livestock shipment and a copy must be provided to the person delivering the livestock to the hauler. The bill must show the place of origin and destination of the shipment, the name of the owner of the livestock, date and time of loading, name of the person or company hauling the livestock, and the number and general description of the animals. The bill must also be signed by the person delivering the livestock to the hauler certifying that the information contained on the bill is correct.

Effect of Proposed Changes

The bill amends s. 534.083, F.S., to eliminate the permitting requirement for livestock haulers. Livestock haulers will still be required to comply with the waybill or bill lading provisions.

The department states that the information obtained through the permitting process is not used for regulatory or animal identification purposes.

Arabian Horse Racing

Present Situation

Section 570.382, F.S., provides legislative findings regarding the economic benefits of establishing and maintaining Arabian horse racing in the state. The department is authorized to:

- Establish a voluntary registry for Florida-bred Arabian horses.
- Make Arabian horse breeders' and stallion awards available to qualified individuals from funds derived from monies specifically set aside for promoting Arabian horse racing in the state.
- Establish a stallion award program. (To be eligible, the stallion must reside permanently in the state; if the stallion is dead, it must have resided in the state for the year immediately prior to its death; removal of the stallion from the state for breeding purposes bars the owner of the stallion from receiving a stallion award for offspring sired in the state in the breeding season commencing January 1 of the year of the stallion's removal; and, if a removed stallion is returned to the state, all offspring sired in the state subsequent to the stallion's return ensure eligibility for the stallion award.)
- Maintain records that document the date the stallion arrived in the state for the first time; whether the stallion remained in the state permanently; the location of the stallion; whether the stallion still resides in the state; and awards earned, received, and distributed.

Florida law also establishes the Arabian Horse Council (council), composed of seven members. Six of the members are appointed by the department, a majority of whom must be Florida breeders of racing Arabian horses. The seventh member is a representative of the department designated by the Commissioner of Agriculture and serves as the secretary of the council. Members serve for a term of four years. A chair is elected every 2 years from the membership. Members of the council receive no compensation for their services.

The council is authorized to recommend rules, receive and report to the department any complaints or violations involving s. 570.382, F.S., and assist the department in the collection of information deemed necessary for administration of Arabian horse racing in the state.

Persons who register unqualified horses or misrepresent information in any way are ineligible to participate in breeders' and stallion awards. Any horses misrepresented are no longer deemed to be Florida-bred.

Owners who participate in the program for Florida-bred Arabian foals under 1 year of age must pay a registration fee of $25 per horse to the department. Owners of Florida-bred Arabian yearlings from 1 to 2 years of age must pay a registration fee of $50 per horse to the department to participate in the program. Owners who participate in the program for Florida-bred Arabian horses that are 2 years of age or older must pay a registration fee of $250 per horse to the department. The department charges a fee, not exceeding $100 annually, to stallion owners to cover the cost of administration of the stallion award program. These funds go toward defraying the necessary expenses incurred by the department in the administration of the program and are deposited into the General Inspection Trust Fund in a special account known as the Florida Arabian Horse Racing Promotion Account. The amount paid to the department for administration of the program may not exceed the amount of the deposited registration fees.

Effect of Proposed Changes

The bill repeals section 570.382, F.S., relating to Arabian horse racing, breeders' and stallion awards, the Horse Council, horse registration fees, and the Florida Arabian Horse Racing Promotion Account. The bill also amends ss. 550.2625 and 550.2633, F.S., to eliminate references to the Florida Arabian Horse Racing Promotion Account. The department reports:

- The last race in Florida with an Arabian horse occurred in the 1980's;
- The council has been inactive since the 1990's; and
- Funds have not been deposited into the Florida Arabian Horse Racing Promotion account since 2005.

Gertrude Maxwell Save a Pet Direct Support Organization

Present Situation

Section 570.97, F.S., establishes the Gertrude Maxwell Save a Pet Direct Support Organization (DSO), which was created in 2008 to provide grants to animal shelters for spaying and neutering animals. The DSO also provides grants during times of emergencies and to develop and disseminate pet care education materials. The DSO does not participate in, endorse, or financially support political activities at the national, state, or local level.

The DSO has a board of directors that includes one representative from each of the following associations:

- Florida Veterinary Medical Association;
- Cat Fanciers' Association;
- Florida Association of Kennel Clubs;
- Florida Animal Control Association;
- National Rifle Association;
- A consumer member not affiliated with any of the aforementioned associations;
- A humane organization designated by the Commissioner of Agriculture; and,
- The Commissioner of Agriculture or his/her designee.

The board of directors may appoint up to three non-voting honorary members. Nominees for honorary membership must be individuals, companies, or organizations that have exemplified themselves or made significant contributions to the health, safety, or well-being of animals. Honorary board members may serve for a maximum of two consecutive annual terms.

Effect of Proposed Changes

The bill repeals s. 570.97, F.S., relating to the Gertrude Maxwell Save a Pet Direct Support Organization (DSO). The department reports that since officers were elected in 2008, there has been no other activity, nor has the DSO set up a bank account to provide for the transfer of monies remaining from the initial donation by Ms. Maxwell.

The bill also specifies that the amount of $59,239, which represents the remaining funds of the DSO, be transferred from the department's General Inspection Trust Fund to Florida Animal Friend, Inc., in keeping with the donor's wishes.

Animal Disease Diagnostic Laboratory

Present Situation

Section 585.61, F.S., establishes the Bronson Animal Disease Diagnostic Laboratory in Osceola County as well as an animal disease diagnostic laboratory in Suwanee County. The laboratories fall under the supervision of the department and provide prompt reliable diagnoses of animal diseases, including any diseases that affect poultry eggs, for persons who maintain animals in the state. The laboratories are also responsible for making recommendations for the control and eradication of such diseases.

Persons using the services of the laboratories must comply with the terms set forth in Florida law and corresponding rules. The department must require any user of the laboratory's services to pay a fee not to exceed $300. Monies collected from the fees are deposited into the Animal Industry Diagnostic Laboratory Account within the General Inspection Trust Fund and used to improve the diagnostic laboratory services.

The laboratory in Suwannee County contracts with the United States Department of Agriculture (USDA) to test for brucellosis surveillance samples. Since brucellosis is on the downturn (Florida has been declared brucellosis-free since 2001), the USDA has decided to reduce brucellosis surveillance nation-wide and utilize a single federal laboratory for this testing. According to the department, federal funding for state laboratories will be discontinued effective March 31, 2013.

Effect of Proposed Changes

The bill amends s. 585.61, F.S., to eliminate the animal disease diagnostic laboratory in Suwannee County. In response to the loss of federal dollars, the department intends to consolidate testing and diagnostic services to the laboratory in Osceola County.

Division of Food, Nutrition, and Wellness

Present Situation

During the legislative session of 2011, the school food and nutrition programs were transferred from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (department) as the Division of Food, Nutrition, and Wellness (division). The transfer included all powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition programs.

Statutory language regarding the administration of the school food and nutrition program from chapter 1006, F.S., which falls under the jurisdiction of DOE, was transferred to chapter 570, F.S., which falls under the jurisdiction of the department.

Currently, the division is not created and given duties in the department's authorizing statute (ch. 570, F.S.), nor is its division director.

Section 570, 072, F.S., specifies that the department can conduct, supervise, and administer all commodity distribution services that will be carried on using federal or state funds or funds from any other source. This includes commodities received and distributed from the United States or any of its agencies. The department determines the benefits each applicant or recipient is entitled to receive under chapter 570, F.S. An applicant or recipient must be a resident of Florida and a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. The department must cooperate fully with the U. S. government

and its agencies and instrumentalities in order to receive the benefit of all federal financial allotments and assistance possible to carry out the purposes of chapter 570, F.S.

The department can accept any duties with respect to commodity distribution services that are delegated to it by an agency of the federal government or any state, county, or municipal government. The department may also act as an agent of, or contract with, the federal government, state government, or any county or municipal government in the administration of commodity distribution services to secure the benefits of any public assistance that is available from the federal government or any of its agencies. The department can also act as an agent of, or contract with, the federal government, state government, or any county or municipal government in the distribution of funds received from any of the aforementioned for commodity distribution services within the state. The department is authorized to accept from any person or organization all offers of personal services, commodities, or other aid or assistance. The duties of the department are laid out in chapter 570, F.S., and do not limit, abrogate, or abridge the powers and duties of any other state agency.

Section 1001.42, F.S., specifies that, regarding the school lunch program, district school boards must assume such responsibilities, powers, and duties assigned by law or as required by rules of the State Board of Education, or that, in the opinion of the school board, are necessary to provide school lunch services, consistent with needs of students; effective and efficient operation of the program; and the proper articulation of the school lunch program with other phases of education in the district.

Section 1003.453, F.S., specifies that each school district must submit to DOE a copy of its school wellness policy as required by the Child Nutrition and WIC Reauthorization Act of 2004 and a copy of its physical education policy required under s. 1003.455, F.S. Each school district must also annually review its school wellness policy and physical education policy and provide a procedure for public input and revisions. In addition, each school district must send an updated copy of its wellness policy and physical education policy to DOE and to the department when a change or revision is made.

Effect of Proposed Changes

The bill creates s. 570.64, F.S., to establish the Division of Food, Nutrition, and Wellness (division) in the departments' authorizing statute and tasks the division with administering and enforcing its powers and duties in regard to the school food and nutrition programs. The bill also establishes a director of the division, who is appointed and serves at the pleasure of the Commissioner of Agriculture. The director is required to:

- Supervise, direct, and coordinate the activities of the division;
- Exercise such powers and duties as authorized by the Commissioner of Agriculture; and
- Enforce the provisions of chapter 595, F.S., the rules adopted pursuant to chapter 595, F.S., and any other powers and duties as authorized by the department.

The bill transfers the statutory language regarding the administration of the school food and nutrition programs from chapter 570, F.S., to chapter 595, F.S. This transfer is in line with the other divisions within the department that have a separate chapter detailing the powers, duties, and functions of their respective divisions.

The bill creates s. 595.401, F.S., to specify that chapter 595, F.S., is titled the "Florida School Food and Nutrition Act."

The bill creates s. 595.402, F.S., creating definitions for terms used in chapter 595, F.S. "Commissioner" means the Commissioner of Agriculture. "Department" means the Department of Agriculture and Consumer Services. "Program" means any one or more of the food and nutrition programs that the department has responsibility over, including, but not limited to, the National School Lunch program, Special Milk program, School Breakfast program, Summer Food Service program, Fresh Fruit and Vegetable program, and any other program that relates to school nutrition. "School

District" means any one or more of the 67 county school districts, including their respective district school board. "Sponsor" means any entity that is conducting a program under a current agreement with the department.

The bill creates s. 595.403, F.S., which provides that the legislature, in recognition of the demonstrated relationship between good nutrition and the capacity of students to develop and learn, declares that it is the policy of the state to provide standards for school food and nutrition services and to require each school district to establish and maintain an appropriate school food and nutrition 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 such a manner as to comply with the requirements of the National School Lunch Act.

In addition to the powers and duties currently in law, the bill amends s. 595.404, F.S., to include the following new powers and duties for the department:

- To implement and adopt by rule, as required, federal regulations to maximize federal assistance for the program.
- To develop and propose legislation necessary to implement the program, encourage the development of innovative school nutrition programs, and expand participation in the program.
- To employ such persons as are necessary to perform the duties of chapter 595, F.S.
- To adopt and implement an appeal process by rule, as required by federal regulations, for applicants and participants under the program.
- To assist, train, and review each sponsor in its implementation of the program.
- To advance funds from the program's annual appropriation to sponsors, when requested, in order to implement the provisions of chapter 595, F.S., and in accordance with federal regulations.

In addition to the program requirements currently in law, the bill amends s. 595.405, F.S., to specify that each sponsor must complete all corrective action plans required by the department or a federal agency to be in compliance with the program.

The bill transfers s. 570.072, F.S., related to commodity distribution services to s. 595.408, F.S.

The bill creates s. 595.501, F.S., that specifies that any person, sponsor, or school district that violates any provision of chapter 595, F.S., or any rule promulgated under chapter 595, F.S., or is not in compliance with the program may be subject to a suspension or revocation of their agreement, loss of reimbursement, or a financial penalty in accordance with federal or state law or both. This does not restrict the applicability of any other law.

The bill amends s. 1001.42, F.S., to reference the department as opposed to the State Board of Education. The bill amends s. 1003.453, F.S., to specify that each school district must electronically submit its local school wellness policy to the department. The bill also requires each school district to review its local school wellness policy annually. Lastly, the bill requires each school district to provide an updated copy of such policies to the applicable agency when a change or revision is made.

Miscellaneous

Direct Support Organization

Present Situation

Section 570.903, F.S., requires the Legislature to authorize the establishment of a direct support organization (DSO) within the department. In so doing, the department must adhere to certain provisions that govern the creation, use, powers, and duties of the DSO, such as:

- The department must enter into a memorandum or letter of agreement with the DSO, specifying the approval of the department, the powers and duties of the DSO, and the rules with which the DSO must comply.
- The department may permit, without charge, appropriate use of department property, facilities, and personnel by a DSO.
- The use must be directly in keeping with the approved purposes of the DSO and may not be made at times or places that would unreasonably interfere with opportunities for the general public to use department facilities for established purposes.
- The department must prescribe, by contract or by rule, conditions with which a DSO must comply in order to use department or museum property, facilities, or personnel. Such rules must provide for budget and audit review and oversight by the department.
- The department cannot permit the use of property, facilities, or personnel of the museum, department, or designated program by a DSO that does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

The DSO is empowered to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the museum or designated program.

The DSO is authorized to enter into contracts or agreements with or without competitive bidding for the restoration of objects, historical buildings, and other historical materials; for the purchase of objects, historical buildings, and other historical materials which are to be added to the collections of the museum; or to benefit the designated program. However, before the DSO can enter into a contract or agreement without competitive bidding, the DSO must file a certification of conditions and circumstances with the internal auditor of the department justifying each contract or agreement.

The DSO is authorized to enter into contracts to insure property of the museum or designated programs and may insure objects or collections on loan from others in satisfying security terms of the lender. The DSO must provide for an annual audit in accordance with s. 215.981, F.S.

Neither a designated program or museum, nor a trustee or an employee of a nonprofit corporation may receive a commission, fee, or financial benefit in connection with the sale or exchange of historical objects or properties to the DSO, the museum, or the designated program. Likewise, neither a designated program or museum, nor a nonprofit corporation trustee or employee is allowed to be a business associate of any individual, firm, nor organization involved in the sale or exchange of property to the DSO, the museum, or the designated program.

All monies received by the DSO must be deposited into an account of the DSO and used by the organization in a manner consistent with the goals of the museum or designated program. The identity of a donor or prospective donor who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.071(1), F.S., and s. 24(a), Art. 1 of the State Constitution. The Commissioner of Agriculture, or the commissioner's designee, may serve on the board of trustees and executive committee of any DSO established to benefit the museum or any designated program. The department must establish, by rule, archival procedures relating to museum artifacts and records. The rules must provide procedures which protect the museum's artifacts and records equivalent to those procedures which have been established by the Department of State under chapters 257 and 267, F.S.

Effect of Proposed Changes

The bill amends s. 570.903, F.S., to authorize the department to establish DSOs to provide assistance, funding and promotional support for the museums and other designated programs within the department. The department must prescribe by agreement, rather than contract or by rules as

previously required, conditions that a DSO must comply with in order to use property, facilities, or personnel of the department.

The bill no longer requires DSOs to comply with competitive bidding laws when entering into contracts or agreements for the restoration of objects, historical buildings, and other historical materials; for the purchase of objects, historical buildings, and other historical materials which are to be added to the collections of the museum; or to benefit the designated program. Previously, DSOs were able to utilize competitive bidding.

The bill clarifies that a department employee, DSO or museum employee, volunteer or director, or a designated program may not receive a commission, fee, or financial benefit in connection with the sale or exchange of real or personal property, or historical objects to the DSO, the museum, or the designated program. This restriction also applies to the above-named persons acting as a business associate of any individual, firm, or organization involved in the sale or exchange of real or person property to the DSO, the museum, or the designated program.

The department is authorized to terminate the agreement with the DSO at any time it determines that the DSO is no longer meeting the objectives for which it was established. Upon termination, the assets of the DSO must be distributed pursuant to its Articles of Incorporation or by-laws or, if not provided for, to the department. The bill also cleans up statutory language referencing DSOs that are no longer in existence.

Apiary

Present Situation

Section 586.10, F.S., specifies the powers and duties of the department with regard to honeybees and honey certification. The department is authorized to inspect all apiaries in the state at intervals it deems best. The department must keep an accurate and current list of the inspected apiaries which includes the:

- Name of the apiary.
- Name of the owner of the apiary.
- Mailing address of the apiary owner.
- Location of the apiary.
- Number of hives in the apiary.
- Pest problems associated with the apiary.
- Brands used by beekeepers where applicable.

Current law requires beekeepers having honeybee colonies within the state to apply to the department for certificates of inspection and registration. Certificates must be renewed annually on the anniversary date of the registration. Applications for renewal postmarked after the anniversary date are subject to a $10 late filing fee. Registration applications must be accompanied by a fee as set by department rule. Neither the registration fee nor the renewal fee may exceed $100. Any governmental agency having honeybee colonies for experimental or educational purposes may be exempted by the department from payment of a registration fee.

The department must provide written notice and renewal forms 60 days prior to the annual renewal date to each person who has obtained certificates of registration informing the persons of the registration renewal date and the renewal fee. The department may, for good cause, such as natural disasters, hardship cases, or unusual circumstances, which are supported by written documentation, extend the renewal date without penalty for up to 90 days. Certificates of registration are renewed as long as the registrant has complied with the provisions of chapter 586, F.S., including the payment of the applicable fees, and the rules of the department.

Effect of Proposed Changes

The bill amends s. 586.10, F.S., to allow an apiary inspector to be a certified beekeeper as long as the inspector does not inspect his/her own apiary. The department states that the inspectors must have a good working knowledge of beekeeping ranging from the hobbyist to the commercial hives. This is a unique skill set mainly found in individuals who have some level of involvement within the apiary industry.

Wildlife Best Management Practices

Present Situation

For the past several years, the department has worked closely with the Department of Environmental Protection (DEP) in developing and implementing 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. For the most part, BMPs are practical measures agricultural producers can take to improve water quality while maintaining agricultural production. There are several benefits to implementing BMPS, for instance:

- By Florida law, implementation of BMPs provides a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs.
- Certain BMPs provide eligibility for cost-share.
- The Florida Right to Farm Act generally prohibits local governments from regulating an agricultural activity that is addressed through rule-adopted BMPs.
- Implementation of BMPs might qualify agricultural producers for water management district surface water permitting, and/or satisfy other permitting requirements.
- Some BMPs increase production efficient and reduce costs.

Currently, the BMP programs being implemented deal mainly with water quality. No BMPs exist at this time that deal with wildlife management in an agricultural setting.

Effect of Proposed Changes

The bill directs the department to enter into a memorandum of agreement (MOA) with the FWC to develop voluntary BMPs for protecting freshwater aquatic life and wild animal life on agricultural lands within the state. The MOA may allow for selected pilot projects in order to better facilitate development of the BMPs. The department may adopt rules establishing the BMPs. The rules must include provisions for a notice of intent to implement the BMPs and a system to assure the implementation of the BMPs, including recordkeeping requirements.

The bill provides that, notwithstanding any provision of law to the contrary including s. 163. 3162, F.S., the implementation of the BMPs is voluntary and except as specifically provided in this section of law as to the department and Section 9, article IV of the Florida Constitution as to the FWC, an agency, department, district, or any unit of local government may not adopt or enforce any ordinance, resolution, regulation, rule or policy regarding the BMPs on land classified as agricultural pursuant to the greenbelt law.

Babcock Ranch Preserve

Present Situation

Acquisition of Babcock Crescent B Ranch

During the 2006 legislative session, the legislature created s. 259.1052, F.S., which provides that the state's portion of the Babcock Crescent B Ranch[1] (Ranch) by the BOT is a conservation acquisition under the Florida Forever program. The goal of the acquisition of the Ranch is sustaining the ecological and economic integrity of the property while allowing the business of the Ranch to operate and prosper. The ranch has significant scientific, cultural, historical, recreational, ecological, wildlife, fisheries, and productive values and is part of a potential greenway of undeveloped land extending from Lake Okeechobee to the east and Charlotte Harbor to the west.

Current law provides legislative recognition that the acquisition of the state's portion of the Ranch represents a unique opportunity to assist in preserving the largest private and undeveloped single-ownership tract of land in Charlotte County. Lee County is also recognized as a partner in the acquisition of the Ranch.

The FWC and the department serve as the lead managing agencies responsible for the management of the Ranch. Current law provides that, in addition to distributions authorized in s. 259.105(3), F.S., DEP is authorized to distribute $310 million in revenues from the Florida Forever Trust Fund, which represents the full payment for the portion of the Ranch acquired by the state.

Citizen Support Organization

Section 259.10521, F.S., provides that "citizen support organization" means an organization that is:

- A Florida corporation not for profit incorporated under the provisions of chapter 617, F.S., and approved by the Department of State;
- Organized and operated to conduct programs and activities in the best interest of the state; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Babcock Crescent B Ranch;
- Determined by the FWC and the FFS within the department to be consistent with the goals of the state in acquiring the ranch and in the best interests of the state; and
- Approved in writing by the FWC and the FFS to operate for the direct or indirect benefit of the ranch and in the best interest of the state. Such approval shall be given in a letter of agreement from the FWC and the FFS. Only one citizen support organization may be created to operate for the direct or indirect benefit of the Babcock Crescent B Ranch.

The FWC and the department may permit, without charge, appropriate use of fixed property and facilities of the Ranch by a citizen support organization, subject to certain provisions. Such use must be directly in keeping with the approved purposes of the citizen support organization and may not be made at times or places that would unreasonably interfere with recreational opportunities for the general public. The FWC and the department may prescribe by rule any condition with which the citizen support organization must comply in order to use fixed property or facilities of the ranch. The FWC and the department cannot permit the use of any fixed property or facilities of the ranch by a citizen support organization that does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

[1] As used here, the term "the state's portion of the Babcock Crescent B Ranch" comprises those lands to be conveyed by special warranty deed to the BOT under the provisions of the agreement for sale and purchase executed by the BOT, the FWC, the department, and the participating local government, as purchaser, and MSKP, III, a Florida corporation, as seller.

The Legislature recognizes that the Ranch will need a variety of facilities to enhance its public use and potential. Such facilities include, but are not limited to, improved access, camping areas, picnic shelters, management facilities, and environmental education facilities. The need for such facilities may exceed the ability of the state to provide such facilities in a timely manner with moneys available. The Legislature finds it to be in the public interest to provide incentives for partnerships with private organizations with the intent of producing additional revenue to help enhance the use and potential of the Ranch. The Legislature may annually appropriate funds from the Land Acquisition Trust Fund for use only as state matching funds, in conjunction with private donations in aggregates of at least $60,000, matched by $40,000 of state funds, for a total minimum project amount of $100,000 for capital improvement facility development at the Ranch at either individually designated locations or for priority projects within the overall ranch system. The citizen support organization may acquire private donations, and matching state funds for approved projects may be provided in accordance with current law. The FWC and the department are authorized to properly recognize and honor a private donor by placing a plaque or other appropriate designation noting the contribution on project facilities or by naming project facilities after the person or organization that provided matching funds. The FWC and the department are authorized to adopt necessary administrative rules to carry out these provisions.

Babcock Ranch Preserve Act

In 2006, the legislature also established the "Babcock Ranch Preserve Act"[2] to protect Babcock Ranch for current and future generations by continuing its operation as a working ranch. Section 259.1053(3), F.S., creates the Babcock Ranch Preserve (preserve), which is established to protect and preserve the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve, and to provide for multiple use and sustained yield of the renewable surface resources within the preserve. Current law provides for the preserve to be managed by Babcock Ranch, Inc. with the exception of specific duties tasked to the FWC and the department.

Babcock Ranch, Inc.

Section 259.1053(4), F.S., creates a not-for-profit corporation known as "Babcock Ranch, Inc.," (BRI) that is registered, incorporated, organized, and operated in the state but is not a unit or entity of state government.

BRI is subject to the provisions of chapter 119, F.S., relating to public records and those provisions of chapter 286, F.S., relating to public meetings and records for any meetings of BRI.

The purpose of BRI is to:

- Provide management and administrative services for the preserve;
- Establish and implement management policies;
- Cooperate with state agencies to further the purposes for which the preserve was created; and
- Establish the administrative and accounting procedures for the operation of BRI.

Board of Directors

Current law requires that BRI be governed by a nine-member governing board who is appointed by the BOT; the executive director of the commission; the Commissioner of Agriculture; the Babcock Florida Company, a corporation registered to do business in the state, or its successors or assigns; the Charlotte County Board of County Commissioners; and the Lee County Board of County Commissioners. The table below illustrates the composition of the board of directors:

[2] Section 259.1053, F.S.

Babcock Board of Directors Member Appointment	Qualification Criteria	Term Limits
Board of Trustees of the Internal Improvement Trust Fund (Four members)	• One appointee must have expertise in domestic livestock management, production, and marketing, including range management and livestock business management. • One appointee must have expertise in the management of game and nongame wildlife fish populations, including hunting, fishing, and other recreational activities. • One appointee must have expertise in the sustainable management of forest lands for commodity purposes. • One appointee must have expertise in financial management, budget and program analysis, and small business operations.	Four initial members (4 yrs.)
Fish and Wildlife Conservation Commission (One member)	One member who has expertise in hunting, fishing, nongame species management or wildlife habitat management, restoration, and conservation.	One initial member (2 yrs.)
Commissioner of Agriculture (One member)	One member with expertise in agricultural operations or forestry management	One initial member (2 yrs.)
Babcock Ranch Management, LLC (One member)	One member who has expertise in the activities and management of the Babcock Ranch as of the date of acquisition by the state. The member serves only until the termination of the preliminary management agreement. Upon termination of the preliminary management agreement, the person serving as the head of the property owner's association, if any, required to be created under the acquisition agreement serves as a member.	One initial member (2 yrs.)
Charlotte County Board of County Commissioners (One member)	One member who is a resident of Charlotte County and who is active in an organization concerned with the activities of the ranch.	One initial member (2 yrs.)
Lee County Board of County Commissioners (One member)	One member who is a resident of Lee County and who has expertise in land conservation and management. This appointee shall serve as a member as long as the county participates in the state management plan.	One initial member (2 –yrs.)
Note Relating To Term Limits: Each member appointed after the initial appointments is appointed to a 4-year term. Any vacancy among the trustees is filled in the same manner as the original appointment and any trustee appointed to fill a vacancy are appointed for the remainder of that term. No trustee may serve more than 8 years in consecutive terms.		
Meeting Requirements: At least three times per year at the call of the chair in Charlotte or Lee County in sessions open to the public.		
Chair and Vice Chair Election and Duties: Members must annually elect a chair and vice chair from among their membership and may, by a vote of five of the nine members, remove a member from the position of chair or vice chair prior to the expiration of the position. The chair must ensure that records are kept of the proceedings of the board and is the custodian of certain official documents. Officers and employees of BRI are not employees of the state but are private employees. At the request of the trustee's, the state may provide state employees for the purpose of assisting the trustees in implementing the requirements of this bill. Any state employee assisting for more than 30 days is provided on a reimbursable basis. Reimbursement to the FWC and the department is made from the		

BRI operating fund and not from any funds appropriated by the Legislature.
Board Member Removal: Each member is accountable for the proper performance of the duties of office, and each member owes a fiduciary duty to the people of the state to ensure funds are disbursed and used as prescribed by law and contract. Any official appointing member may remove that member pursuant to certain criteria in the bill.
Board Member Compensation: Members serve without compensation, but are entitled to receive per diem and travel expenses as provided by section. 112.061, F.S., while in the performance of their duties. These expenses are paid for out of an operating fund of the preserve.
Board Member Powers and Duties: The board of directors adopts articles of incorporation and bylaws necessary to govern its activities, which must be approved by the BOT prior to filing with the Department of State. The board of directors shall review and approve any comprehensive business plan for the management of lands in the preserve prior to submission of that plan to the BOT for approval and implementation. The board of directors will have all necessary and proper powers for the exercise of the authorities vested in BRI, including, but not limited to, the power to solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other public or private entities. All funds received by BRI are to be deposited into an authorized operating fund unless otherwise directed by the Legislature. The board of directors may, in consultation with the FWC and the department, designate hunting, fishing, and trapping zones and establish additional periods when hunting, fishing, or trapping are not permitted for reasons of public safety, administration, and the protection and enhancement of nongame habitat and nongame species.

A board member may not:

- Be an officer, a director, or a shareholder in any entity that contracts with or receives funds from BRI or its subsidiaries with the exception of the Babcock Ranch Management, LLC, appointee.
- Be an employee of any governmental entity.
- Vote in any official capacity upon any measure that would inure to their private gain or loss; that would inure to the special private gain or loss of any principal by whom the member is retained or to the parent organization or subsidiary of a principal by which the member is retained; or that the member knows would inure to the special private gain or loss of a relative or business associate of the member. Prior to any vote being taken, the member must publicly state the nature of the member's interest in the matter from which the member is abstaining from voting and, no later than 15 days after the vote occurs, disclose the nature of the member's interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting.
- Vote by proxy.
- Increase the number of its members.

Financial Matters

Section 259.1053(10), F.S., provides for the board of directors to establish and manage an operating fund, with a cash balance reserve that is equal to not more than 25 percent of its annual operating expenses, for the cash-flow needs associated with facilitating the fiscal management of BRI. Upon dissolution of BRI, any remaining cash balances of funds must revert back to the General Revenue Fund or to other state funds consistent with any appropriated funding.

The board of directors must prepare an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the initial acquisition of the Babcock Ranch by the state. The department is directed to provide assistance relating to the annual legislative budget request for appropriations and may not deny a request or refuse to include in its annual legislative budget submission a request for appropriations from BRI.

All monies received from donations or from the management of the preserve must be retained by BRI in the operating fund and must be available for the various operational expenses. Moneys received by BRI, from the management of the preserve are not subject to distribution to the state. BRI must

optimize the generation of income based on existing market conditions to the extent activities do not unreasonably diminish the long-term environmental, agricultural, scenic, and natural values of the preserve, or the multiple-use and sustained-yield capabilities of the land.

All parties in contract and that hold a lease with BRI, must procure insurance of an amount reasonable or customary to insure against any loss in connection with such properties or with activities authorized in such leases and contracts.

Comprehensive Business Plan

Section 259.1053(11), F.S., specifies that the comprehensive business plan for the management and operation of the preserve as a working ranch and amendments to the business plan may be developed with input from the FWC and the department, and may only be implemented by BRI upon the expiration of the preliminary management agreement. Any decisions to adopt or amend the comprehensive business plan or an activity related to the management of the land must be made in sessions that are open to the public for comment. The board of directors must establish procedures for providing adequate public information and opportunities for public comment on the proposed comprehensive business plan for the preserve or for amendments to the comprehensive business plan adopted by the members.

Not less than two years before BRI assumes management responsibilities for the preserve, it must seek input from the FWC and the department in order to develop a comprehensive business plan for the preserve. The comprehensive business plan must provide for the following:

- Management and operation as a working ranch.
- Protection and conservation of the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve.
- Promotion of controlled high-quality hunting experiences for the public, with emphasis on deer, turkey, and other game species.
- Multiple use and sustained yield of renewable surface resources within the preserve.
- Public use of and controlled access to the preserve.
- Renewable resource use and management alternatives that benefit local communities and enhance the coordination of management objectives with those on surrounding lands. The use of renewable resources and management alternatives should provide a cost savings to BRI.

Upon a determination by the BOT, no later than 60 days before the termination of the preliminary management agreement, BRI must assume all authority to manage the preserve as a working ranch. With input from the FWC and the department, BRI must manage the land resources, including but not limited to the following:

- Administration and operation of the preserve as a working ranch.
- Preservation and development of the land and renewable surface resources of the preserve.
- Interpretation of the preserve and its history on behalf of the public.
- Management, public use, and occupancy of facilities and lands within the preserve.
- Maintenance, rehabilitation, repair, and improvement within the preserve.
- Develop programs and activities relating to the management of the preserve as a working ranch.

BRI must negotiate directly with and enter into such agreements, leases, contracts, and other arrangements with any person, firm, association, organization, corporation, or governmental entity as are necessary and appropriate to carry out the purposes and activities of the management of the preserve. BRI must also develop reasonable procedures for entering into lease agreements and other agreements for the use and occupancy of the facilities of the Babcock Ranch Preserve and their negotiation thereof.

BRI must assess reasonable fees for admission to, use of, and occupancy of the preserve to offset costs of operating the preserve as a working ranch. These fees are independent of the fees assessed by the FWC for hunting, fishing, or pursuing outdoor recreational activities within the preserve, and must be deposited into the operating fund established by the board of directors.

Dissolution of BRI

BRI may only be dissolved by an act of the Legislature (act). Upon dissolution, the management responsibilities revert to the FWC and the department unless otherwise provided for by the act. Upon dissolution, any cash balances of funds revert to the General Revenue Fund or such other state fund as may be provided by the act.

Other

Except for the powers of the Commissioner previously provided, and the powers of the FWC provided in s. 9, Art. IV of the Florida Constitution, the preserve will be managed by BRI. Officers and employees of BRI are private employees. At the request of the board of directors, the FWC and the department may provide state employees to implement these provisions. Any state employee provided to assist in implementing these provisions for more than 30 days must be provided on a reimbursable basis. Reimbursement to the FWC and the department must be made from the corporation's operating fund and not from funds appropriated to the corporation by the Legislature.

Effect of Proposed Changes

The bill transfers the management of the preserve[3] from BRI and its board of directors to the department, in cooperation with the FWC. Various areas in ss. 259.1052, 259.10521, and 259.1053, F.S., are amended to reflect the change in management. The department will assume all authority to manage and operate the preserve as a working ranch upon the termination or expiration of the management agreement attached as Exhibit "E" to that certain agreement for sale and purchase approved by the BOT on November 22, 2005, and by Lee County on November 20, 2005.[4]

The bill dissolves BRI as well as the board of directors and deletes statutory language relating to those entities. The bill further specifies that upon dissolution of BRI, all statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the corporation are to be transferred to the department unless otherwise provided by law. All fees that were previously deposited in the operating fund established by the board of directors will now be deposited into the Incidental Trust Fund of the FFS, subject to appropriation by the Legislature.

Additionally, the bill provides that upon the termination or expiration of the management agreement (Exhibit E), Lee County will retain ownership and assume responsibility for management of the Lee County portion of the acquisition. Lee County and the lead manager may enter into an agreement for management of the Lee County property.

The bills amends s. 259.1053, F.S., to delete the definitions for "Babcock Ranch, Inc.," "board of directors," "management and operating expenditures," and "member." The bill provides that "Florida Forest Service" means the Florida Forest Service of the department.

The bill creates the Babcock Ranch Advisory Group (advisory group) to assist the department by providing guidance and advice concerning the management and stewardship of the preserve. The advisory group is comprised of nine members appointed to 5-year terms. Based on recommendations

[3] Babcock Crescent B Ranch is now known as Babcock Ranch Preserve.
[4] Kitson & Partners, Inc., are currently under contract with the state to manage and operate Babcock Ranch Preserve. The contract (Exhibit E) expires in June 30, 2016, unless Kitson & Partners, Inc. terminate the contract prior to that date.

from the Governor and Cabinet, the FWC, and the governing boards of Charlotte and Lee Counties, the commissioner must appoint members as follows:

- One member with experience in sustainable management of forest lands for commodity purposes.
- One member with experience in financial management, budget and program analysis, and small business operations.
- One member with experience in management of game and nongame wildlife and fish populations, including hunting, fishing, and other recreational activities.
- One member with experience in domesticated livestock management, production, and marketing, including range management and livestock business management.
- One member with experience in agriculture operations or forestry management.
- One member with experience in hunting, fishing, nongame species management, or wildlife habitat management, restoration, and conservation.
- One member with experience in public outreach and education.
- One member who is a resident of Lee County, to be designated by the Board of County Commissioners of Lee County.
- One member who is a resident of Charlotte County, to be designated by the Board of County Commissioners of Charlotte County.

The bill provides for vacancies to the advisory group to be filled in the same manner in which the original appointment was made. A member appointed to fill a vacancy serves for the remainder of that term. Members of the advisory group must elect a chair and vice chair from among the members of the group, meet regularly, and serve without compensation but will receive reimbursement for travel and per diem expenses.

The bill authorizes the FWC, in cooperation with the department, to:

- Establish and implement public hunting and other fish and wildlife management activities. Tier I and Tier II public hunting opportunities will be provided consistent with the management plan and the recreation master plan. Tier I public hunting will provide hunting opportunities similar to those offered on wildlife management areas with an emphasis on youth and family-oriented hunts. Tier II public hunting will be provided specifically by fee-based permitting to ensure compatibility with livestock grazing and other essential agricultural operations on the preserve.
- Establish and administer permit fees for Tier II public hunting to capitalize on the value of hunting on portions of the preserve and to help ensure the preserve is financially self-sufficient. The fees will be deposited into the State Game Trust Fund of the FWC to be used to offset the costs of providing public hunting and to support fish and wildlife management and other land management activities on the preserve.

The BOT or its designated agent may:

- Negotiate directly with and enter into such agreements, leases, contracts, and other arrangements with any person, firm, association, organization, corporation, or governmental entity, including entities of the federal, state, and local governments, as are necessary and appropriate to carry out the purposes and activities of the preserve.
- Grant privileges, leases, concessions, and permits for the use of land for the accommodation of visitors to the preserve, provided no natural curiosities or objects of interest may be granted, leased, or rented on such terms as will deny or interfere with free access to them by the public. Such grants, leases, and permits may be made and given without advertisement or securing competitive bids. Such grants, leases, or permits may not be assigned or transferred by any grantee without consent of the BOT or its designated agent.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 2013-14
General Inspection Trust Fund	
Livestock Haulers Permits	$ (8,500)
Gertrude Maxwell Save a Pet DSO Donation	$ 59,239
Sale of cypress products permit	0
Total General Inspection Trust Fund	**$ 50,739**
Federal Grants Trust Fund	
Closure of Suwannee County Laboratory	$ (194,870)
Total Federal Grants Trust Fund	**$ (194,870)**
Total Revenues	**$ (144,131)**

2. Expenditures:

	FY 2013-14
General Revenue	
Closure of Suwannee County Laboratory	$ (129,768)
Total General Revenue	**$ (129,768)**
General Inspection Trust Fund	
Livestock Haulers Permits	$ (3,225)
Gertrude Maxwell Transfer to FL Animal Friend, Inc.	$ 59,239
Closure of Suwannee County Laboratory	$ (54,876)
Pesticide Review Council	$ (20,000)
Total General Inspection Trust Fund	**$ (18,862)**
Federal Grants Trust Fund	
Closure of Suwannee County Laboratory	$ (194,870)
Total Federal Grants Trust Fund	**$ (194,870)**
Total Expenditures	**$ (343,500)**
FTE	**(7.00)**
Net Effect	
General Revenue	$ 129,768
General Inspection Trust Fund	$ 69,601
Federal Grants Trust Fund	$ -
Total	**$ 199,369**

Note: The Fiscal Year 2013-2014 House proposed General Appropriations Act eliminates the $129,768 general revenue surplus.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

By amending s. 388.261, F.S., local mosquito control programs with less than $1 million in local budgets will receive more funding. Local programs with over $1 million in local budgeted funds would receive less funding.

2. Expenditures:

See Fiscal Comments section

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By repealing s. 570.97, F.S., a one-time lump sum is provided to Florida Animal Friend, Inc., a nonprofit organization.

By amending s. 534.083, F.S., persons engaged in the hauling of livestock will save time and money through the elimination of the livestock haulers permit.

By amending s. 590.02, F.S., persons seeking an authorization for land-clearing may be charged a fee by the local government.

By repealing s. 590.50, F.S., persons selling cypress products will no longer be required to obtain a permit from the department.

D. FISCAL COMMENTS:

Local Government Impact

By amending s. 590.02, F.S., local governments that choose to have open burning delegated to them and do not have infrastructure and personnel in place may incur costs. The department states that some local governments charge a fee for open burning authorizations; delegating the authority to the local government may result in a source of revenue.

Babcock Ranch Preserve

For Fiscal Years 2013-14 through 2015-16, there will be a negative insignificant fiscal for the state. Beginning in Fiscal Year 2016-17, there will be a significant positive fiscal.