

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SB 1010

INTRODUCER: Senator Montford

SUBJECT: Department of Agriculture and Consumer Services

DATE: January 11, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhvein	Becker	AG	Pre-meeting
2.			AGG	
3.			AP	

I. Summary:

SB 1010 addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). The bill:

- Designates tupelo honey as the official state honey.
- Changes the procedure to obtain and renew a pest control operator’s certificate and eliminates a late charge.
- Changes the deadline to submit a recertification application for the limited certification for urban landscape commercial fertilizer application and eliminates the \$50 per month late charge for late recertification.
- Adds the term “dietary supplements” to the list of possibly adulterated foods.
- Defines the term “vehicle” to provide clarity to the types of mobile carriers that fall under the department’s regulatory authority.
- Adds allergen information labeling requirements to the list of possibly misbranded foods.
- Authorizes the department to sponsor “events” (not just breakfasts, luncheons, or dinners) to promote agriculture and agricultural business products.
- Authorizes the department to acquire, secure, enjoy, use, enforce, and dispose of all patents, trademarks, copyrights, and other rights or similar interests.
- Authorizes the department to use money deposited in the Pest Control Trust Fund to carry out any of the powers and duties of the Division of Agricultural Environmental Services.
- Creates an Office of Agriculture Technology Services.
- Removes the requirement for the department to provide staff and meeting space for the Florida Agriculture Center and Horse Park Authority.
- Specifies the intent of the “Fresh From Florida” marketing brand.
- Amends membership requirements for the Florida Agricultural Promotional Campaign Advisory Council.

- Modifies the reporting period for fertilizer tonnage sales from monthly to quarterly and changes the reporting requirement from 15 days to 30 days following the close of the reporting period.
- Preempts regulatory authority for commercial feed and feedstuff to the department.
- Removes the requirement that the department notify a property owner that a plant infested or infected with plant pests or noxious weeds has been found on their property if the plant is infested with pests or noxious weeds that are determined to be widely established in Florida. This change provides the department with the flexibility to not have to require an owner to destroy or remove the plant.
- Rewrites ch. 582, F.S., to modernize the Soil and Water Conservation Districts' (SWCDs) statutes to reflect the actual functions of the districts.
- Eliminates Watershed Improvement Districts.
- Adds definitions for "school breakfast program," "summer nutrition program," and "universal school breakfast program" to specify that they are programs which are authorized by federal law.
- Authorizes the department to implement the Farmers' Market Nutrition Program to provide participants in the Supplemental Nutrition Program for Women, Infants, and Children with locally grown fruits and vegetables.
- Creates a duty to provide to a "severe need school" the highest rate of reimbursement to which it is entitled under the federal school breakfast program.
- Renames the "Florida Farm Fresh Schools Program" to be the "Florida Farm to School Program."
- Eliminates the requirement that each grain dealer report monthly to the department the value of grain it received from producers for which the producers have not received payment.
- Eliminates the Florida Forest Service's power to dedicate its land for use by the public as a park.

II. Present Situation:

Tupelo Honey

The Legislature has not designated an official state honey. Pure Tupelo honey is commercially produced in only three river valleys in the world – the Ogeechee, the Apalachicola, and the Chattahoochee River Basins, which are all located in northwest Florida and Southeast Georgia

Pest Control Operator's Certification Application Fee

Each location of each licensed pest control business must have a certified operator in charge that is registered with the Department of Agriculture and Consumer Services.¹ This person must be certified for the particular category of pest control engaged in at that location and may be in charge of one or more categories if they are certified in those categories.² To become a certified operator, an individual must pass an examination and satisfy specified education and experience requirements.³

¹ Section 482.111(6)(a), F.S.

² Id.

³ Section 482.132, F.S.

Currently, persons seeking this certification pay \$300 to take the exam.⁴ After that person has passed the exam, he or she must then receive an original certificate before engaging in pest control work.⁵ To obtain the original certificate, the individual must pay an additional \$150 issuance fee.⁶ These requirements cause the department to process an additional, repetitive application and to collect an additional fee. Improvements in on-line processing capability have eliminated the need for this process and can improve the speed with which applicants can obtain their certificate. According to the department, while there will be a negative fiscal impact, there will also be decreased costs and administrative burdens for processing the application for initial certification.

Limited Certification for Urban Landscape Commercial Fertilizer Application

Section 482.1562, F.S., outlines the application requirements to receive a Limited Certification for Urban Landscape Commercial Fertilizer Certificate. Renewals are required every four years. For those who hold a limited license, recertification applications must be submitted 90-days prior to expiration of the current license. If the renewal application is not received 60 days prior to the expiration date, a late fee of \$50 is assessed in addition to the \$25 renewal fee. In order to renew a Limited Commercial Fertilizer Certificate, the cost may be as much as \$75. A new license is \$25. The bill removes the late fee and allows certificate holders 30 days to renew their licenses. The change was requested by industry representatives, because they felt the current language was confusing. This process is consistent with other certifications under ch. 482, F.S.

Florida Food Safety Act

The Florida Food Safety Act is intended to:

- Promote public welfare by protecting the consuming public from injury by product use and the purchasing public from injury by merchandising deceit, flowing from intrastate commerce in food;
- Provide uniform legislation so far as practical with federal regulations; and
- Promote uniform administration and enforcement of federal and state food safety laws.⁷

The bill proposes adoption by reference of federal code (21 USC 321) which details information about dietary supplements or ingredients. The changes proposed add dietary supplements to the list of foods that could possibly be adulterated and sets forth criteria to determine if the supplement is adulterated. Dietary supplements have historically been regulated as a food item and are defined as such in federal code. The expansive growth of such products in the last decade, combined with a lack of understanding by many consumers and producers that supplements and supplement ingredients are food products, has created considerable confusion in the regulation of such products. The department is seeking to clarify its ongoing regulation of these products through definition of the product and inclusion of dietary supplements.

The department currently maintains authority to inspect vehicles which transport food products. However, the various modes of transportation are not clearly identified. Adding the term

⁴ Section 482.141, F.S.; Rule 5E-14.123(4), F.A.C.

⁵ Section 482.111, F.S.

⁶ Id.; Rule 5E-14.132(3), F.A.C.

⁷ Section 500.02, F.S.

“vehicle” to the list of definitions will provide clarity around the types of mobile carriers that fall under the department’s regulatory authority.

The department’s federal partners recognize allergens as a critical food safety issue and have created regulations for such. Section 500.11, F.S., defines what constitutes misbranded food; however the language is incomplete and/or inconsistent with federal code 21 U.S.C. 343. The department recommends to adopt by reference federal code 21 U.S.C. 343 (w) (1) (a) or (b) which includes labeling requirements for allergen information. Such requirements will better protect consumers by requiring appropriate labeling of foods containing known allergens.

Powers and Organization of the Department of Agriculture and Consumer Services

The Legislature has granted the department with various powers to regulate and promote Florida agriculture, protect the environment, safeguard consumers, and ensure the safety of food. The department has 13 divisions and five offices that establish rules for the state’s animal, aquaculture, forestry and produce industries, license producers, the state’s agribusiness marketing needs, oversight of emergency preparedness, and law enforcement efforts covering the agriculture industry. In addition to its agricultural duties, the department regulates various consumer service businesses, including motor vehicle repair shops, charitable organizations, dance studios, pawnshops, telemarketers, and several others. The bill eliminates certain powers and duties that are no longer used and updates others to more effectively carry out its duties.

Pest Control Trust Fund

Section 482.2401, F.S., requires all moneys collected or received by the department under this chapter to be deposited into the Pest Control Trust Fund. The department indicates that current language restricts the use of funds to carry out the provisions of ch. 482, F.S., because it prevents resources funded in ch. 482, F.S., from being used to conduct work for other programs. This is problematic when functions across programs are combined within a work unit, such as licensing or inspections. Prior to the reorganization of the Division of Agriculture Environmental Services (AES), the work units were separate for each statutory area. The re-organization streamlined these units. The bill authorizes the department to use money deposited in the Pest Control Trust Fund to carry out any of the powers of the Division of Agricultural Environmental Services (set forth in s. 570.44, F.S.), not just the Structural Pest Control Act (ch. 482, F.S.). The powers of the Division of Agricultural and Environmental Services include state mosquito control program coordination, agricultural pesticide registration, testing and regulation, and feed, seed, and fertilizer production inspection and testing. This authorization expires June 30, 2019.

Office of Agriculture Technology Services

Currently, the Division of Administration is responsible for “providing electronic data processing and management information systems support for the department.” The bill would create an Office of Agriculture Technology Services as a stand-alone office under the supervision of a senior manager within ch. 570, F.S. This change paves the way for continued implementation of the department’s information technology strategic plan.

Florida Agriculture Center and Horse Park

In 1994, the Florida Legislature created the Florida Agriculture Center and Horse Park (Florida Horse Park) in order to provide a unique tourist experience for visitors and Florida residents.⁸ The Florida Horse Park is situated on 500 acres that are located south of Ocala. Numerous events occur at the Florida Horse Park throughout the year including rodeos, dressage, polo, obstacle challenges, dog shows, and trail rides.⁹ A twenty-one member group appointed by the Commissioner of Agriculture called the Florida Agriculture Center and Horse Park Authority (Authority) oversees the management of the park.¹⁰ The department is currently required to provide administrative and staff support services for the meetings of the Authority. It must also provide suitable space in the offices of the department for the meetings and for the storage of records of the Authority.¹¹

Florida Agricultural Promotion Campaign

The department is authorized to establish and coordinate the Florida Agricultural Promotional Campaign (FAPC), also known as the “Fresh From Florida” campaign.¹² This campaign is intended to increase consumer awareness and to expand the market for Florida’s agricultural products.¹³ Florida agricultural producers may voluntarily join FAPC. FAPC members may use the “Fresh From Florida” logos, participate in industry trade shows at a reduced cost, receive point-of-purchase materials, have access to trade leads, receive the “Fresh From Florida” magazine and industry newsletter, tie in to supermarket promotions that feature Florida products in newspaper and store circular advertisements, and receive a farm sign customized with the member’s business name.¹⁴ The bill would clarify the intent of the marketing brand to avoid misconception that the brand is indicative of inspection for food safety purposes and to decrease the possibility of liability to the department as it makes clear that the department is not warranting safety of products by use of the brand. These changes will clarify intent that the Florida Agricultural Promotional Campaign is only providing a marketing program aimed at promoting department brands, including the “Fresh From Florida” program.

Commercial Feed and Feedstuff

“Commercial feed” is all materials or combinations of materials that are distributed or intended to be distributed for use as feed or for mixing in a feed for animals other than humans.¹⁵ “Feedstuff” is edible materials, other than commercial feed, that are distributed for animal consumption and that contribute energy or nutrients, or both, to an animal diet.¹⁶ The department

⁸ Section 570.681, F.S.

⁹ Florida Agricultural Center and Horse Park Authority, *Welcome to the Florida Horse Park*, <http://flhorsepark.com/> (last visited December 21, 2015).

¹⁰ Section 570.685, F.S.

¹¹ Section 570.685(4)(b), F.S.

¹² Section 571.24, F.S.

¹³ Section 571.22, F.S.

¹⁴ Florida Department of Agriculture and Consumer Services, *Join “Fresh From Florida,”* <http://www.freshfromflorida.com/Divisions-Offices/Marketing-and-Development/Agriculture-Industry/Join-Fresh-From-Florida> (last visited December 21, 2015).

¹⁵ Section 580.031(2), F.S.

¹⁶ Section 580.031(10), F.S.

has indicated that it, as well local governments, if they are inclined to, are authorized to regulate commercial feed and feedstuff for quality, safety, labeling requirements, and standards. At present, there is no regulation of animal feed and feedstuff through local ordinances. The federal Food and Drug Administration is currently promulgating rules which would bring the manufacture and distribution of commercial livestock feed and ingredients to a standard of sanitation safe for both human handling and animal consumption through the Food Safety Modernization Act. The bill would clarify the department's preemptive authority to regulate, inspect, sample, and analyze any commercial feed and feedstuff to eliminate potential duplication of regulation. This is supported by the Florida Feed Association.

Removal and Destruction of Infected and Infested Plants

The Division of Plant Industry must order the removal and destruction of any plant or plant product infested or infected with plant pests or noxious weeds.¹⁷ The division may take this action in order to stop the introduction and dissemination of plants or pests that may threaten Florida's agriculture industry. The director of the division provides written notice to the owner or the person in charge of the premises when the department finds an infested or infected plant or plant product. Within ten days of the notice, the owner or person in charge must treat as directed or remove and destroy the infested or infected plant or plant product. If the owner or person in charge does not, the department may treat as directed or remove and destroy the infested or infected plant or plant product.¹⁸ The bill would create an exception from the destruction requirement for plant or plant products infested with pests or noxious weeds that are widely established in Florida and not regulated. According to the department, there are times when noxious plants, plant pests, or plant diseases are well established in Florida and are not under a department eradication or control program. The department would have flexibility if the situation does not justify requiring immediate action to eliminate or otherwise mitigate.

Soil and Water Conservation Districts

Faced with the problems of the Dust Bowl in the 1930's, President Roosevelt signed the Soil Conservation Act of 1935. It authorized the Secretary of Agriculture to make payments and grants of aid to support approved soil and water conservation measures. The Soil Conservation Service addressed the challenge by setting up a number of large-scale demonstration projects around the country. Although these projects were themselves successful, this approach was not far-reaching enough. It was not only too costly and too slow to achieve the desired results, but it lacked grass-roots support and participation and did not provide long-lasting conservation treatment. It was recognized that a local organization was necessary through which conservation could be accomplished. In 1937, a model Soil Conservation District Law was developed for consideration by each of the states. Along with a letter from President Roosevelt, this model enabling act was sent to each of the state governors, suggesting that farmers and ranchers be granted the authority to establish districts specifically for conservation of soil and water resources.¹⁹

¹⁷ Section 581.181(1), F.S.

¹⁸ Section 581.181(2), F.S.

¹⁹ *United States Department of Agriculture,*

http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/nra/rca/?cid=nrcs143_014208 (last visited December 21, 2015).

Florida adopted much of the model law in 1937.²⁰ The Legislature recognized farms, forests, and grazing lands as among Florida's basic assets in need of protection from improper land use techniques that cause erosion.²¹ It found that erosion reduced the productivity of land, harmed water resources, injured wildlife, caused flooding, and destroyed infrastructure.²² Thus, corrective measures were required to prevent erosion and conserve, develop, and utilize soil and water resources.²³ The Legislature intended for soil and water conservation districts (SWCDs) to control and prevent soil erosion, prevent floodwater and sediment damage, further conservation, development, and utilization of soil and water resources, preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety and general welfare of the people of Florida.²⁴ Currently there are 58 SWCDs in Florida.

School Nutrition Program

The National School Lunch Program (NSLP) is a federally funded program that assists schools and other agencies in providing nutritious meals to children at reasonable prices. The program was established under the National School Lunch Act, signed by President Harry Truman in 1946.²⁵ In addition to financial assistance, the NSLP provides donated commodity foods to help reduce lunch program costs. Chapter 595, F.S., authorizes the department to coordinate with the federal government to use federal and state funding to provide school nutrition programs. The Legislature declared 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.²⁶

Schools must apply through the department and complete certain requirements prior to the operation of a school nutrition program.²⁷ Once approved, the department reimburses the schools for each lunch and breakfast meal served, provided they meet established state and federal regulations. Chapter 595, F.S., does not contain definitions for "school breakfast program," "summer nutrition program," or "universal school breakfast program." The bill adds these definitions to clarify the meaning and usage of these terms both in statute and in rule and to specify that they are the programs authorized by federal law. The department administers more than one United States Department of Agriculture summer nutrition program. The bill amends the definition of "summer nutrition programs" to specify that certain requirements apply to all summer nutrition programs.

Currently, the department must make a reasonable effort to ensure that any school designated as a "severe need school" receives the highest rate of reimbursement to which it is entitled under

²⁰ Chapter 18144, 1937, Laws of Florida.

²¹ Section 582.02, F.S.

²² Section 582.03, F.S.

²³ Section 582.04, F.S.

²⁴ Section 582.05, F.S.

²⁵ See <http://www.fns.usda.gov/nslp/national-school-lunch-program-nslp>

²⁶ Section 595.403, F.S.

²⁷ Requirements found in s. 595.405, F.S.

the federal school breakfast program for each breakfast meal served. The bill clarifies that the department does not just make efforts to, but actually ensures through its processes and procedures that all eligible severe need schools receive the higher rate of reimbursement. This change will have no economic or substantive effect on any interest groups or stakeholders and will remove ambiguities from the statute that could potentially result in misinterpretation and misapplication of the law. Further, the department may advance funds from the school nutrition program's annual appropriation to sponsors in order to implement the school nutrition program. There is no restriction on when or for which program the funds may be advanced. The bill also clarifies that the department will only advance funds when requested by sponsors of the Summer Food Service Program.

Florida Farm to Schools Program

Section 595.406, F.S., provides for implementation of the Florida Farm Fresh Schools Program. The program was instituted in 2010 to require the Florida Department of Education to work with the department to increase the presence of Florida-grown products into schools. When the administration of the school nutrition programs was transferred to the department, this program became part of the Florida Farm to School Program, which was already being administered by the department. The bill replaces all references to the "Florida Farm Fresh Schools Program" with the "Florida Farm to School Program." This allows for consistent messaging and marketing around the department's efforts as stated in the statute. Further changes will allow the department to recognize those sponsors who have purchased ten percent of the food they serve from the Florida Farm to School Program.

Children's Summer Nutrition Program

Section 595.407, F.S., requires all school districts to develop a plan to sponsor a summer nutrition program to operate within five miles of at least one elementary school where 50 percent or more of the students are eligible for free or reduced price meals for 35 consecutive days, and also within 10 miles of each elementary school where 50 percent or more of the students are eligible for free or reduced-price meals. The bill specifies that each school district must provide a summer nutrition program within five miles of at least one school that serves any combination of grades K-5, not just elementary schools. This provision attempts to close a loophole where some K-8 or K-12 schools claimed they were not elementary schools, and therefore, did not have to comply. According to the department, interpretation of this statute has varied greatly. This change may require district school boards to adjust the location or increase the number of summer nutrition program sites they operate. The bill removes the requirement that each school district provide reduced-price school meals during the summer for 35 consecutive days and replaces it with the requirement that each school district provide reduced-price school meals during the summer for 35 days between the end of one school year and the beginning of the next. This allows school districts to exclude holidays and weekends.

Food and Nutrition Services Trust Fund

The Food and Nutrition Services Trust Fund was created for deposit of revenue and disbursements of Federal Food and Nutrition funds received by the department. In s. 595.601, F.S., the authorizing statute for this trust fund is incorrectly cited. Because the Child Nutrition

Programs and Food Distribution Programs were housed in separate agencies, federal funding for these programs is currently maintained separately in the Food and Nutrition Services Trust Fund and the Federal Grants Trust Fund. Correcting this reference in s. 595.601, F.S., will direct all future allocations of federal funding into the Food and Nutrition Services Trust Fund, create better efficiency, and resolve recurring budget questions.²⁸

Financial Assurance Requirements for Dealers in Agricultural Products and Grain Dealers

Currently, any agricultural dealer who is engaged within this state in the business of purchasing, receiving, or soliciting agricultural products from the producer or the producer's agent or representative is required to obtain a bond or certificate of deposit (CD), as required in s. 604.20(1) F.S. If a CD is the chosen form of security, the dealer is required to furnish the department the CD or a CD receipt, a bank's acknowledgement letter, and an assignment of CD. The bill eliminates the need to provide a letter, accompanying a certificate of deposit, from the issuing institution acknowledging that the assignment has been properly recorded on the books of the issuing institution and will be honored by the issuing institution. This requirement is unnecessary because issuance of the certificate of deposit is acknowledgement that the agreement has been properly recorded.

Each grain dealer must report to the department monthly the value of grain it received from producers for which the producers have not received payment. This report must include a statement showing the type and amount of security maintained to cover the grain dealer's liability to producers. The bill eliminates the requirement that each grain dealer report monthly to the department, as only three of the four licensed dealers are required to do so. The dealers will continue to be licensed and bonded which allows the department to request information from dealers in the event of a complaint or suspected malpractice.

III. Effect of Proposed Changes:

Section 1 creates s. 15.0521, F.S., to designate tupelo honey as the official state honey.

Section 2 amends s. 482.111, F.S., to eliminate the initial certification fee and associated application deadlines for pest control operator applicants.

Section 3 amends s. 482.1562, F.S., to provide renewal clarification for limited certification for urban landscape commercial fertilizer application and to remove a \$50 per month late fee. Application for recertification must be submitted four years after the date of issuance.

Section 4 amends s. 500.03, F.S., to revise the definition of the term "food" to include dietary supplements. It also adds a definition for the term "vehicle" in order to recognize the various modes of transportation used by service food establishments and to be consistent with the federal rules implementing the Food Safety Modernization Act. Currently, the Florida Food Safety Act does not define the term.

²⁸ Analysis by the Department of Agriculture and Consumer Services for SB 1010, p.16 (December 11, 2015).

Section 5 amends s. 500.10, F.S., to include foods transported under certain conditions to be adulterated. The change also adds dietary supplements in the list of foods that could possibly be adulterated and sets forth criteria to determine if it is adulterated.

Section 6 amends s. 500.11, F.S., to adopt by reference federal law which includes labeling requirements for allergen information.

Section 7 amends s. 570.07, F.S., to authorize the department to sponsor “events,” in addition to trade breakfasts, luncheons, and dinners to promote agriculture and agricultural business products. It also authorizes the department to secure letters of patent, copyrights, and trademarks on any work product of the department and accordingly to enforce its rights.

Section 8 amends s. 570.30, F.S., to remove electronic data processing and management information systems support as a duty for the department’s Division of Administration.

Section 9 amends s. 570.441, F.S., to authorize the department to use money deposited in the Pest Control Trust Fund to carry out any of the powers and duties of the Division of Agricultural Environmental Services. This subsection expires June 30, 2019.

Section 10 amends s. 570.53, F.S., to remove duties associated with issuing Agriculture Dealer’s Licenses from the duties of the Division of Marketing and Development.

Section 11 amends s. 570.544, F.S., to move issuance of Agriculture Dealer’s Licenses from the Division of Marketing and Development to the Division of Consumer Services, which already issues several other licenses. It also requires the department, rather than a specific division, to regulate Live Stock Markets.

Section 12 creates s. 570.68, F.S., to create the Office of Agriculture Technology Services to provide electronic data processing and agency information technology services to the department.

Section 13 amends s. 570.681, F.S., to clarify legislative findings with regard to the Florida Agriculture Center and Horse Park.

Section 14 amends s. 570.685, F.S., to authorize the department to provide staff and meeting space for the Florida Agriculture Center and Horse Park Authority.

Section 15 amends s. 571.24, F.S., to clarify the intent of the Florida Agricultural Promotional Campaign as a marketing program. It removes an obsolete provision relating to the designation of a Division of Marketing and Development employee as a member of the Advertising Interagency Coordinating Council.

Section 16 amends s. 571.27, F.S., to remove obsolete provisions relating to the department’s authority to adopt rules related to negotiating and entering into contracts with advertising agencies for services that are directly related to the Florida Agricultural Promotional Campaign.

Section 17 amends s. 571.28, F.S., to change the membership criteria for the Florida Agricultural Promotional Campaign Advisory Council. This change would allow members to be selected without regard for a specific number from each category of business, but rather an overall representation of the major business components important to the business of agriculture.

Section 18 amends s. 576.041, F.S., to change fertilizer reporting requirements. This would take advantage of the department's web-based reporting tool and align Florida's tonnage reporting requirement with other states, where reporting is quarterly. In addition, the grace period in which reports must be submitted after the reporting period would be extended from 15 to 30 days. By moving the reporting period from monthly to quarterly, the potential for licensees to incur penalties for late reporting will decrease and compliance will increase. Reducing the reporting requirement by 66 percent per year will improve customer service, allow staff to be proactive during the four reporting months, and afford them the time to follow up with licensees to ensure compliance with mandated reporting requirements.

Section 19 creates s. 580.0365, F.S., to preempt the regulatory authority for commercial feed and feedstuff to the department in order to eliminate duplication of regulation.

Section 20 amends s. 581.181, F.S., to eliminate the requirement that the department notify a property owner that a plant infested or infected with plant pests or noxious weeds has been found on their property if the plant is infested with pests or noxious weeds that are determined to be widely established in Florida. With this change, the owner will not be required to destroy or remove the plant within ten days.

Section 21 amends s. 582.01, F.S., to redefine terms relating to soil and water conservation. It changes the definition of "due notice" to require notification in a newspaper of general circulation seven days in advance of an event. It also eliminates the definition of "administrative officer."

Section 22 amends s. 582.02, F.S., to revise legislative intent concerning soil and water conservation districts (SWCDs). This section emphasizes that the purpose of SWCDs is to promote the appropriate and efficient use of soil and water resources, protect water quality, prevent floodwater and sediment damage, preserve wildlife, and protect public lands. It is also to provide assistance, guidance, and education to landowners, land occupiers, the agricultural industry, and the general public in implementing land and water resource protection practices.

Section 23 amends s. 582.055, F.S., to update the powers and duties of the department in relation to SWCDs to reflect its current practices. This section ensures that the department is authorized to work with SWCDs to receive state and federal assistance. It grant the department the power to create and dissolve SWCDs and to adopt rules to implement this chapter.

Section 24 amends s. 582.06, F.S., to grant the Soil and Water Conservation Council the authority to review requests to create or dissolve a SWCD. It also authorizes the council to consider and provide a recommendation, at the request of the Governor or a district, as to whether a SWCD supervisor should be removed because of neglect of duty or malfeasance in office.

Section 25 amends s. 582.16, F.S., to revise the procedure used in changing district boundaries so that it is the same as when forming a district.

Section 26 amends s. 582.20, F.S., to modernize language relating to SWCDs and their supervisors. The changes focus more on water and best management practices, and less on erosion, to align with the current practices and missions of the districts. Further changes clarify that districts are authorized to partner with other entities on projects regarding floodwater control or soil and water resources. The bill would also allow a supervisor to ask the Governor to remove a fellow supervisor for neglect of duty.

Section 27 amends s. 582.29, F.S., to revise the terms under which state agencies charged with maintenance and administration of state lands must cooperate with the supervisors of any county-owned or publicly owned lands in the implementation of programs and operations under this chapter.

Section 28 amends s. 595.402, F.S., to add definitions for “school breakfast program,” “summer nutrition program,” and “universal school breakfast program” to specify that these programs are authorized by federal law.

Section 29 amends s. 595.404, F.S., to authorize the department to implement the Farmers’ Market Nutrition Program which would provide participants in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)²⁹ with locally grown fruits and vegetables. The program is to be carried out using federal or state funds or funds from any other source. The bill authorizes the department to adopt rules to administer, operate, and enforce the program.

The bill clarifies requirements for the School Nutrition Program. It creates a duty for each school district to provide to a “severe need school” the highest rate of reimbursement to which it is entitled under the federal school breakfast program for each breakfast meal served. It specifies that funds from the school nutrition program may only be advanced to the sponsors of Summer Food Service Programs. This is consistent with the federal requirement in 7 CFR 225.9. This change will have no economic or substantive effect on any interest groups or stakeholders and will remove ambiguities from the statute that could potentially result in misinterpretation and misapplication of the law. The bill requires the department to collect and annually publish data from multiple sources on food purchased by sponsors through the Florida Farm to School Program and other school food and nutrition service programs. The bill also authorizes the department to enter into agreements with federal or state agencies to coordinate or cooperate in the implementation of nutrition programs.

Section 30 amends s. 595.405, F.S., to replace every instance of the term “school district” with “district school board.” It rewrites the provisions of this section, which specifies that each district school board is encouraged to provide universal, free school breakfast meals to all students in each elementary, middle, and high school. The bill also provides criteria for when a universal

²⁹ WIC provides federal grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk <http://www.fns.usda.gov/wic/women-infants-and-children-wic> (last visited December 14, 2015).

school breakfast program must be provided. The reorganizing of the section combines several subsections and removes conflicting and duplicative clauses, so that the section is easier to read, interpret, and apply.

Section 31 amends s. 595.406, F.S., to change the name of the “Florida Farm Fresh Schools Program” to the “Florida Farm to School Program.” The bill authorizes the department to recognize sponsors who purchase at least ten percent of the food they serve from the Florida Farm to School Program.

Section 32 amends s. 595.407, F.S., to specify that each school district must provide a summer nutrition program within five miles of at least one school that serves any combination of grades kindergarten through five, not just elementary schools. The bill removes the requirement that each school district provide reduced-price school meals during the summer for 35 consecutive days and replaces it with the requirement that each school district provide reduced-price school meals during the summer for 35 days between the end of one school year and the beginning of the next. School districts may exclude holidays and weekends.

Section 33 amends s. 595.408, F.S., to change every instance of the word “commodity” with the word “food” to be consistent with the federal USDA Foods Program.

Section 34 amends s. 595.501, F.S., to remove requirements for corrective action plans from s. 595.405, F.S., and place them within this section. It would require sponsors to complete corrective action plans, required by the department or a federal agency, so that they are in compliance with school food and nutrition service programs. The bill also removes “school district” from the phrase “any person, sponsor, or school district” because the definition of “sponsor” is inclusive of “school districts.”³⁰

Section 35 amends s. 595.601, F.S., to correct a cross-reference.

Section 36 amends s. 604.21, F.S., to eliminate the requirement that a complainant against an agricultural dealer must file three notarized complaint affidavits with the department. The bill also eliminates the requirement to file an original complaint with the department if the complaint has been submitted electronically.

Section 37 amends s. 604.33, F.S., to remove provisions requiring grain dealers to submit monthly reports. The bill authorizes rather than requires the department to make at least one spot check annually of each grain dealer.

Section 38 repeals s. 582.03, F.S., relating to the consequences of soil erosion.

Section 39 repeals s. 582.04, F.S., relating to appropriate corrective measures for soil conservation.

Section 40 repeals s. 582.05, F.S., relating to legislative policy for soil and water conservation.

³⁰ Section 595.402(5), F.S.

Section 41 repeals s. 582.08, F.S., relating to additional powers of the department in relation to SWCDs.

Section 42 repeals s. 582.09, F.S., relating to the employment of an administrative officer of soil and water conservation as well as supporting staff.

Section 43 repeals s. 582.17, F.S., relating to the establishment of SWCDs.

Section 44 repeals s. 582.21, F.S., relating to adoption of land use regulations of SWCDs.

Section 45 repeals s. 582.22, F.S., relating to SWCD regulations and the uniformity of their content within a district.

Section 46 repeals s. 582.23, F.S., relating to the duties of supervisors under SWCD regulations.

Section 47 repeals s. 582.24, F.S., relating to boards of adjustment for SWCDs. It requires supervisors of any district to hear and consider petitions made by landowners for relief of land use regulations.

Section 48 repeals s. 582.25, F.S., relating to rule adoption and procedures of boards of adjustment.

Section 49 repeals s. 582.26, F.S., relating to petitions made to a board to vary from SWCD regulations.

Section 50 repeals s. 582.331, F.S., relating to the authorization to establish watershed improvement districts within SWCDs.

Section 51 repeals s. 582.34, F.S., relating to petitions for establishment of watershed improvement districts.

Section 52 repeals s. 582.35, F.S., relating to requirements of supervisors when a petition has been filed that include giving notice, conducting hearings on the petition, determinations of need for watershed improvement districts, and definition of boundaries.

Section 53 repeals s. 582.36, F.S., relating to the determination by supervisors that a proposed watershed improvement district is feasible and the referendum that is held to consider the question of whether the operation of the proposed district is administratively practicable and feasible.

Section 54 repeals s. 582.37, F.S., relating to consideration of results of referendums on establishing watershed improvement districts and to declarations of the approved organization of a district.

Section 55 repeals s. 582.38, F.S., relating to organization of watershed improvement districts, certification to clerks of circuits courts, and limitations on tax rates.

Section 56 repeals s. 582.39, F.S., relating to the establishment of watershed improvement districts that are situated in more than one SWCD.

Section 57 repeals s. 582.40, F.S., relating to changes of district boundaries, additions, detachments, transfers of land from one district to another, and the change of district names.

Section 58 repeals s. 582.41, F.S., relating to the boards of directors of watershed improvement districts.

Section 59 repeals s. 582.42, F.S., relating to officers, agents, and employees that are retained by boards of supervisors of watershed improvement districts. This section also provides for surety bonds for such officers, agents, and employees and requires an annual audit of the accounts of the district.

Section 60 repeals s. 582.43, F.S., relating to the status and general powers of watershed improvement districts.

Section 61 repeals s. 582.44, F.S., relating to watershed improvement districts levying taxes.

Section 62 repeals s. 582.45, F.S., relating to the fiscal powers of a watershed improvement district's governing board.

Section 63 repeals s. 582.46, F.S., relating to additional powers and authorities of watershed improvement districts. Such powers are additional to those of the soil and water conservation district in which the watershed improvement district is situated.

Section 64 repeals s. 582.47, F.S., relating to the requirement that watershed improvement district must consult with and advise flood control districts to coordinate the work of the districts involved.

Section 65 repeals s. 582.48, F.S., relating to the discontinuance of a watershed improvement district.

Section 66 repeals s. 582.49, F.S., relating to the discontinuance of a soil and water conservation district.

Section 67 repeals s. 589.26, F.S., relating to the authority of the Florida Forest Service to dedicate its land for use by the public as a park.

Section 68 provides that except as otherwise expressly provided in this act, this act shall take effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Please see Private Sector Impact Section.

B. Private Sector Impact:

SB 1010 eliminates the \$50 late fee for limited certification for urban landscape commercial fertilizer application. This may have a positive impact on persons who apply commercial fertilizer by eliminating this fee.

The bill eliminates certain financial assurance and licensing requirements for dealers in agricultural products and for grain dealers. This may have a positive impact on those professions by eliminating the filing requirements.

The bill creates an exemption from the destruction requirement for plant or plant products infested with pests or noxious weeds that are widely established in Florida and not regulated by the department. This may have a positive impact on those who own the plant or plant products infested with pests or noxious weeds by not requiring the owners to destroy them.

The bill eliminates the necessity for a complainant to submit three notarized complaint affidavits when an individual is damaged by an agricultural products dealer. This may have a positive impact on those individuals by eliminating the extra filings and speeding up the complaint process.

C. Government Sector Impact:

Recurring Revenues:

Pest Control Operator's Certification Application Fee

The bill eliminates the original certification fee of \$150 for pest control certification applicants. It is anticipated that the department will have decreased revenues of \$ 76,762 annually. This estimate is based on a three-year average of revenues collected.

Fee for Limited Certification for Urban Landscape Commercial Fertilizer Application

The bill appears to have an insignificant negative fiscal impact on state government revenues by eliminating a late fee for limited certification for urban landscape

commercial fertilizer applicants. The department has indicated that the impact is expected to be minimal and will be absorbed by the department.

Expenditures:

Office of Agricultural Technology Services

The bill would have a fiscal impact associated with the creation of the Office of Agricultural Technology Services, under the supervision of a senior management class employee. Currently, the Chief Information Officer within the department is classified as a retiree who has been reemployed and is not eligible to participate in the state administered retirement plan. The state does contribute a set amount to the state retirement account for employees in these ineligible classes, despite their inability to participate. The current retirement contribution rate for an ineligible employee in a regular class is 4.31 percent, while the contribution rate for an ineligible employee in a senior management class is 17.07 percent. Changing the department's current Chief Information Officer to a senior management class would result in an additional state retirement contribution of \$12,402 from the Salary and Benefits appropriation category.

If the current Chief Information Officer were to leave and the position was filled at the same annual rate with an employee that was eligible to participate in state retirement, then the retirement contribution for this regular class employee would be 7.26 percent. In this scenario, changing the position to a senior management class would increase the contribution rate to 21.43 percent and result in \$13,722 in additional state retirement contributions.

In either scenario, the department would manage these additional costs within existing **salary and benefit appropriations**.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 482.111, 482.1562, 500.03, 500.10, 500.11, 570.07, 570.30, 570.441, 570.53, 570.544, 570.681, 570.685, 571.24, 571.27, 571.28, 576.041, 581.181, 582.01, 582.02, 582.055, 582.06, 582.16, 582.20, 582.29, 595.402, 595.404, 595.405, 595.406, 595.407, 595.408, 595.501, 595.601, 604.21, and 604.33.

This bill creates the following sections of the Florida Statutes: 15.0521, 570.68, and 580.0365.

This bill repeals the following sections of the Florida Statutes: 582.03, 582.04, 582.05, 582.08, 582.09, 582.17, 582.21, 582.22, 582.23, 582.24, 582.25, 582.26, 582.331, 582.34, 582.35,

582.36, 582.37, 582.38, 582.39, 582.40, 582.41, 582.42, 582.43, 582.44, 582.45, 582.46, 582.47, 582.48, 582.49, and 589.26.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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