

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

AGRICULTURE
Senator Siplin, Chair
Senator Bullard, Vice Chair

MEETING DATE: Monday, March 7, 2011
TIME: 3:15 —5:15 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Siplin, Chair; Senator Bullard, Vice Chair; Senators Alexander, Garcia, Hays, Montford, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 858 Hays (Identical H 707, Compare H 803, CS/S 408)	Agriculture; Prohibits a county from enforcing certain limits on the activity of a bona fide farm operation on agricultural land under certain circumstances. Prohibits a county from charging agricultural lands for stormwater management assessments and fees under certain circumstances. Allows an assessment to be collected if credits against the assessment are provided for implementation of best management practices. Creates the "Agricultural Land Acknowledgement Act," etc. AG 03/07/2011 Fav/CS CA RI BC	Fav/CS Yeas 4 Nays 0
2	SB 606 Evers (Similar CS/H 457)	Fertilizer; Deletes legislative findings relating to the implementation by local governments of certain fertilizer management practices. Deletes authority for certain counties and municipalities to adopt fertilizer management practices more stringent than standards of a specified model ordinance. Requires the Department of Agricultural and Consumer Services to regulate the sale of fertilizer, including the composition, formulation, packaging, use, application, and distribution of fertilizer, etc. AG 03/07/2011 Temporarily Postponed CA BC	Temporarily Postponed
3	SB 896 Bennett (Identical H 961)	Service Charges on State Trust Funds; Reduces the service charge applicable to the Clerks of the Court Trust Fund. Deletes obsolete provisions. AG 03/07/2011 Temporarily Postponed JU BC	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Agriculture

Monday, March 7, 2011, 3:15 —5:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1046 Montford (Compare H 735)	Florida Forest Service/DOACS; Renames the Division of Forestry within the Department of Agriculture and Consumer Services as the "Florida Forest Service." Replaces the term "Division of Forestry" with the term "Florida Forest Service" and replaces the term "division" with the term "agency." Makes conforming changes. AG 03/07/2011 Favorable GO BC	Favorable Yeas 4 Nays 0
5	SB 722 Norman (Identical H 4075, S 1780)	Damage By Dogs; Redefines the term "dangerous dog" to exclude dogs trained or used for dog fighting from the term. AG 03/07/2011 Favorable CA RC	Favorable Yeas 4 Nays 0
6	SB 344 Rich (Identical H 125)	Sexual Activities Involving Animals; Provides definitions. Prohibits knowing sexual conduct or sexual contact with an animal. Prohibits specified related activities. Provides penalties. Provides that the act does not apply to certain husbandry, conformation judging, and veterinary practices. CJ 02/22/2011 Favorable AG 03/07/2011 Favorable JU	Favorable Yeas 4 Nays 0
7	Presentation from Future Farmers of America		Not Considered
8	Representative from BP		Presented
9	Representative from the Department of Environmental Protection		Not Considered

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 Agriculture Committee

BILL: CS/ SB 858

INTRODUCER: Agriculture Committee and Senator Hays

SUBJECT: Agriculture

DATE: March 8, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Spalla	AG	Fav/CS
2.	_____	_____	CA	_____
3.	_____	_____	RI	_____
4.	_____	_____	BC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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

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

Amendments were recommended

Significant amendments were recommended

I. Summary:

This committee substitute includes the following provisions related to agriculture:

- Prohibits counties from enforcing any regulations on land classified as agricultural if the activity is regulated by best management practices, interim measures, or regulations adopted as rules under chapter 120, Florida Statutes.
- Prohibits counties from imposing an assessment or fee for stormwater management on land classified as agricultural if the operation has a National Pollutant Discharge Elimination System permit, an environmental resource permit, a works-of-the-district permit, or implements best management practices. The committee substitute provides an exception under specified circumstances for counties that adopted a stormwater ordinance before March 1, 2009, provided credits are given.
- Allows a county to enforce its wetland protection acts adopted before July 1, 2003.
- Creates the Agricultural Land Acknowledgement Act to ensure that agricultural practices will not be subject to interference by residential use of land contiguous to agricultural land.

- Requires an applicant for certain development permits to sign and submit an acknowledgement of certain contiguous sustainable agricultural lands as a condition of the political subdivision issuing the permits.
- Expands eligibility for exemption from a local business tax for persons who sell farm, aquacultural, grove, horticultural, floricultural, or tropical fish farm products.
- Expands the definition of “farm tractor” to include any motor vehicle that is operated principally on a farm, grove, or orchard in agricultural or horticultural pursuits and that is operated on the roads of this state only incidentally for transportation between the owner’s or operator’s headquarters and the farm, grove, or orchard or between one farm, grove, or orchard and another.
- Reverses legislation enacted in 2005 to return tropical foliage to exempt status from the provisions of the License and Bond law.
- Exempts farm fences from the Florida Building Code and expands the definition of nonresidential farm buildings that are exempt from county or municipal codes and fees.
- Allows additional fiscally sound multi-peril crop insurers to sell crop insurance in Florida.
- Makes section 823.145, Florida Statutes, consistent with section 403.707, Florida Statutes, relating to the disposal of certain materials used in agricultural operations.

This committee substitute amends sections 163.3162, 205.064, 322.01, 604.15, 604.50, 624.4095 and 823.145 of the Florida Statutes.

This committee substitute creates section 163.3163, Florida Statutes.

II. Present Situation:

Agricultural Lands and Practices Act

In 2003, the Legislature passed the Agricultural Lands and Practices Act, codified in s. 163.3162, F.S., to prohibit counties from adopting any duplicative ordinance, resolution, regulation, rule, or policy that limits activity of a bona fide farm or farm operation on agricultural land if such activity is regulated through best management practices (BMPs), interim measures, or by an existing state, regional, or federal regulatory program. Prior to the enactment of this legislation, some counties had enacted measures to regulate various agricultural operations in the state which were duplicative and more restrictive than those already dictated through BMPs or an existing governmental regulatory program. While the Agricultural Land and Practices Act banned the adoption of future local government restrictive measures, it did not explicitly prohibit the enforcement of existing local government measures.

Stormwater Utility Fees

A number of counties have adopted stormwater utility fees to provide a funding source for stormwater management and water quality programs, and have imposed these fees on agricultural lands even though the land owner has a permitted stormwater management system or has implemented BMPs. The revenue generated directly supports maintenance and upgrade of existing storm drain systems, development of drainage plans, flood control measures, water-quality programs, administrative costs, and sometimes construction of major capital improvements. Unlike a stormwater program that draws on the general tax fund or uses property

taxes for revenue, the people who benefit from stormwater utility fees are the only ones who pay. This may create a duplicative financial burden for the agricultural operation that is already paying to manage its own permitted stormwater management system, yet has to pay again for a county program.

Right to Farm Act

Section 823.14, F.S., also known as the Florida Right to Farm Act (RTFA), has been law since 1979. In the RTFA, the Legislature recognized the importance of agricultural production to Florida's economy and the importance of the preservation of agriculture. It found that as Florida's population has grown, development of rural areas often places subdivision and multi-family dwellings near farming operations. The residents of these developments sometimes consider existing agricultural operations to be a noise, odor, or visual nuisance, even when the operations adhere to generally accepted agricultural practices. Some residents lodge complaints with local government, state agencies or other entities. In most cases where the Department of Agriculture and Consumer Services has responded to a complaint, a site visit has revealed that the operation is conducting its activities appropriately. The purpose of the RTFA was to protect reasonable agricultural activities on farm land from nuisance suits. Generally, no farm in operation for a year or more since its established date of operation, which was not a nuisance at the established date of operation, can be a public or private nuisance if the farm operations conform to generally accepted agricultural and management practices. If an existing farm's operations expand to a more excessive operation with regard to noise, odor, dust, or fumes, it can be considered a nuisance if it is adjacent to an established homestead or business as of March 15, 1982. Growers and farmers report that the RTFA has not stopped neighbors and local governments from leveling complaints and making attempts to obstruct agriculture operations. There is further conflict in some instances when there is a lack of record as to whether the farming operation or the urban area was in existence first.

Local Business Tax

Section 205.022, F.S., defines "person" to mean any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary, and includes the plural as well as the singular. Section 205.064, F.S., provides an exemption from local business taxes to "natural persons" engaged in the selling of certain agricultural products. Currently, cities and one county are interpreting the term "natural person" to exclude corporations, partnerships and other non-natural persons for exemption purposes.

Dealers in Agricultural Products

The Agricultural License and Bond Law, ss. 604.15-604.34, F.S., gives market protection to producers of perishable agricultural commodities. The law is intended to facilitate the marketing of Florida agricultural products by encouraging a better understanding between buyers and sellers and by providing a marketplace that is relatively free of unfair trading practices and defaults. In the 2005 Legislative Session, the definition of the term "agricultural products" was amended to include tropical foliage as a non-exempt agricultural product produced in the state. Until that point, tropical foliage had been exempt from the provisions of the law. For the most

part, agricultural products considered exempt from the law are generally those offered by the growers or groups of growers selling their own products; all persons who buy for cash and pay at the time of purchase with U.S. currency; dealers operating as bonded licensees under the Federal Packers and Stockyards Act; or retail operations purchasing less than \$1,000 in product per month from Florida producers. Due to the manner by which the foliage business is conducted, the change has not been proven beneficial to the foliage industry and it has requested a reenactment of the exemption.

Nonresidential Farm Buildings

Sections 553.73 and 604.50, F.S., exempt nonresidential farm buildings located on a farm from the Florida Building Code and any county or municipal building code, making building permits unnecessary for such buildings. In 1974, the Legislature established statewide standards known as the State Minimum Building Codes, and in 1998, the Legislature created a statewide unified building code.¹ Nonresidential farm buildings have been exempt from building codes since 1998. In 2001, Attorney General Robert Butterworth opined:

The plain language of sections 553.73(7)(c)² and 604.50, Florida Statutes, exempts all nonresidential buildings located on a farm from state and local building codes. Thus, to the extent that the State Minimum Building Codes require an individual to obtain a permit for the construction, alteration, repair, or demolition of a building or structure, no such permits are required for nonresidential buildings located on a farm.³

Despite the Attorney General Opinion, there have been instances of some counties and municipalities assessing fees and requiring permits for nonresidential buildings, even though the buildings are exempt from building codes and are not inspected.

Crop Insurance

Crop insurance is purchased by agricultural producers, to protect themselves against either the loss of their crops due to natural disasters or the loss of revenue due to declines in the prices of agricultural commodities. In the U.S., a subsidized multi-peril federal insurance program, administered by the Risk Management Agency, is available to most farmers. The program is authorized by the Federal Crop Insurance Act (title V of the Agricultural Adjustment Act of 1938, P.L. 75-430). Multi-peril crop insurance covers the broad perils of drought, flood, insects, disease, etc., which may affect many insureds at the same time and present the insurer with excessive losses. To make this class of insurance, the perils are often bundled together in a single policy, called a multi-peril crop insurance (MPCI) policy. MPCI coverage is usually offered by a government insurer and premiums are usually partially subsidized by the government. The earliest MPCI program was first implemented in 1938 by the Federal Crop Insurance Corporation (FCIC), an agency of the U.S. Department of Agriculture. The FCIC authorizes reinsurers. Certain crop insurers are interested in doing business in Florida, but are currently unable to write insurance because of current statutory constructs.

¹ Fla. Att’y Gen. Opinion 2001-71, 2001 WL 1194681 (Fla. A.G. 2001).

² The cited statute has since changed to s. 553.73(9)(c), F.S.

³ Fla. Att’y Gen. Opinion 2001-71.

Disposal of Agricultural Waste

Polyethylene plastic has long been used in numerous forms by the agricultural industry. Polyethylene mulch plastic is commonly disposed of by burning. Chapters 823 and 403, F.S., both regulate open burning of materials used in agricultural production. The Department of Environmental Protection does not require a permit for burning certain solid wastes if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations or orders. Section 403.707(2)(e), F.S., provides an exemption for disposal of solid waste resulting from normal farm operations, including polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled. Section 823.145, F.S., under the Department of Agriculture and Consumer Services, differs in that it only lists mulch plastic as approved for open burning.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3162, F.S., to prohibit a county from enforcing any regulations on agricultural land if the activity is regulated by Best Management Practices, interim measures or regulations adopted as rules under chapter 120, F.S., by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program; or if the activity is regulated by the U.S. Department of Agriculture, the U.S. Army Corps of Engineers, or the U.S. Environmental Protection Agency.

This section prohibits a county government from charging an assessment or fee for stormwater management on a farm operation on agricultural land, if the farm operation has a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit or implements best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program.

Under specified circumstances, this section allows a county to charge an assessment on a bona fide farm operation for water quality or flood control benefit if credits against the assessment are provided for implementation of one of the following.

- Best management practices.
- Stormwater quality and quantity measures required as part of a National Pollutant Discharge Elimination System permit, environmental resource permit or works-of-the-district permit.
- Best management practices or alternative measures that the landowner demonstrates to the county to be of equivalent or greater stormwater benefit than those provided by implementation of best management practices.

The powers of a county to enforce applicable wetlands, springs protection, or stormwater ordinances, regulations, or rules adopted before July 1, 2003, are not limited by the provisions of the bill. It does not limit a county's powers to enforce wetlands, springs protection or stormwater ordinances, regulations, or rules pertaining to the Wekiva River Protection Area. In addition, it

does not limit the powers of a county to enforce ordinances, regulations, or rules as directed by law or implemented consistent with the requirements of a program operated under a delegation agreement from a state agency or water management district. The provisions of this bill do not apply to a municipal services benefit unit established before March 1, 2009, predominantly for flood control or water supply benefits.

Section 2 creates s. 163.3163, F.S., to create the Agricultural Land Acknowledgement Act to ensure that generally accepted agricultural practices will not be subject to interference by residential use of land contiguous to sustainable agricultural land. This section defines the terms “contiguous,” “farm operation,” and “sustainable agricultural land.” It requires that before a political subdivision issues a local land use permit for nonagricultural land contiguous to agricultural land, that as a condition of issuing the permit, the permit applicant must sign and submit to the political subdivision, in a format that is recordable, a written Acknowledgement of Contiguous Sustainable Agricultural Land. The acknowledgement must be filed and recorded in the official records of the county in which the political subdivision is located. It also authorizes the Department of Agriculture and Consumer Services, in cooperation with the Department of Revenue, to adopt rules to administer this section.

Section 3 amends s. 205.064, F.S., to exempt farms that operate as business entities other than sole proprietorships from being required to obtain a local business tax receipt to sell their own agricultural products.

Section 4 amends s. 322.01, F.S., to expand the definition of “farm tractor” to include any motor vehicle that is operated principally on a farm, grove, or orchard in agricultural or horticultural pursuits and that is operated on the roads of this state only incidentally for transportation between the owner’s or operator’s headquarters and the farm, grove, or orchard or between one farm, grove, or orchard and another.

Section 5 amends s. 604.15, F.S., to revise the definition of “agricultural products” to make tropical foliage exempt from regulation under provisions relating to dealers in agricultural products such as license and bond laws.

Section 6 amends s. 604.50, F.S., to exempt farm fences from the Florida Building Code and farm fences and nonresidential farm buildings and fences from county or municipal codes and fees, except floodplain management regulations. It provides that a nonresidential farm building may include, but not be limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

Section 7 amends s. 624.4095, F.S., to allow additional fiscally sound multi-peril crop insurers to meet the statutorily required capital and surplus requirements for admission into the state and allows the Office of Insurance Regulation latitude in considering financial accounting matters for crop insurers. It provides that gross written premiums for certain crop insurance not be included when calculating the insurer’s gross writing ratio. It requires that liabilities for ceded reinsurance premiums be netted against the assets for amounts recoverable from reinsurers, and requires that insurers who write other insurance products must disclose a breakout of the gross written premiums for federal multi-peril crop insurance.

Section 8 amends s. 823.145, F.S., to remove inconsistent statutory language relating to the materials used in agricultural operations that may be disposed of by open burning. The changes in this section would make s. 823.145, F.S., consistent with s. 403.707, F.S., which is under the Department of Environmental Protection.

Section 9 provides that this act shall take effect July 1, 2011.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This committee substitute reduces the authority of counties and municipalities to collect stormwater fees and local business taxes. This bill falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate.

Subsection (d) of section 18 of Article VII, Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. An insignificant fiscal impact means an amount not greater than the average statewide population for the applicable fiscal year times ten cents (FY 2009-2010 \$1.88 million).

If it is determined that this committee substitute has more than an insignificant fiscal impact, the committee substitute will require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The committee substitute removes tropical foliage from the definition of agriculture products and eliminates the requirements that those who sell tropical foliage are required to be licensed. This will be a cost savings to the dealers. Florida tropical foliage producers will see an increase in financial risk as a result of the exemption.

There should also be some undetermined financial relief to agricultural operations via specific exemptions from or reductions in stormwater assessments and municipal code requirements and fees for farm fences and certain farm buildings.

C. Government Sector Impact:

This committee substitute will reduce revenues by \$18,900 in the General Inspection Trust Fund within the Department of Agriculture and Consumer Services due to the elimination of the licensing requirements on sellers of tropical foliage.

The committee substitute will limit the ability of local governments to collect stormwater assessments, fees and local business taxes. This fee limitation will differ from county to county.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Agriculture Committee on March 7, 2011:**

A technical change was recommended that did not change the substance of the original bill.

B. Amendments:

None.



272956

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/08/2011	.	
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	.	
	.	

The Committee on Agriculture (Hays) recommended the following:

Senate Amendment

Delete lines 149 - 159

and insert:

(h) This subsection does not limit a county's powers to:

1. Enforce wetlands, springs protection, or stormwater ordinances, regulations, or rules adopted before July 1, 2003.

2. Enforce wetlands, springs protection, or stormwater ordinances, regulations, or rules pertaining to the Wekiva River Protection Area.

3. Enforce ordinances, regulations, or rules as directed by law or implemented consistent with the requirements of a program operated under a delegation agreement from a state agency or



272956

14 water management district.

15 As used in this paragraph, the term "wetlands" has the same

16 meaning as defined in s. 373.019.

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 Agriculture Committee

BILL: SB 606

INTRODUCER: Senator Evers

SUBJECT: Fertilizer

DATE: February 24, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhvein	Spalla	AG	Pre-meeting
2.	_____	_____	CA	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill preempts the authority of local governments to enact fertilizer ordinances more stringent than the state’s Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. It grants the Department of Agriculture and Consumer Services the exclusive authority to regulate the sale of fertilizer, including its composition, formulation, packaging, use, application, and distribution. It also provides that fertilizer regulations adopted by a county, municipality or other political subdivision are void, regardless of when the regulations were adopted.

This bill amends sections 403.9336, 403.9337, 570.07, and 576.181 of the Florida Statutes.

II. Present Situation:

Residential lawns and landscapes provide aesthetics, a place to enjoy the outdoors, recreational areas and add value to homes. However, they are also a potential source of pollution. Residential lawns in the United States total approximately 17.7 million acres and in 2003 alone, homeowners spent \$38 billion on landscaping activities. According to a 2004 survey by the National Gardening Association, 66 million U.S. households used chemical pesticides and/or fertilizers on their lawns and gardens to improve soil quality. Theses landscape practices can impact water resources, wildlife and environmental health. Fertilizers typically contain a mixture of nitrogen, phosphorus, and phosphate, which are all naturally-occurring elements. Runoff of these

chemicals into aquatic resources can upset the chemical balance of the environment, resulting in algal bloom explosions that kill plants and fish.¹

The Florida Consumer Fertilizer Task Force was created by the Florida Legislature in 2007 to review and provide recommendations on the state's policies and programs addressing consumer fertilizers. One recommendation was to create a model ordinance concerning the use of nonagricultural fertilizer for use by local governments that choose to adopt an ordinance. The Task Force also recommended that local governments be allowed to adopt additional or more stringent provisions to a model ordinance provided the local governments can demonstrate that they meet at least one of the following criteria:

- They have verified impaired waters and are facing existing or possible Total Maximum Daily Loads requirements (under state and federal laws); or
- They have verified harm to human health or harm to the environment that warrants additional consumer fertilizer requirements; or
- More stringent provisions will improve water quality or prevent future impacts of consumer fertilizers on the environment.

In 2009, the Legislature directed the Department of Environmental Protection to adopt and enforce a Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes by January 15, 2010. The model ordinance was adapted from a draft model ordinance written by the Consumer Fertilizer Task Force. It was developed by a partnership of industries², agencies³, local and regional representatives, and other organizations to provide a sound model for the implementation of local control of water use and nonpoint source pollution issues associated with urban landscapes.

The 2009 Legislature made findings⁴ that implementation of the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes would assist in protecting the quality of Florida's surface water and groundwater resources. Adoption by local governments that are located in an area where water is impaired by certain nutrients is required and local governments are allowed to adopt more stringent standards if needed through a "comprehensive program" which term is not defined or further explained. Local government staffs and code enforcement officials are responsible for determining when violations have occurred, assessing penalties for the violations and collecting and disposing of funds generated from the penalties to further water conservation activities.

Currently, there are approximately 40 counties and cities that have adopted rules to limit the use of fertilizers which contain phosphorous and nitrogen, most of them in line with the model ordinance. Proponents of the bill favor a statewide fertilizer standard to reduce the varied and numerous local regulations. Opponents of the bill believe that local governments have a better grasp of what is necessary to protect the bays, rivers and lakes in their communities.

¹ <http://www.epa.gov>

² Florida Nursery, Growers and Landscapers Assn., 1000 Friends of Florida, Green Industry Alliance, Florida Turfgrass Assn., Florida Irrigation Society, Landscape Maintenance Assn., Florida Pest Management Assn., Certified Pest Control Operators, Florida League of Cities, and Florida Association of Counties

³ FDOT, FDCA, GDACS, FDEP, UF-IFAS, WMDs

⁴ Chapter 2009-199, L.O.F.

III. Effect of Proposed Changes:

Section 1 amends s. 403.9336, F.S., to delete legislative findings regarding implementation of the Department of Environmental Protection's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. It deletes the finding that local conditions may necessitate the implementation of additional or more stringent fertilizer management practices at the local government level.

Section 2 amends s. 403.9337, F.S., to delete a local government's authority to adopt additional or more stringent standards than the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.

Section 3 amends s. 570.07, F.S., to authorize the Department of Agriculture and Consumer Services to regulate the sale of fertilizer, including the composition, formulation, packaging, use, application, and distribution of fertilizer. It preempts regulation of fertilizer to the state and the department and voids regulation by a county, municipality, or other political subdivision, regardless of when adopted.

Section 4 amends s. 576.181, F.S., to authorize the Department of Agriculture and Consumer Services to regulate the sale of fertilizer, including the composition, formulation, packaging, use, application, and distribution of fertilizer. It preempts regulation of fertilizer to the state and the department and voids regulation by a county, municipality, or other political subdivision, regardless of when adopted.

Section 5 provides that this act shall take effect July 1, 2011.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This legislation may have a positive fiscal impact on private sector enterprises that apply fertilizer commercially in multiple counties, since there would be a uniform set of rules to comply with.

C. Government Sector Impact:

Local Government Impact

The fiscal impact to local governments in as far as the loss of fines and/or penalties related to the cost of fertilizer ordinance regulation is indeterminate. However, local governments have expressed concerns about the liability the local communities would incur for failure to maintain water quality in impaired water bodies.

Department of Agriculture and Consumer Services

Revenues:

None.

Expenditures:

The establishment of authority to regulate use and application of fertilizer will create a new regulatory program for the Department of Agriculture and Consumer Services. The department has indicated that this will result in the need for extensive investment of staff and resources, as well as additional staff, to develop rules and implement policies.

	FY 11-12	FY 12-13	FY 13-14
Recurring:			
9 Inspectors (S&B*) @ \$60,657	545,913	545,913	545,913
9 Standard Packages** @ \$2,689	24,201	24,201	24,201
1 Case Processor (S&B) @ \$60,657	60,657	60,657	60,657
1 Standard Package @ \$2,689	2,689	2,689	2,689

TOTAL RECURRING:	633,460	633,460	633,460
Non-Recurring:			
9 Professional Start-up Expenses for Inspectors @ \$3,898	35,082	0	0
9 Vehicles for Inspectors @ \$18,000	162,000	0	0
	FY 11-12	FY 12-13	FY 13-14
1 Professional State Up Expenses for Case Processor @ \$3,898	3,898	0	0
1 Contracted Facilitator for Negotiated Rulemaking @ \$20,000	20,000	0	0
TOTAL NON-RECURRING:	220,980	0	0
TOTAL EXPENSES:	854,440	633,460	633,460

*Salary and Benefits

**Minus office rental. Inspectors will use home offices.

VI. Technical Deficiencies:

The bill contains contradictory language. In Section 2⁵, the bill states that “any county or municipal government that adopted its own fertilizer use ordinance before January 1, 2009, is exempt from s. 403.9337, F.S.” However, in Sections 3 and 4⁶, the bill states that “such regulation of fertilizer by a county, municipality, or other political subdivision is void, regardless of when adopted.”

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

⁵ Section 403.9337(3), F.S.

⁶ Sections 570.07(41), F.S. and 576.181(5), F.S., respectively

B. Amendments:

None.

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



425692

LEGISLATIVE ACTION

Senate

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House

The Committee on Agriculture (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 70 - 137

and insert:

~~(3) Any county or municipal government that adopted its own fertilizer use ordinance before January 1, 2009, is exempt from this section. Ordinances adopted or amended on or after January 1, 2009, must substantively conform to the most recent version of the model fertilizer ordinance and are subject to subsections (1) and (2), as applicable.~~

(3)~~(4)~~ This section does not apply to the use of fertilizer on farm operations as defined in s. 823.14 or on lands classified as agricultural lands pursuant to s. 193.461.



425692

14 Section 3. Subsection (16) of section 570.07, Florida
15 Statutes, is amended, present subsection (41) is renumbered as
16 subsection (42), and a new subsection (41) is added to that
17 section, to read:

18 570.07 Department of Agriculture and Consumer Services;
19 functions, powers, and duties.—The department shall have and
20 exercise the following functions, powers, and duties:

21 (16) To enforce the state laws and rules relating to:

22 (a) Fruit and vegetable inspection and grading.†

23 (b) Pesticide spray, residue inspection, and removal.†

24 (c) Registration, labeling, inspection, and analysis of
25 commercial stock feeds and commercial fertilizers.†

26 (d) Classification, inspection, and sale of poultry and
27 eggs.†

28 (e) Registration, inspection, and analysis of gasolines and
29 oils.†

30 (f) Registration, labeling, inspection, and analysis of
31 pesticides.†

32 (g) Registration, labeling, inspection, germination
33 testing, and sale of seeds, both common and certified.†

34 (h) Weights, measures, and standards.†

35 (i) Foods, as set forth in the Florida Food Safety Act.†

36 (j) Inspection and certification of honey.†

37 (k) Sale of liquid fuels.†

38 (l) Licensing of dealers in agricultural products.†

39 (m) Administration and enforcement of all regulatory
40 legislation applying to milk and milk products, ice cream, and
41 frozen desserts.†

42 n) Recordation and inspection of marks and brands of



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- 43 livestock. ~~;~~ and
44 (o) Regulation of fertilizer, including the sale,
45 composition, formulation, packaging, and distribution.
46 (p) Regulation of the use and application of fertilizer.
47 (q) ~~(n)~~ All other regulatory laws relating to agriculture.
48

49 In order to ensure uniform health and safety standards, the
50 adoption of standards and fines in the subject areas of
51 paragraphs (a)-(o) ~~(a)-(n)~~ is expressly preempted to the state
52 and the department. Any local government enforcing the subject
53 areas of paragraphs (a)-(o) ~~(a)-(n)~~ must use the standards and
54 fines set forth in the pertinent statutes or any rules adopted
55 by the department pursuant to those statutes. In order to ensure
56 uniform health safety standards and fines in the subject area of
57 paragraph (p), counties or municipal governments are hereby
58 authorized to enforce the provisions of the Model Ordinance for
59 Florida-Friendly Fertilizer Use on Urban Landscapes, as setforth
60 in 403.9337, in their respective jurisdictions.

61 (41) The department has exclusive authority to regulate the
62 sale, composition, formulation, packaging, use, application, and
63 distribution of fertilizer under chapter 576. This subsection
64 expressly preempts such regulation of fertilizer to the state
65 and the department. Such regulation of fertilizer by a county,
66 municipality, or other political subdivision is void, regardless
67 of when adopted.

68 Section 4. Subsection (5) is added to section 576.181,
69 Florida Statutes, to read:

70 576.181 Administration; rules; procedure; preemption.-

71 (5) The department has exclusive authority to regulate the



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72 sale, composition, formulation, packaging, use, application, and
73 distribution of fertilizer. This subsection expressly preempts
74 such regulation of fertilizer to the state and the department.
75 Such regulation of fertilizer by a county, municipality, or
76 other political subdivision is void, regardless of when adopted.
77 Counties or municipal governments are hereby authorized to
78 enforce the provisions of the Model Ordinance for Florida-
79 Friendly Fertilizer Use on Urban Landscapes, as setforth in
80 403.9337, in their respective jurisdictions.

81

82

83

84

85 ===== T I T L E A M E N D M E N T =====

86 And the title is amended as follows:

87 Delete lines 10 - 18

88 and insert:

89 F.S.; requiring the Department of Agriculture and
90 Consumer Services to regulate the sale, composition,
91 formulation, packaging, use, application, and
92 distribution of fertilizer; preempting such regulation
93 of fertilizer to the state and the department;
94 specifying that such regulation of fertilizer by
95 counties, municipalities, and other political
96 subdivisions is void; authorizing local governments to
97 provide enforcement of the provisions of the Model
98 Ordinance; providing an effective date.

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 Agriculture Committee

BILL: SB 896

INTRODUCER: Senator Bennett

SUBJECT: Service Charges on State Trust Funds

DATE: March 2, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Spalla	AG	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill reduces the General Revenue service charge levied on the Clerks of the Court Trust Fund from 8 percent to 4 percent. It deletes language regarding a 4 percent service charge for certain trust funds administered by the Florida Department of Agriculture and Consumer Services (DACCS) which results in changing the service charge for some funds and a loss of exemption from a service charge for other funds.

This bill substantially amends section 215.20, Florida Statutes.

II. Present Situation:

Certain income and trust funds must contribute to the General Revenue Trust Fund a service charge of 8 percent on all income of a revenue nature unless specifically exempt or subject to a lesser rate. Currently, the Clerks of the Court Trust Fund is subject to the 8 percent rate, which is intended to cover the administration, collection, and management of the trust fund. The Florida Association of Court Clerks and Comptrollers (Association) asserts that the Clerks' responsibility for collecting, distributing, and managing the funds to 142 different entities lessens the need for outside administrative assistance and a related service charge. The Association projects a \$19 million shortage in available revenue for the current year and anticipates that deficit to grow even more in future years.¹

Subsection 215.20(1), F.S., provides that all trust funds are subject to an 8 percent General Revenue service charge unless exempt under s. 215.22, F.S., or unless subject to a 4 percent

¹ Memorandum from representative for the Florida Association of Court Clerks and Comptrollers (February 23, 2011).

service charge under subsection 215.20(2), F.S. with a further exception provided to the 4 percent service charge for certain enumerated funds administered by DACS. These funds are the Citrus Inspection Trust Fund, the Florida Forever Trust Fund, the Market Improvements Working Capital Trust Fund, the Pest Control Trust Fund and the Plant Industry Trust Fund which are also exempt from the 8 percent service charge under s. 215.22, F.S. These funds also include certain revenues in the General Inspection Trust Fund and the Conservation and Recreation Lands Program Trust Fund which are not exempt under s. 215.22, F.S., and are therefore subject to either a 4 percent or 8 percent service charge.

III. Effect of Proposed Changes:

Section 1 amends s. 215.20, F.S., to reduce the service charge on the Clerks of the Court Trust Fund from 8 percent to 4 percent and it deletes language providing for an exception to the 4 percent or 8 percent service charge for certain trust funds administered by DACS.

Section 2 provides that this act shall take effect July 1, 2011.

Other Potential Implications:

In addition to this bill changing the General Revenue service charge on the Clerks of the Court Trust Fund, some existing statutory language was deleted pertaining to service charges on other trust funds resulting in a negative impact on General Revenue service charges for certain trust funds administered by DACS.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

The bill reduces the statutory service charge fee for the Clerks of the Court Trust Fund from 8 percent to 4 percent and makes changes to the service charge fees applied to certain trust funds administered by DACS.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

As to the Clerks of the Court Trust Fund, the latest Revenue Estimating Conference estimates a reduction in the service charge from 8 percent to 4 percent would result in a reduction of \$18.85 million to the General Revenue Fund for FY 2011-12.

As to the funds administered by DACS, the department estimates the fiscal impact would be a reduction of fees to the General Revenue Fund in the amount of \$1,599,000 for the next two fiscal years, the details of which are set forth in the below table:

	FY 11-12	FY 12-13
Revenues:		
Recurring	-0-	-0-
Non-Recurring	-0-	-0-
Expenditures:		
Recurring:		
Citrus Inspection TF	\$457,000	\$457,000
Florida Forever TF	-0-	-0-
Market Improvements Working Capital TF	\$150,000	\$150,000
Pest Control TF	\$136,000	\$136,000
Plant Industry TF	\$123,000	\$123,000
General Inspection TF	(\$2,464,000)	(\$2,464,000)
Conservation & Recreation Lands TF	(\$1,000)	(\$1,000)
Total Recurring	(\$1,599,000)	(\$1,599,000)
Non-Recurring	-0-	-0-

B. Private Sector Impact:

None.

C. Government Sector Impact:

There would be a reduction of \$18.85 million in revenue to the General Revenue Fund and the Clerks of the Court Trust Fund would incur less fees in a like amount. There would be a reduction of \$1,599,000 in revenue to the General Revenue Fund from certain DACS trust funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

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 Agriculture Committee

BILL: SB 1046

INTRODUCER: Senator Montford

SUBJECT: The Department of Agriculture and Consumer Services

DATE: March 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Spalla	AG	Favorable
2.			GO	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill changes the name of the “Division of Forestry”, within the Department of Agriculture and Consumer Services, to the “Florida Forest Service”.

This bill amends sections 121.0515, 125.27, 253.036, 258.501, 259.035, 259.036, 259.037, 259.101, 259.105, 259.10521, 260.0142, 261.03, 261.04, 261.06, 261.12, 317.0010, 317.0016, 373.591, 379.226, 403.7071, 479.16, 570.548, 570.549, 570.903, 581.1843, 589.01, 589.011, 589.012, 589.04, 589.06, 589.07, 589.071, 589.08, 589.081, 589.09, 589.10, 589.101, 589.11, 589.12, 589.13, 589.14, 589.18, 589.19, 589.20, 589.21, 589.26, 589.27, 589.275, 589.277, 589.28, 589.29, 589.30, 589.31, 589.32, 589.33, 589.34, 590.015, 590.02, 590.42, 591.17, 591.18, 591.19, 591.20, 591.24, 591.25, 633.115, 633.821, and 790.15 of the Florida Statutes.

II. Present Situation:

The Division of Forestry

Within the Department of Agriculture and Consumer Services exists the Division of Forestry whose mission is to protect and manage Florida’s forest resources.

Special Risk Membership

Section 121.0515, F.S. allows for more retirement credit to be awarded per year to “persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions [who] are required as one of the essential functions of their positions to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and...because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the

public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other positions.”¹ Presently, s. 121.0515(2), F.S., could be interpreted as requiring all of the criteria listed in s. 121.0515(2)(a)-(k), F.S., in order to qualify for “special risk membership” under s. 121.0515, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 121.0515, F. S., to:

- Rename the Division of Forestry as the “Florida Forest Service”
- Add the words “any of” to s. 121.0515(2) in order to clarify that any one of, and not all of, the requirements listed in s. 121.0515(2)(a)-(k), F.S., is required to qualify for special risk membership under s. 121.0515, F.S.
- Make conforming changes

Sections 2 – 68 amends ss. 125.27, 253.036, 258.501, 259.035, 259.036, 259.037, 259.101, 259.105, 259.10521, 260.0142, 261.03, 261.04, 261.06, 261.12, 317.0010, 317.0016, 373.591, 379.226, 403.7071, 479.16, 570.548, 570.549, 570.903, 581.1843, 589.01, 589.011, 589.012, 589.04, 589.06, 589.07, 589.071, 589.08, 589.081, 589.09, 589.10, 589.101, 589.11, 589.12, 589.13, 589.14, 589.18, 589.19, 589.20, 589.21, 589.26, 589.27, 589.275, 589.277, 589.28, 589.29, 589.30, 589.31, 589.32, 589.33, 589.34, 590.015, 590.02, 590.42, 591.17, 591.18, 591.19, 591.20, 591.24, 591.25, 633.115, 633.821, and 790.15, F.S., to:

- Rename the Division of Forestry as the “Florida Forest Service”
- Replace the term “division” with the term “agency”
- Make conforming changes.

Section 69 provides an effective date of July 1, 2011.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ s. 121.0515(1), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services has determined that this bill will have an associated non-recurring cost of \$6,600.00 related to the conversion of the state forest and work site signs and decals on the Division's vehicles. The signs and decals are routinely replaced and the conversion will occur over a three year time frame to minimize costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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 Agriculture Committee

BILL: SB 722

INTRODUCER: Senator Norman

SUBJECT: Damage by dogs

DATE: March 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Spalla	AG	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill repeals the statutory requirement that a dog be deemed a dangerous dog on the basis that it participated in or was trained for dog fighting.

This bill amends section 767.11 of the Florida Statutes.

II. Present Situation:

In s. 767.10, F.S., the Florida Legislature finds that dangerous dogs are an increasing threat to the public welfare, in part due to the failure of owners of such dogs to confine them, and that the previous law was inadequate to quell this threat.¹ Accordingly, s. 767.12, F.S., allows for the classification of dangerous dogs and mandates that once a dog is classified as dangerous its owner is subject to a series of restrictions including but not limited to mandatory registration of the dog, mandatory confinement of the dog in a securely fenced area, mandatory posting of warning signs, permanent identification of the dog as dangerous, possible annual fees imposed by the local government, and substantial restrictions on the owner's ability to remove the dog from the fenced enclosure.² Also, s. 767.13(1), F.S., provides that an owner of a previously classified dangerous dog is guilty of a first degree misdemeanor if that dog attacks or bites a person or domestic animal without provocation and s. 767.13(3), F.S. provides that such an owner is guilty of a third degree felony if the dog causes serious injury or death to a human being.³

¹ Section 767.10, F.S.

² See ss. 767.12(1)-(4), F.S.

³ See ss. 767.13(1), (3), F.S.

Section 767.11(c), F.S. declares that any dog who “[h]as been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting” is deemed a dangerous dog under chapter 767, F.S.⁴ According to multiple animal control centers around the state the classification of a dog as a dangerous dog essentially prevents it from being adopted. Currently at least four animal control centers in Duval, Palm Beach, Orange and Hillsborough counties are out of compliance with the law in that they do not automatically deem a dog as a dangerous dog simply due to participation in dog fighting.⁵ Florida is one of thirteen states which either deems a dog dangerous or automatically destroys a dog based only on participation in or training for dog fighting.⁶

III. Effect of Proposed Changes:

Section 1 amends s. 767.11, F.S., to remove the requirement that a dog be deemed a dangerous dog on the sole basis that it was used or trained for dog fighting.

Section 2 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

⁴ Section 767.11(c), F.S.

⁵ Memorandum to Senate Committee on Agriculture from Denise Lasher, Lasher Consulting, Inc., *President* (February, 2011).

⁶ Voices for No More Homeless Pets, *Florida Moves to Protect Canine Victims of Cruelty*, Best Friends Animal Society, February 01, 2011, found at <http://network.bestfriends.org/campaigns/pitbulls/16662/news.aspx> (last visited on Feb. 15, 2011)

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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 Agriculture Committee

BILL: SB 344

INTRODUCER: Senator Rich

SUBJECT: Sexual Activities Involving Animals

DATE: March 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.	Looke	Spalla	AG	Favorable
3.	_____	_____	JU	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates a new section of law which prohibits, as a first degree misdemeanor, intentional sexual conduct or contact with animals. It also prohibits, with the same penalty, intentionally allowing such conduct or contract to occur on one’s premises or intentionally organizing, promoting, advertising, aiding, abetting, or participating as an observer in such contact or conduct. The bill provides a way for law enforcement and prosecutors to more accurately charge and prosecute the deviant behaviors described therein.

Accepted animal husbandry practices, conformation judging practices, and accepted veterinary practices are specifically exempted from prosecution under the bill.

This bill creates section 828.126 of the Florida Statutes.

II. Present Situation:

Despite the efforts of prosecutors in the State of Florida, persons who are actually caught in the act of sexual intercourse with an animal cannot generally be charged with or convicted of a sex-related crime. There have been several reported incidents of the abuse of animals in this particular way.

Reported incidents in Florida include:

- In Leon County, in 2005, a man was convicted of a misdemeanor disorderly conduct charge for sexually battering his own Guide Dog.
- In April of 2004 a Marion County man pled no contest to animal cruelty after his fiancé caught him sexually battering her 1-year old female dog. The dog was physically injured in the process. The Sheriff's Office reports indicated that the man told deputies that this type of behavior had been a "life-long problem."¹
- A West Palm Beach man was caught sexually battering a neighbor's dog in January of 2004. The dog was alleged to have been yelping in pain. The man was charged with animal cruelty and indecent exposure. The perpetrator is a registered sex offender.
- A family's pregnant goat was sexually battered and asphyxiated in January of 2008 in a small panhandle town. Although there was a suspect in the case, prosecutors were unable to charge him in the mistreatment and death of the goat because DNA tests were inconclusive.²
- Martin County Sheriff's deputies were called to investigate an animal in distress and found a man sexually battering a four-month old puppy. Reports indicate that when the deputy approached the man, she saw him in the act as the puppy whined and tried to break free.

Since there are no sex crime statutes in existence in Florida that apply to cases like those mentioned above, law enforcement officers and prosecutors must charge defendants with far less serious crimes. Most offenders are charged with crimes such as disorderly conduct or indecent exposure that don't seem to tell the "whole story." Also, because there must be evidence of injury or evidence of excessive or repeated infliction of pain to the animal in order to prove felony animal cruelty, these acts and behaviors cannot always be prosecuted as such.³

In other states, situations like those set forth above have resulted in the passage of laws designed to more accurately capture the particularized crimes within the criminal law. Georgia, Louisiana, Mississippi, North Carolina, Virginia, Oklahoma, and South Carolina are among the states in the southeast that currently have felony bestiality statutes.

III. Effect of Proposed Changes:

Section 1 creates s. 828.126, F.S., which makes intentional sexual contact or conduct with an animal a first degree misdemeanor. This section also prohibits, with the same penalty, intentionally allowing such conduct or contract to occur on one's premises or intentionally organizing, promoting, advertising, aiding, abetting, or participating as an observer in such contact or conduct. Accepted animal husbandry, conformation judging, and veterinary practices are exempted.

Section 2 creates an effective date of October 1, 2011.

¹ Ocala Star Banner, April 15, 2004

² Miami Herald, January 4, 2008

³ Section 828.12, F.S., subsection (2) is the felony animal cruelty statute. It states: "A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both."

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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



Clay Sapp

Florida FFA President

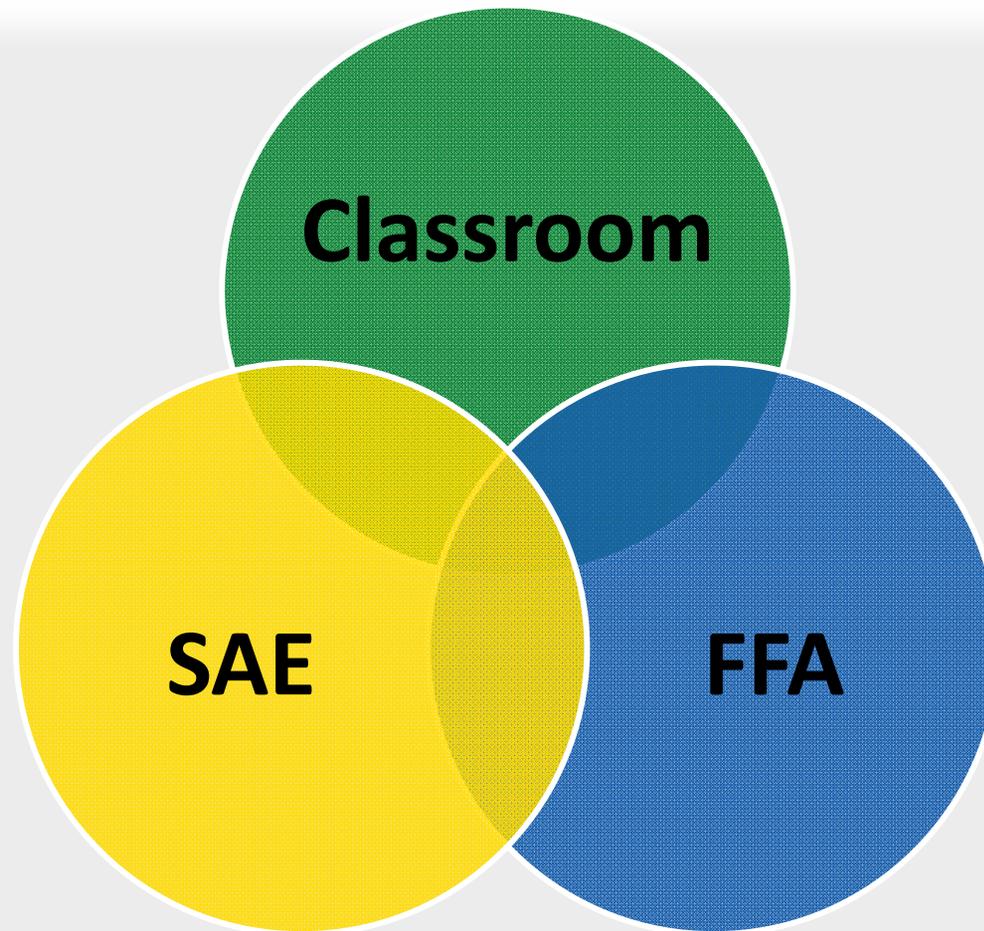
Agriscience Education

Agriscience Education

- **Classroom/Laboratory Instruction**
- **Work-based Learning (Supervised Agricultural Experience)**
- **Leadership Development (FFA)**



Total Agriscience Program



Classroom/Laboratory Instruction



- Integrates academic concepts with technical agriculture skills
- Prepares students for work and postsecondary education in more than 300 careers
 - Animal Systems
 - Plant Systems
 - Food Products and Processing Systems
 - Power, Structural and Technical Systems
 - Natural Resource Systems
 - Environmental Service Systems
 - Agribusiness Systems



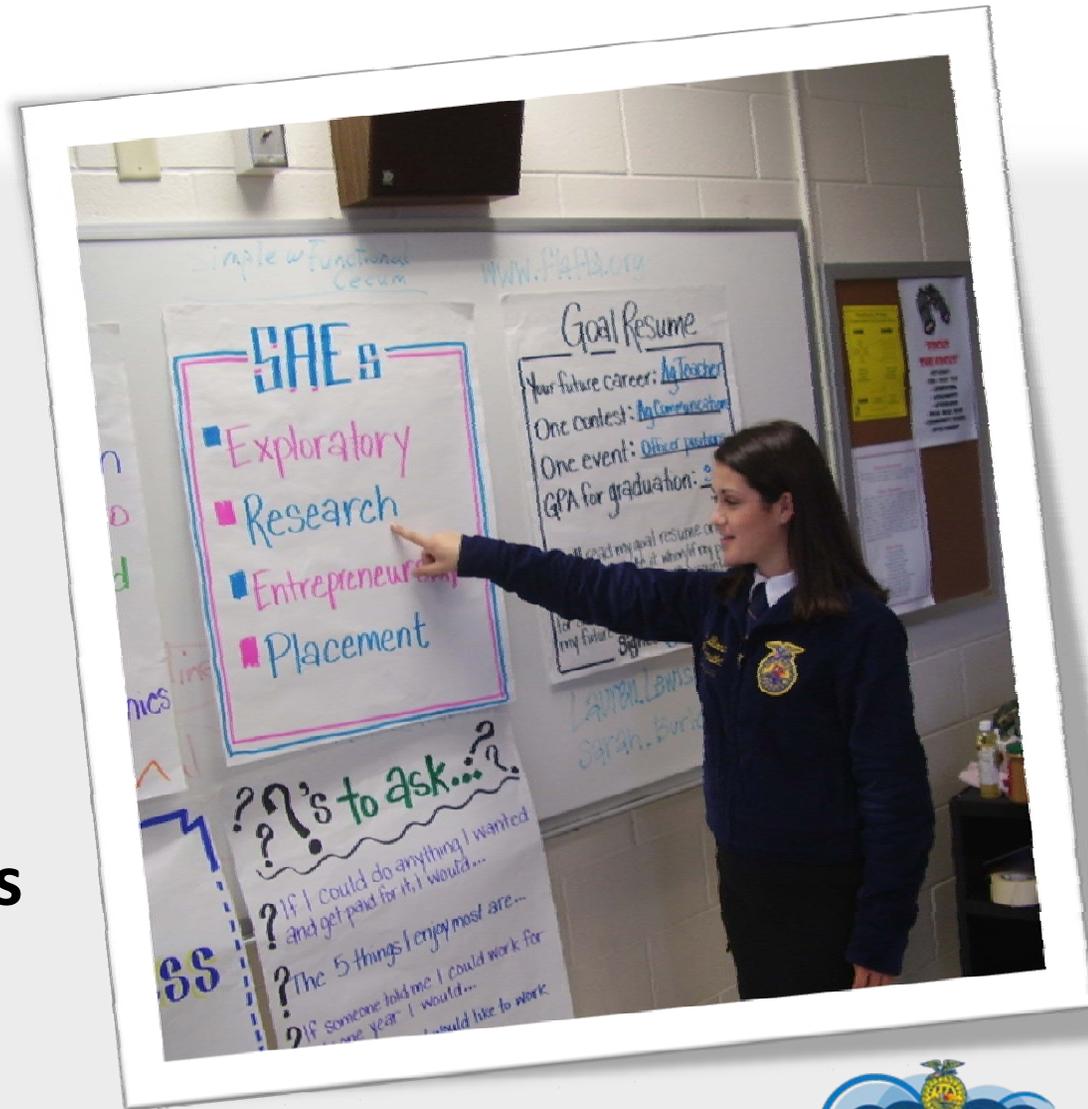
Supervised Agricultural Experience

- **Practical application of classroom/laboratory concepts conducted outside of class time**
- **Explore careers**
 - Research
 - Placement
 - Ownership
- **Earn money**
- **Learn work place skills**
 - Team work
 - Responsibility
 - Communication skills



National FFA Organization

- Founded in 1928
- Chartered by U.S. Congress
- Approximately 500,000 members nationwide
 - 34% Urban and Suburban
 - 39% Rural, Non-Farm
 - 27% Rural, Farm
- Integral part of a school's agricultural education program



FFA



- Builds leadership skills for life
- Reinforces instruction
- Recognizes excellence
- Gives students opportunities to make a positive difference in their schools and communities

FFA Mission

FFA makes a positive difference in the lives of students by developing their potential for *premier leadership, personal growth, and career success* through agricultural education.



Florida FFA

- **Over 15,000 middle and high school members**
- **In 320 chapters**
- **With 450 teachers**



Thank You

On behalf of every Florida FFA member and agriscience student, thank you for all that you do for Florida FFA and agriscience education.





Deepwater Horizon Oil Spill Response

Senate Agriculture Committee
March 7, 2011

Mimi A. Drew
Special Advisor to the Secretary
Florida Department of Environmental Protection

Deepwater Horizon Oil Spill



By the Numbers

- State Emergency Operations Center was activated for **120 days**.
- **2.4 million pounds of oil product** has been recovered from Florida's shoreline.
- **200 miles** of Florida's shoreline was impacted.
- **791,061 feet** of boom was deployed in Florida.
- Air crews logged **1780.9 hours** of flight time during reconnaissance missions.
- **895** DEP employees worked **121,048** hours related to the oil spill.

Current Response Efforts

- DEP remains involved in daily response activities.
- Periodic tar balls (~1,000 pounds/day) continue to reach Florida's shore.
- Shoreline Cleanup Assessment Teams (SCAT) conduct daily assessments.
- Near shore Submerged Oil Mats



Florida Branch & Gulf Coast Restoration Organization

- Transition from response to recovery
- Florida Branch – located in Mary Esther
 - Group A: Western Escambia County (Perdido Key)
 - Group B: Eastern Escambia and Santa Rosa Counties
 - Group C: Okaloosa, Walton, Bay, Gulf, Franklin, Wakulla & Jefferson Counties
- Gulf Coast Restoration Organization

BP Funding for Florida Efforts

• Response & Recovery:	\$50 million
• Tourism:	\$32 million
• NRDA:	\$8 million
• Employment/Training:	\$7 million
• Research:	\$10 million
• Mental Health Care:	\$3 million
• Fish/Shellfish Testing & Marketing:	\$20 million
<u>TOTAL:</u>	<u>\$130 million</u>

Sediment, Water and Seafood Monitoring

- 17,371 water, sediment, and tissue samples were collected by **four** different state agencies.
- State continues to sample water, seafood and fish for potential impacts.



Natural Resource Damage Assessment

- The Oil Pollution Act (OPA) of 1990 was passed in the wake of the Exxon Valdez oil spill.
- A major goal of OPA is to restore natural resources that are injured and services that are lost as a result of oil spills.
- The Natural Resource Damage Assessment (NRDA) is a legal process to determine damages to the public's natural resources and the appropriate methods for restoration.

Ongoing Initiatives

- Gulf Coast Ecosystem Restoration Task Force
- Oil Spill Academic Task Force
- Gulf Research Initiative

Outreach

www.deepwaterhorizonflorida.com

- Information from Florida agencies and links to other response sites.
- More than 12.2 million hits to web site.
- More than 2,500 people signed up for email alerts.
- 8,953 calls to the Florida Oil Spill Hotline.
- More than 1,000 media calls.



Questions?

Mimi A. Drew

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