

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

AGRICULTURE
Senator Siplin, Chair
Senator Bullard, Vice Chair

MEETING DATE: Monday, April 4, 2011
TIME: 1:00 —3:00 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 2032 Braynon (Similar H 1395)	Fighting or Baiting Animals; Corrects a cross-reference. Provides a rebuttable presumption that an animal has been trained or used for fighting if certain facts are proven. Provides that a county or agency is not liable for the cost of an animal seized and awarded custody to the county or agency pursuant to a court order under specified provisions. AG 04/04/2011 CJ CA	
2	SB 2076 Agriculture (Compare CS/H 735, CS/CS/H 949, CS/S 1290, S 1810)	Department of Agriculture and Consumer Services; Deletes provisions related to per diem and travel expenses for members of the Florida Commission on the Status of Women. Deletes the Division of Dairy within the Department of Agriculture and Consumer Services. Exempts certain direct-support organizations and citizen support organizations for the Department of Agriculture and Consumer Services from obtaining an independent audit, etc. AG 04/04/2011 BC	

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 2032

INTRODUCER: Senator Braynon

SUBJECT: Fighting or Baiting Animals

DATE: March 31, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Klein	Spalla	AG	Pre-meeting
2.			CJ	
3.			CA	
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I. Summary:

This bill would strengthen Florida's animal fighting statute by adding a rebuttable presumption that an animal has been trained or used for fighting when animal fighting paraphernalia, such as spurs or a fighting pit, are discovered, or when animals exhibit wounds or scarring from fighting. The bill would also protect animal control agencies from lawsuits related to the seizure of animals kept or used for fighting.

This bill amends section 828.122 of the Florida Statutes.

II. Present Situation:

In 2003, Florida passed a stringent animal fighting law that included a prohibition on owning, selling, or possessing equipment used in animal fighting. In 2010, the 4th District Court of Appeal overturned an animal fighting conviction in the case of *Rodriguez v. State*, 29 So.3d 357 (Fla. 4th DCA 2010). The court ruled that the prosecution failed to adduce the proper evidence to convict the defendant of animal fighting or baiting. This case primarily regarded cocks and game fowl.

Currently, if the defense is able to prove by a preponderance of the evidence that animal game fighting or baiting equipment is solely part of a collection, used for a legitimate purpose or used legally in another jurisdiction, the accused could be found not guilty.

According to the Humane Society, common injuries from all types of animal fighting include punctured lungs, broken bones, and pierced eyes due to the razor-sharp steel blades or "gaffs" (which resemble three-inch-long, curved ice picks) tied to the birds' legs. The Humane Society

also reports that in addition to animal deaths, the artificial spurs are so dangerous that cock-fighters themselves have been killed when accidentally slashed by their own birds. It is common to see other illegal activities at animal fighting arenas such as gambling, drug dealing, and illegal gun sales. Gambling (thousands of dollars) is the illegal activity most frequent at cockfights and dogfights. Gambling income is presumably unreported income. The Humane Society further reports that firearms and other weapons are common at animal fights, mainly because of the large amounts of cash present, which can lead to dangerous accidents in a high stress and drug induced environment. Law enforcement officials have documented a strong connection between animal fighting and the distribution of illegal drugs. Drug enforcement agents often learn about animal fighting operations as a result of narcotics investigations.

A detective from the Collier County Sheriff's Office Organized Crime Bureau reports that animal fighting activities happen frequently and it is difficult to document all cases due to the underground and secretive nature of the operations. He further states that since the 2010 *Rodriguez v. State* case, it has been almost impossible to respond to complaints of animal fighting or associated effects. Subsequent to the case being decided, they have gotten many animal fighting reports, but the state attorney's office will only prosecute if the fighting has *actually* been caught in action. He further claims that the original law (s. 828.122, F.S.) was intended to prosecute offenders with evidence such as gaffs, spurs or any other associated animal fighting paraphernalia. Now it is virtually impossible to hear any such cases pertaining to animal baiting or fighting.

A detective from the Palm Beach County Sheriff's Office reports the same frustrated sentiment. She relays that there are more than 12 cock fighting facilities in Palm Beach County. She states that there have been a number of instances where she revealed electrocution machines, needles, wounded animals, essentially any evidence necessary to prove guilt, but because of the 2010 ruling, they are unable to pursue any cases. Both detectives from Palm Beach County and Collier County support this legislation because they feel there is nothing they can do to respond to citizen complaints.

Lee County Animal Services recently had the state's largest cock-fighting investigation in August 2010 investigating a property with 676 animals. Lee County Animal Services reports that they have had an increased number of calls in the past year and the problem is not improving. They were unable to deliver the exact number of reports and calls because they are still doing investigations.

At times the Fish and Wildlife Conservation (FWC) receives calls about animal fighting as well. The FWC law enforcement completed a Computer Aided Dispatch (CAD) search from January 1, 2005 through December 31, 2010. They reported eight total calls relating to animal fighting: four related to dogs and four related to cock fighting.

Statutory rebuttal presumptions exist in other areas of Florida law. For example, rebuttal presumptions are employed in s. 817.41, F.S., dealing with Fraudulent Practices related to false advertising. Further, statutory references to rebuttable presumptions and their evidentiary application are set forth in the Florida Evidence Code ss. 90.301 and 90.302, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 828.122, F.S., to provide a rebuttable presumption that an animal has been trained or used for fighting if:

- An animal exhibits fresh wounds, scars or other indications, or
- A person possesses training apparatus, animal fighting or baiting paraphernalia, or drugs known to be used to prepare an animal to be fought or known to be used during an acutal fight.

This bill also adds a provision to ensure that a county or agency is not liable for the cost of an animal seized and awarded custody to the county or agency pursuant to a court order under this section.

Section 2 provides that this act shall take effect October 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:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

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.



802980

LEGISLATIVE ACTION

Senate

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House

The Committee on Agriculture (Siplin) recommended the following:

Senate Amendment (with title amendment)

Delete lines 356 - 357.

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

And the title is amended as follows:

Delete lines 21 - 24

and insert:

Division of Forestry; amending s. 482.051, F.S.;
providing rule



127492

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Agriculture (Siplin) recommended the following:

Senate Amendment (with title amendment)

Delete lines 620 - 624

and insert:

Section 18. Subsections (16) and (28) of section 570.07, Florida Statutes, are amended to read:

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

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

(a) Fruit and vegetable inspection and grading;

(b) Pesticide spray, residue inspection, and removal;

(c) Registration, labeling, inspection, sale, composition,



127492

- 14 formulation, distribution, and analysis of commercial stock
15 feeds and commercial fertilizers;
- 16 (d) Classification, inspection, and sale of poultry and
17 eggs;
- 18 (e) Registration, inspection, and analysis of gasolines and
19 oils;
- 20 (f) Registration, labeling, inspection, and analysis of
21 pesticides;
- 22 (g) Registration, labeling, inspection, germination
23 testing, and sale of seeds, both common and certified;
- 24 (h) Weights, measures, and standards;
- 25 (i) Foods, as set forth in the Florida Food Safety Act;
- 26 (j) Inspection and certification of honey;
- 27 (k) Sale of liquid fuels;
- 28 (l) Licensing of dealers in agricultural products;
- 29 (m) Administration and enforcement of all regulatory
30 legislation applying to milk and milk products, ice cream, and
31 frozen desserts;
- 32 (n) Recordation and inspection of marks and brands of
33 livestock; and
- 34 (o) All other regulatory laws relating to agriculture.

35
36 In order to ensure uniform health and safety standards, the
37 adoption of standards and fines in the subject areas of
38 paragraphs (a)-(n) is expressly preempted to the state and the
39 department. Any local government enforcing the subject areas of
40 paragraphs (a)-(n) must use the standards and fines set forth in
41 the pertinent statutes or any rules adopted by the department
42 pursuant to those statutes. A county that has adopted an



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43 ordinance regulating the sale of urban turf fertilizer before
44 January 1, 2012, is not subject to paragraph (c). If the county
45 amends or changes any portion of the ordinance after January 1,
46 2012, the provisions of paragraph (c) apply.

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

49 And the title is amended as follows:

50 Delete line 81

51 and insert:

52 amending s. 570.07, F.S.; revising the department's
53 authority to enforce laws relating to commercial stock
54 feeds and commercial fertilizer; providing a limited
55 exemption to counties that have with existing
56 ordinances regulating the sale of urban turf
57 fertilizers; revising the powers and



385734

LEGISLATIVE ACTION

Senate

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House

The Committee on Agriculture (Siplin) recommended the following:

Senate Amendment (with title amendment)

Delete line 796

and insert:

Improvement Trust Fund, or its designee, shall review leases
proposed pursuant to

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

And the title is amended as follows:

Delete lines 148 - 150

and insert:

department; requiring that the Board of Trustees of
the Internal Improvement Trust Fund, or its designee,



385734

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review proposed leases; amending s. 590.015, F.S.;
defining the term

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 2076

INTRODUCER: Agriculture Committee

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 30, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Spalla		Pre-meeting
2.				
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I. Summary:

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

- Deletes statutory references to the Division of Dairy Industry;
- Deletes the powers and duties for the Division of Dairy Industry;
- Adds powers and duties related to the regulation of dairy products to the Division of Food Safety;
- Allows the lead land manager, instead of the Department of Environmental Protection, to receive the proceeds from the sale of easements for the construction of electric transmission and distribution facilities on Board of Trustees-owned lands;
- Allows the department to enter into agreements for the exploration and sale of oil, gas, and/or other mineral interests on Board of Trustee lands managed by the department;
- Sets the annual financial audit threshold for the department’s direct-support organizations and citizen support organizations to match those citizen organizations of the Department of Environmental Protection;
- Establishes a Certified Pile Burner program in statute;
- Provides civil liability protection for the Certified Pile Burner Program;
- Allows the department to be cost-effective in the utilization of surplus funds for the purchase of firefighting equipment;
- Allows the department to obtain building permits to build wildfire equipment storage facilities using an alternate regulatory process;
- Specifies who shall be present on burn sites for authorized, non-certified burns;

- Requires payment for registration fees of anyone who produces, harvests, packs or repacks tomatoes and does not hold a food permit;
- Authorizes the Commissioner of Agriculture to create an Office of Energy and Water and designates the bureaus and positions that report to that office with regard to energy and water policy issues that affect agriculture;
- Deletes provisions that allow department advisory committee members to receive reimbursement for per diem and travel costs;
- Increases the minimum requirements for certificates of insurance for pest control licensees;
- Establishes a new statutory section that allows a licensed pest control business to operate a centralized customer service center for multiple business locations owned by the same owner;
- Establishes a limited certification category authorizing persons to use nonchemical methods for controlling rodents in lieu of licensure;
- Increases minimum requirements for certificates of insurance for pest control licensees that provide wood destroying organism protection;
- Provides that late fees for pesticide registrations are not capped at \$250;
- Requires that changes to pesticide labels submitted for registration be clearly marked, and that effective January 1, 2013, all pesticide registration fees be paid through the department's electronic commerce portal.
- Adds the appointment of a non-voting youth member who is active in the Future Farmers of America or a 4-H Club to the Florida State Fair Authority; and
- Provides criminal charges for the theft of bee colonies owned by registered beekeepers.

This bill amends sections 14.24, 20.14, 215.981, 253.02, 261.04, 482.051, 482.071, 482.226, 482.243, 487.041, 487.0615, 500.70, 527.22, 559.9221, 570.07, 570.0705, 570.074, 570.23, 570.38, 570.382, 570.42, 570.50, 570.543, 571.28, 573.112, 576.091, 580.151, 581.186, 586.161, 589.101, 590.015, 590.02, 590.125, 590.14, 599.002, 616.252, 812.014, and 812.015 of the Florida Statutes.

This bill creates sections 482.072 and 482.157 of the Florida Statutes.

This bill repeals sections 472.007(5), 570.29(6), 570.40, 570.41, 570.954(3), and 597.005(4) of the Florida Statutes.

II. Present Situation:

Division of Dairy Industry

The Division of Dairy Industry is currently a separate entity within the Department of Agriculture and Consumer Services (DOAC). It ensures that dairy products purchased by Florida consumers are wholesome, produced under sanitary conditions, and correctly labeled. The division regulates the production, transporting, processing, distribution, and labeling of milk and milk products. It establishes standards for these products, whether they originate in Florida or other states. The division enforces laws and rules that regulate standards for milk, milk products, ice cream and frozen desserts, and the interstate shipment of milk. This bill would merge the Division of Dairy Industry into the Division of Food Safety.

Tomato Food Safety

Legislation enacted in 2007,¹ which amended chs. 500 and 570, F.S., authorized the department to regulate food safety at tomato farms and packing houses. In 2010, the Legislature enacted legislation² creating s. 500.70, F.S., authorizing the department to adopt rules establishing food safety standards to safeguard the public health and promote the public welfare by protecting the consuming public from injury caused by the adulteration or the microbiological, chemical, or radiological contamination of tomatoes. The law also required the rules to apply to the producing, harvesting, packing, and repacking of tomatoes for sale for human consumption by a tomato farm, tomato greenhouse, or tomato packinghouse or repacker in this state. The law specifically authorized the rules to establish standards for:

- Registration with the department of persons who produce, harvest, pack or repack tomatoes in the state, such as farms, who do not hold a food permit issued under s. 500.12, F.S.
- Proximity of domestic animals and livestock to the production areas for tomatoes;
- Food safety-related use of water for irrigation during production and washing of tomatoes after harvest;
- Use of fertilizers;
- Cleaning and sanitation of containers, materials, equipment, vehicles, and facilities, including storage and ripening areas;
- Health, hygiene, and sanitation of employees who handle tomatoes;
- Training and continuing education of persons who produce, harvest, pack, or repack tomatoes in the state, and their employees who handle tomatoes; and
- Labeling and recordkeeping, including standards for identifying and tracing tomatoes for sale for human consumption.

Tomato farms are required to register with the department. There are currently 28 registered farms, some of which are multiple locations of the same company name. The department has the statutory authority to establish standards for registration and to set registration costs for the tomato food safety program, but it does not have statutory authority to require registration or payment of said registration costs.

Board of Trustees Lands

The Florida Department of Environmental Protection's (DEP) Division of State Lands serves as staff to the Board of Trustees of the Internal Improvement Trust Fund (Governor and Cabinet). Currently, the proceeds of the sale of easements encumbering Board of Trustees lands managed by DOACS go to DEP. This bill would allow the particular state agency that is the lead managing agency to receive the proceeds.

The Department of Agriculture and Consumer Services may currently lease the Board of Trustees' 25 percent interest in oil, gas, and minerals in Blackwater River State Forest. Since the last legislative update of this issue, the state of Florida has acquired the remaining 75 percent interest from the federal government on most Board of Trustees owned lands leased to DOACS,

¹ Chapter 2007-067, L.O.F.

² Chapter 2010-25, L.O.F.

giving the Board of Trustees 100 percent interest. This bill would allow DOACS to enter into oil, gas, and other mineral leases on Board of Trustee owned lands leased to DOACS.

Prescribed Fire

Prescribed fire in Florida is a very important and valuable land management tool. The Florida Division of Forestry through the Forest Protection Bureau oversees one of the most active prescribed fire programs in the country. In an average year the division will issue 120,000 authorizations allowing people and agencies to prescribe burn their land. Currently, the power to authorize certain types of burning is preempted to the department, and people seeking to burn are often required to obtain an authorization to burn from both the department and a local government. Prescribed fire in Florida is governed by ch. 590, F.S., and Florida Administrative Code Chapter 5I-2.

In 2005 and 2006, the Division of Forestry, in cooperation with University of Florida's Institute of Food and Agricultural Sciences, developed a certification program for Florida Pile Burners. Florida Administrative Code Chapter 5I-2 outlines the steps necessary to become certified and also what is necessary to keep that certification. The purpose behind the development and implementation of the program was to raise the overall quality of the open burning program in Florida. Currently, the statutes do not specify who must be present on a burn site for authorized, non-certified burns. There is also not provision for civil liability protection for the program. In addition, there is no statutory authority for the department to delegate its burn authorization authority for issuance of open burning authorizations to local governments. Some local governments have the interest and ability to implement a burn authorization program with guidance from the department.

Florida Building Code

With certain exceptions, each local government and each legally constituted enforcement district with statutory authority regulates building construction.³ Therefore, the department must obtain building permits through local governments. The Florida Building Code has been revised several times in recent years and, according to the department, this has created confusion among local governments regarding code interpretation and led to a cumbersome and costly process for the department as they construct facilities for wildfire equipment in different parts of the state. The bill would allow the department to obtain building permits using an alternative regulatory process that is a more efficient method of obtaining building permits in a shorter timeframe and at a lesser cost. Agencies currently using the alternate regulatory process are the Department of Corrections, the Department of Transportation, the Department of Children and Families, and the Department of Juvenile Justice.

Firefighting Equipment

Prior to 2006, when the law⁴ was changed, the department had the authority to use monies acquired from the disposition of surplus firefighting equipment to reinvest in other firefighting equipment. Since 2006, the department has had to seek a special appropriation before the funds

³ s.553.80(1), F.S.

⁴ Chapter 2006-122, s. 40, L.O.F.

can be reinvested in other equipment. Also, current law⁵ requires that all replaced equipment be reported for disposal within 45 days of being replaced. Additionally, current law⁶ requires the Department of Management Services to approve the disposal of any motor vehicles or aircraft. Due to the very nature of emergency response, the department's equipment needs vary from year to year. Because funding for replacement equipment is inadequate, the department has requested the flexibility to retain replaced equipment to meet future emergency needs and for use as backup for the frontline equipment. The bill allows the department to retain the monies acquired from the sale of state-owned firefighting equipment and vehicles. The monies received would be used for the acquisition of exchange and surplus equipment, and for necessary operating cost related to the equipment.

Agricultural Water Policy

The Commissioner of Agriculture has the authority to create an Office of Water Coordination⁷ and to designate the bureaus and positions that report to that office regarding water policy and water issues that affect agriculture and are within the department's jurisdiction. The department established the Office of Agricultural Water Policy (OAWP) in 1995. The OAWP facilitates communication and coordination among federal, state, and local agencies, environmental representatives, and the agriculture industry on agricultural water resource issues, related to both quality and quantity. A primary function of the OAWP is to develop and assist with the implementation of Best Management Practices (BMPs), in order for agricultural producers to meet their obligation under the Florida Watershed Restoration Act to reduce agricultural pollutant loadings to impaired waters within a basin for which DEP has adopted a Basin Management Action Plan. The OAWP also facilitates and assists in the development of other watershed protection plans throughout the state, including the Lake Okeechobee, St. Lucie Watershed, and Caloosahatchee Watershed protection plans, among others. The OAWP is also very involved in Everglades restoration efforts and in other federal matters, such as the discussion/debate over EPA numeric nutrient criteria for Florida.

Florida's "Farm to Fuel" initiative seeks to enhance the market for and promote the production, and distribution of, renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass. In the process, it is designed to give Florida agricultural producers alternative crops to grow to keep their farms and ranches viable. Current statute requires the department to coordinate with and solicit the expertise of the state energy office within DEP when developing and implementing this initiative. Because the state energy office is no longer in DEP, this requirement is no longer necessary in statute. The bill would change the Office of Agricultural Water Policy to the Office of Energy and Water, expanding the duties of the office to include energy matters that affect agriculture.

Per Diem and Travel Expenses for Advisory Committees

Section 112.061, F.S., establishes standard travel reimbursement rates, procedures, and limitations applicable to all public officers, employees, and authorized persons whose travel is authorized and paid by a public agency. This allows members of select statutorily created

⁵ s. 287.16, F.S.

⁶ s. 273.055, F.S.

⁷ s. 570.074, F.S.

advisory councils to receive compensation for per diem and travel expenses. They organize and host the meetings of the councils, and have in the past been provided with per diem and travel expenses in accordance with these provisions. According to a September 11, 2007, response to a Joint Legislative Sunset Committee request, the department indicated that it had approximately 50 advisory boards, councils, or committees in Fiscal Year 2006-07 that incurred travel, staff, and other expenses totaling \$220,067. Eliminating the requirement to pay for travel and per diem costs for the members of these numerous select advisory committees would provide the department with a reduction in costs.

Pest Control

For structural pest control, the law provides that each pest control business location must be licensed by the department and that a Florida certified operator must be in charge of the pest control operations of the business location. Some pest control companies operate regional customer contact centers that solicit business and receive calls for the appropriate state/area in the region. Florida law currently requires pest control businesses doing business in the state to register and obtain a license to operate, but does not address pest control contact centers. Therefore, a customer contact center must obtain a pest control license, even though they are only receiving telephone calls and soliciting business. Allowing a licensed pest control business to operate a centralized customer service center for multiple business locations owned by the same owner would allow licensees a more efficient means of providing service to customers while still protecting customers through specific requirements for licensure and accountability.

A pest control business licensee may not operate a pest control business without carrying the required insurance coverage and furnishing the department with a certificate of insurance that meets the requirements for minimum financial responsibility for bodily injury: \$100,000 each person and \$300,000 each occurrence; and property damage: \$50,000 each occurrence and \$100,000 in the aggregate.⁸ These minimum requirements for insurance coverage to conduct pest control business have not been increased since 1992. These minimums need to be increased to reflect current levels of insurance offered by liability insurers and to provide better protection to Florida consumers.

Currently, there is no provision for a limited certification for commercial wildlife trapper personnel to use nonchemical method to control rodents. For several years, the Florida Fish and Wildlife Conservation Commission has issued permits for persons engaged in the control of nuisance wildlife. Interest in the permitting system dwindled over the years, resulting in permitting being discontinued in 2008. Several persons still engaged in the control of nuisance wildlife have contacted the department asking to have a certification process reinstated to assure that the nuisance animals are being handled humanely and the public is protected. This bill clarifies that certificate holders who practice accepted pest control methods would be immune from liability for violating laws prohibiting cruelty to animals.

To protect the health, safety and welfare of the public, a pest control licensee must give the department advance notice of at least 24 hours of the location where general fumigation will be taking place. In emergency cases, when a 24-hour notice is not possible, a licensee may provide

⁸ s. 482.071(4), F.S.

notice by means of a telephone call and then follow up with a written confirmation providing the required information.

Pesticide Registration

Currently, each brand of pesticide distributed, sold, or offered for sale in the state must be registered biennially by the department.⁹ The registrant must supply the department with such information as: the name and address of the registrant, the pesticide brand name, an ingredient statement, and a copy of the labeling. Registrants are required to pay a fee per brand of pesticide and another fee for each special local need label and experimental use permit. The department may also assess a supplemental fee to offset the costs of testing for food safety for pesticide brands that contain an active ingredient for which the U.S. Environmental Protection Agency has established a food tolerance limit.¹⁰ The department is authorized to assess late fees for registrations¹¹ that are not timely renewed. Fees collected through the pesticide registration program are deposited into the General Inspection Trust Fund and used to carry out the provisions of the registration program.

Florida Fair Authority

The Florida State Fair Authority (authority) is an instrument of the state, under the supervision of the Commissioner of Agriculture (Commissioner). The authority, composed of 21 members, is responsible for staging an annual fair to serve the entire state. The Commissioner, or his/her designee, serves as a voting member. There is also a member who serves as a member of the Board of County Commissioners of Hillsborough County, the district where the state fairgrounds are located. The Commissioner appoints the remaining members of the authority. Each member serves a 4-year term and may be appointed for more than one term. The bill provides for the membership of the authority to be increased to 22 members, with the appointment of a non-voting youth member who is active in the Florida Future Farmers of America or a 4-H Club. The youth member's term is for one year.

Apiary

Florida law currently provides criminal charges¹² for the theft of any commercially farmed animal, such as horses, cows, sheep, swine, or other grazing animals, including aquaculture. The bill amends current law to include the theft of bee colonies of registered beekeepers. Current law defines "farm theft" as the unlawful taking possession of any items that are grown or produced on land, owned, rented, or leased by another person. The proposed legislation amends the definition of "farm theft" to include the equipment and associated materials used to grow or produce the farm products as defined in the Florida Right to Farm Act.¹³ The definition of "farmer" is also amended to include those persons who produce honey.

⁹The registration requirement also applies to pesticide brands delivered for transportation or transported in intrastate commerce or between points within the state through any point out of the state.

¹⁰ Per 40 C.F.R., part 180

¹¹ These include pesticide brands, special local need labels, and/or experimental use permits.

¹² Grand theft of the third degree and a felony of the third degree, punishable by imprisonment not exceeding 5 years, \$5,000 fine or, for habitual offenders, for a term of imprisonment not exceeding 10 years.

¹³ s. 823.14(3)(c), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 14.24, F.S., to delete provisions that authorize members of the Florida Commission on the Status of Women to be reimbursed for per diem and travel expenses incurred when meeting.

Section 2 amends s. 20.14, F.S., to delete a reference to the Dairy Industry.¹⁴

Section 3 amends s. 215.981, F.S., to exempt certain direct-support organizations and citizen support organizations for the department from obtaining an independent audit if they are not for profit and have annual expenditures of less than \$300,000.

Section 4 amends s. 253.02, F.S., to require a grantee of easements for electrical transmission to pay the lead manager of a state owned land or, when there is no lead manager, the Department of Environmental Protection if suitable replacement uplands cannot be identified. The proceeds must be deposited into the managing agency's designated fund benefitting state conservation land management.

Section 5 amends s. 261.04, F.S., to delete provisions that authorize members of the Off-Highway Vehicle Recreation Advisory Committee to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory committee.

Section 6 repeals subsection 472.007(5), F.S., which authorizes the members of the Board of Professional Surveyors and Mappers to be reimbursed for per diem and travel expenses incurred while participating in business involving the board.

Section 7 amends s. 482.051, F.S., to authorize a rule change. In the event of an emergency requiring fumigation, pest control operators may provide emergency notice of the fumigation location to the department by facsimile or other form of electronic means.

Section 8 amends s. 482.071, F.S., to increase the minimum bodily injury and property damage insurance coverage required for a pest control business.

Section 9 creates s. 482.072, F.S., to allow the establishment, inspection and regulation of centralized pest control customer contact centers. This would allow licensed centers to solicit pest control business and to provide service to customers for one or more business locations. It provides for the biennial renewal of the license. It also establishes a licensure fee of at least \$600, but not more than \$1,000 and renewal fees of at least \$600, but not more than \$1,000. This section also provides for the expiration of a license not renewed within 60 days of a renewal deadline. A license automatically expires if a licensee changes its customer contact center business location and requires issuance of a new license upon payment of a \$250 fee. It authorizes the department to adopt rules establishing requirements and procedures for recordkeeping and monitoring customer contact center operations. It provides for disciplinary action for violations of chapter 482, F.S., or any rule adopted hereunder.

¹⁴ Division of the Department of Agriculture and Consumer Services

Section 10 creates s. 482.157, F.S., to establish a limited certification category for individual commercial wildlife trapper personnel engaged in the nonchemical control of wildlife to also control rodents, as defined in chapter 482, F.S. It requires an exam and establishes certification fees of at least \$150, but not to exceed \$300. This section also provides for recertification fees, classes, and late fees. The bill limits the scope of work permitted by certificate holders and clarifies that licensees and certificate holders who practice accepted pest control methods are immune from liability for violating animal cruelty laws. It also provides that this section does not exempt any person from the rules, orders, or regulations of the Florida Fish and Wildlife Conservation Commission.

Section 11 amends s. 482.226, F.S., to increase the minimum insurance requirements for a pest control licensee that performs wood-destroying organism inspections from \$50,000 to \$500,000 in the aggregate and from \$25,000 to \$250,000 per occurrence. This change reflects the current levels of insurance offered by liability insurers.

Section 12 amends s. 482.243, F.S., to delete provisions that authorize the members of the Pest Control Enforcement Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 13 amends s. 487.041, F.S., to provide that fees relating to the registration of pesticide brands are non-refundable. When a currently registered pesticide brand undergoes a label revision, the registrant must submit to the department a copy of the revised label along with a cover letter detailing the changes that were made to the label. It provides requirements for label revisions that must be reviewed by the U.S. Environmental Protection Agency. It also allows payments of pesticide registration fees to be submitted electronically, effective January 1, 2013.

Section 14 amends s. 487.0615, F.S., to delete provisions that authorize the members of the Pesticide Review Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 15 amends s. 500.70, F.S., to require persons who produce, harvest, pack, or repack tomatoes, but who do not hold a food permit, to register and submit an address for each company location annually by August 1. It authorizes the department to set by rule an annual registration fee not to exceed \$500. It also requires that registration fees be deposited into the General Inspection Trust Fund.

Section 16 amends s. 527.22, F.S., to delete provisions that authorize the members of the Florida Propane Gas Education, Safety, and Research Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 17 amends s. 559.9221, F.S., to delete provisions that authorize the members of the Motor Vehicle Repair Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 18 amends s. 570.07, F.S., to revise the powers and duties of the department regarding pollution control and the prevention of wildfires, in order to regulate open burning connected with land-clearing, agricultural, or forestry operations.

Section 19 amends s. 570.0705, F.S., to delete provisions that authorize the members of advisory committees appointed by the Commissioner of Agriculture to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory committees.

Section 20 amends s. 570.074, F.S., to rename the Office of Water Coordination to the Office of Energy and Water.

Section 21 amends s. 570.23, F.S., to delete provisions that authorize the members of the State Agricultural Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory councils.

Section 22 repeals subsection 570.29(6), F.S., relating to a reference to the Division of Dairy Industry in the Department of Agriculture and Consumer Services' list of departmental divisions.

Section 23 amends s. 570.38, F.S., to delete provisions that authorize the members of the Animal Industry Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 24 amends s. 570.382, F.S., to delete provisions that authorize the members of the Arabian Horse Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 25 repeals s. 570.40, F.S., relating to the powers and duties of the Division of Dairy Industry.

Section 26 repeals s. 570.41, F.S., relating to the qualifications and duties of the director of the Division of Dairy Industry.

Section 27 amends s. 570.42, F.S., to delete provisions that authorize the members of the Dairy Industry Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 28 amends s. 570.50, F.S., to amend the powers and duties of the Division of Food Safety to include inspecting dairy farms and enforcing the provisions of Chapter 502, F.S. It authorizes the division to inspect milk plants, milk product plants, and plants engaged in the manufacture and distribution of frozen desserts and frozen desserts mix. It also authorizes the division to analyze and test samples of milk, milk products, frozen desserts, and frozen desserts mix.

Section 29 amends s. 570.543, F.S., to delete provisions that authorize the members of the Florida Consumers' Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 30 repeals subsection 570.954(3), F.S., relating to the requirement that the department coordinate with and solicit the expertise of the state energy office within the Department of Environmental Protection when developing and implementing its farm-to-fuel initiative.

Section 31 amends s. 571.28, F.S., to delete provisions that authorize the members of the Florida Agricultural Promotional Campaign Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 32 amends s. 573.112, F.S., to delete provisions that authorize the members of marketing order advisory councils appointed by the department to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 33 amends s. 576.091, F.S., to delete provisions that authorize the members of the Fertilizer Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 34 amends s. 580.151, F.S., to delete provisions that authorize the members of the Commercial Feed Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 35 amends s. 581.186, F.S., to delete provisions that authorize the members of the Endangered Plant Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 36 amends s. 586.161, F.S., to delete provisions that authorize the members of the Honeybee Technical Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 37 amends s. 589.101, F.S., to authorize the department to enter into gas, oil, and other mineral leases on Board of Trustees owned lands leased to the department. It authorizes the Board of Trustees of the Internal Improvement Trust Fund to review proposed leases.

Section 38 amends s. 590.015, F.S., to delete a definition for “division,” meaning the Division of Forestry, and inserting “department.” It amends the definition of fire management to include prescribed burning assistance and provides definitions for “open burning” and “broadcast burning.”

Section 39 amends s. 590.02, F.S., to change the name of the Division of Forestry to the Florida Forest Service. It provides that the Florida Forest Service has the following power, authority, and duty to:

- Provide firefighting crews, who shall be under its control and direction;
- Authorize forest operations administrators to be certified as forestry firefighters; and
- Employ aviation managers, Florida Forest Service training coordinators, and deputy chiefs of field operations who shall have Selected Exempt Service status.

The bill authorizes the department to:

- Enforce the Florida Building code as it pertains to wildfire and law enforcement facilities under the jurisdiction of the department;

- Retain, transfer, warehouse, bid, destroy, scrap or otherwise dispose of surplus wildland firefighting equipment and vehicles;
- Retain all moneys received from the disposition of state-owned wildland firefighting equipment and vehicles. Monies received may be used to acquire exchange and surplus wildland firefighting equipment and for operating expenditures related to the equipment.

The bill gives the Florida Forest Service exclusive authority to require an issue authorizations for broadcast burning, and agricultural and silvicultural pile burning. It preempts other governmental entities from adopting laws, regulations, rules, or policies pertaining to broadcast burning, or agricultural or silvicultural pile burning unless an emergency order has been declared. It authorizes the department to delegate its authority to a county or municipality to issue authorizations for the burning of yard trash and debris from land clearing operations.

Section 40 amends s. 590.125, F.S., to:

- Revise terminology for open burning authorizations; It adds definitions for “certified pile burner,” “land-clearing operation,” “pile burning,” “prescribed burning,” “prescription,” and “yard trash.”
- Specify purposes of certified prescribed burning;
- Require the authorization of the Florida Forest Service for certified pile burning;
- Provide pile burning requirements;
- Limit the liability of property owners or their agents engaged in pile burning;
- Provide penalties for violations by certified pile burners;
- Authorize the Florida Forest Service to adopt rules regulating certified pile burning;
- Revise notice requirements for wildfire hazard reduction treatments;
- Provide for approval of local government open burning authorization programs and program requirements;
- Authorize the Florida Forest Service to close local government programs under certain circumstances and assume administration of those open burning authorization programs; and
- Provide penalties for violations of local government open burning requirements.

Section 41 amends s. 590.14, F.S., to authorize an administrative fine, not to exceed \$1,000 per violation for violation of any Florida Forest Service rule. It provides penalties for failure to comply with any rule or order adopted by the Florida Forest Service and for knowingly making any false statement or representation on applications, records, plans, or any other required documents. It also provides legislative intent that a penalty imposed by a court be of a severity that ensures immediate and continued compliance with this section.

Section 42 repeals subsection 597.005(4), F.S., relating to provisions that authorize the members of the Aquaculture Review Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 43 amends s. 599.002, F.S., to delete provisions that authorize the members of the Viticulture Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the advisory council.

Section 44 amends s. 616.252, F.S., to provide for appointment of a youth member who is an active member of the Florida Future Farmers of America or of a 4-H Club to serve on the Florida State Fair Authority as a non-voting member. It provides a term of one year for a youth member of the Authority and excludes youth members from compensation for special or full-time service performed on behalf of the Authority.

Section 45 amends s. 812.014, F.S., to provide penalties for the theft of bee colonies of registered beekeepers.

Section 46 amends s. 812.015, F.S., to amend the definitions of “farmer” and “farm theft.”

Section 47 provides that this act shall take effect October 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:

Please refer to Private Sector Impact and Government Sector Impact.

B. Private Sector Impact:

There are currently 28 registered tomato farms; some with multiple locations of the same company name. This bill authorizes the department to set by rule an annual registration fee not to exceed \$500.

Pest control businesses that choose to obtain the license for a customer service center would incur the fees established by the bill. Pest control businesses that do not currently

have the proposed minimum insurance requirements will have to increase their insurance coverage and will incur additional costs. Most insurance available today already exceeds the 1992 limits.

Individuals who conduct wildlife management services and wish to obtain limited certification to control rodents will incur the fees associated with the limited certification.

Persons and companies registering pesticides will be required to pay fees using the electronic commerce site. Some firms may have to adjust their registration processing to accommodate this change. Ultimately, the reduction in postage and paperwork should reduce their costs.

Persons serving on advisory committees for DOACS and members and former members of the Board of Surveyors and Mappers will be responsible for covering any travel expenses they incur while performing the duties associated with said service.

The bill provides civil liability protection to certified pile burners. Persons wishing to obtain an authorization for open burning will no longer be required to obtain two permits. Persons who fail to comply with rules adopted by the department relating to the Florida Forest Service may be charged with civil or criminal charges.

C. Government Sector Impact:

	2010-11	2011-12	2012-13
REVENUES:			
<u>Food Safety:</u>			
Registration of Tomato Farms	0	2,500	3,000
<u>Pest Control Registration:</u>			
Customer Contact Center License*	6,000	0	6,000
Limited Certification Wildlife –			
Limited Certification Exam**	15,000	7,500	7,500
Limited Certification Renewal***	0	7,500	7,500
TOTAL:	\$21,000	\$16,359	\$21,000

*Based on 10 licenses issued per year at \$600 each, renewing biennially.

**Based on 100 exams the first year, 50 the second and third years, at \$150 each.

***Based on 100 renewals at \$75 each.

	2010-11	2011-12	2012-13
EXPENDITURES:			
<u>Food Safety:</u>			
Registration of Tomato Farms*	0	150	175
<u>Pest Control Registration:</u>			
Inspections*	15,860	15,860	15,860
License Issuance**	1,097	499	1,595
TOTAL	\$16,957	\$16,359	\$ 17,455

*FY 09-10 unit cost per inspection, 20 inspections at \$793.

**FY 09-10 unit cost per license, 110 inspections at \$9.97 the first year, 50 inspections the second year, and 160 inspections the third year.

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.