

**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 Budget Subcommittee on General Government Appropriations

BILL: CS/SB 2076

INTRODUCER: Budget Subcommittee on General Government Appropriations and Agriculture Committee

SUBJECT: Department of Agriculture and Consumer Services

DATE: April 14, 2011                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Spalla</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Blizzard</u>	<u>DeLoach</u>	<u>BGA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
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 bill addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). The bill provides for the following.

- 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;
- Exempts certain direct-support and citizen support organizations for the department from obtaining an independent audit;
- Allows the lead land manager, instead of the Department of Environmental Protection (DEP), to receive the proceeds from the sale of easements for the construction of electric transmission and distribution facilities on Board of Trustees-owned lands;
- Sets the annual financial audit threshold for the department's direct-support organizations and citizen support organizations to match those citizen organizations of the DEP;
- 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;
- Revises the department's authority to enforce laws relating to commercial stock feeds and commercial fertilizer. Provides a limited exemption to counties that have existing ordinances regulating the sale of urban turf fertilizers;
- 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 the 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;
- Provides immunity from liability for damages resulting from exhibits and concessions at public fairs with certain exceptions;
- 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 will increase revenues in the General Inspection Trust Fund within the department by an estimated \$21,000 in the 2011-2012 fiscal year, from fees generated through the pest control customer contact centers and through the commercial wildlife management personnel limited certification. The department estimates expenditures associated with the inspection and licensing of these programs to be \$16,957 in the 2011-2012 fiscal year. The consolidation of the Division of Dairy Industry into the Division of Food Safety provides a recurring cost savings of \$239,496 in general revenue.

This bill amends sections 20.14, 193.461, 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, 570.18, 570.23, 570.38, 570.382, 570.42, 570.50, 570.543, 571.28, 573.112, 576.091, 580.151, 581.186,

586.161, 590.015, 590.02, 590.125, 590.14, 599.002, 616.252, 812.014, and 812.015 of the Florida Statutes.

The bill creates sections 482.072 and 482.157, Florida Statutes.

The bill repeals the following sections of the Florida Statutes: 570.29(6), 570.40, 570.41, 570.954(3), and 597.005(4).

## **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. 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.

### **Tomato Food Safety**

Legislation enacted in 2007,<sup>1</sup> which amended ch. 500 and 570, F.S., authorized the department to regulate food safety at tomato farms and packing houses. In 2010, the Legislature enacted legislation<sup>2</sup> 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

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<sup>1</sup> Chapter 2007-067, L.O.F.

<sup>2</sup> Chapter 2010-25, L.O.F.

- 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 Division of State Lands within the Department of Environment Protection serves as staff to the Board of Trustees of the Internal Improvement Trust Fund, which consists of the Governor and Cabinet. Currently, the proceeds of the sale of easements encumbering Board of Trustees lands managed by the department go to DEP. This bill allows the particular state agency that is the lead managing agency to receive the proceeds.

### **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 a 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.<sup>3</sup> Therefore, the department must obtain building permits through local governments. The Florida Building Code has been revised several

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<sup>3</sup> s. 553.80(1), F.S.

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 allows 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 law<sup>4</sup> 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 can be reinvested in other equipment. Also, current law<sup>5</sup> requires that all replaced equipment be reported for disposal within 45 days of being replaced. Additionally, current law<sup>6</sup> 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 are to 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 Coordination<sup>7</sup> 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.

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<sup>4</sup> Chapter 2006-122, s. 40, L.O.F.

<sup>5</sup> s. 287.16, F.S.

<sup>6</sup> s. 273.055, F.S.

<sup>7</sup> s. 570.074, F.S.

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.

### **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 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 will provide 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 will 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.<sup>8</sup> 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.

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<sup>8</sup> s. 482.071(4), F.S.

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.

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 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.<sup>9</sup> 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 needs 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.<sup>10</sup> The department is authorized to assess late fees for registrations<sup>11</sup> 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.

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<sup>9</sup>The 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.

<sup>10</sup> Per 40 C.F.R., part 180

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

## Apiary

Florida law currently provides criminal charges<sup>12</sup> 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.

### III. Effect of Proposed Changes:

**Section 1** amends s. 20.14, F.S., to delete a reference to the Dairy Industry.<sup>13</sup>

**Section 2** amends s. 193.461, F.S., to clarify that the term "agricultural purposes" includes farm products, as defined in the Florida Right to Farm Act.

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

**Section 8** creates s. 482.072, F.S., to allow the establishment, inspection, and regulation of centralized pest control customer contact centers. This allows 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

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<sup>12</sup> 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.

<sup>13</sup> Division of the Department of Agriculture and Consumer Services



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.

**Section 9** 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 those 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 10** 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 11** 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 12** 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 13** 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 14** 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 15** 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 16** 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 17** amends s. 570.07, F.S., to revise the authority of the department to enforce laws relating to commercial stock feeds and commercial fertilizer. It provides a limited exemption to counties that have existing ordinances regulating the sale of urban turf fertilizers. It also revises the authority 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 18** 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 19** amends s. 570.074, F.S., to rename the Office of Water Coordination to the Office of Energy and Water.

**Section 20** amends s. 570.18, F.S., to eliminate references to the number of divisions in the department.

**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's list of 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 DEP 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. 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 38** amends s. 590.02, F.S., to provide that the Division of Forestry has the powers, authority, and duties 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, 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 division exclusive authority to require 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 39** 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 division 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 division 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 division 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 40** amends s. 590.14, F.S., to authorize an administrative fine, not to exceed \$1,000 per violation for violation of any Division of Forestry rule. It provides penalties for failure to comply with any rule or order adopted by the division 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 41** 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 42** 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 43** amends s. 616.17, F.S., to provide immunity from liability for damages resulting from exhibits and concessions at public fairs. It provides that this section does not apply if the personal injury, death or property damage was due to an act or omission that was committed by the fair association in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. This section does not apply to third parties providing exhibits or concessions.

**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.

#### **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 will incur a fee of at least \$600, but no more than \$1,000. Pest control businesses that do not currently have the proposed minimum insurance requirements will have to increase their insurance coverage from \$50,000 to \$500,000 in the aggregate and from \$25,000 to \$250,000 per occurrence.

Individuals who conduct wildlife management services and wish to obtain limited certification to control rodents will incur fees of at least \$150, but not to exceed \$300 associated with the limited certification.

Persons and companies registering pesticides will be required to pay current 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 DEPARTMENT'S 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 Division of Forestry may be charged with civil or criminal charges.

**C. Government Sector Impact:**

Provisions in this bill will impact revenues to and expenditures by the Department of Agriculture and Consumer Services as shown in the following tables.

<b>REVENUE</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
<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
<b>TOTAL:</b>	<b>\$21,000</b>	<b>\$16,359</b>	<b>\$21,000</b>

\*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.

<b>EXPENDITURES</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
<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
<b>TOTAL</b>	<b>\$16,957</b>	<b>\$16,359</b>	<b>\$17,455</b>

\*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.

**Division of Dairy Industry**

Consolidation of the Division of Dairy Industry into the Division of Food Safety within the department provides a recurring cost savings of \$239,465 in general revenue. Inspections of dairy farms, milk plants, milk product plants, and other specified functions of the Division of Dairy Industry will continue to be conducted by the Division of Food Safety.

**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/CS by General Government Appropriations on April 13, 2011:**

The committee substitute provides for the following:

- Deletes Section 1, which repealed subsection 14.24(3), F.S., thereby allowing members of the Florida Commission on the Status of Women to continue to be reimbursed for per diem and travel expenses incurred while participating in business involving the commission.
- Exempts certain direct-support organizations and citizen support organizations for the Department of Agriculture and Consumer Services from obtaining an independent audit.
- Deletes glue boards from the list of acceptable nonchemical methods of trapping wildlife.
- Deletes Section 36, which authorized the department to enter into gas, oil, and other mineral leases on Board of Trustees owned lands leased to the department. It also required the Board of Trustees of the Internal Improvement Trust Fund, or its designee, to review proposed leases.
- Changes references to Florida Forest Services to division (Division of Forestry).
- Provides immunity from liability for damages resulting from exhibits and concessions at public fairs with certain exceptions.
- Changed the effective date of the act from October 1, 2011 to July 1, 2011.

**CS by Agriculture Committee on April 4, 2011:**

Committee Substitute for Senate Bill 2076 is different from Senate Bill 2076 in that it:

- Revises the Department of Agriculture and Consumer Services' authority to enforce laws relating to commercial stock feeds and commercial fertilizer by providing a limited exemption to counties that have existing ordinances regulating the sale of urban turf fertilizers.
- Deletes Section 6, which repealed subsection 472.007(5), F.S., thereby allowing members of the Board of Professional Surveyors and Mappers to continue to be reimbursed for per diem and travel expenses incurred while participating in business involving the board.
- Requires the Board of Trustees of the Internal Improvement Trust Fund, or its designee, to review oil, gas, and mineral leases that are created pursuant to s. 589.101, F.S.

**B. Amendments:**

None.