

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Agriculture

CS/CS/HB 421 — Agricultural-related Exemptions to Water Management Requirements

by State Affairs Committee, Agriculture & Natural Resources Appropriations Subcommittee; and Rep. Bembry and others (CS/CS/SB 1174 by Environmental Preservation and Conservation Committee, Agriculture Committee and Senators Siplin and Lynn)

This bill revises a current agricultural-related exemption from obtaining a permit from a water management district (WMD) to alter topography to provide that certain agricultural activities, consistent with the normal and customary practice in the area, may impede or divert the flow of surface waters or adversely impact wetlands, as long as it is not the sole or predominant purpose of the agricultural activity or alteration. It specifies that the exemption is retroactive to July 1, 1984 and the exemption applies to lands classified as agricultural and activities requiring an environmental resource permit but does not apply to those activities previously authorized by certain permits.

The bill gives rule making authority and the exclusive right to the Department of Agriculture and Consumer Services (DACS) to make a binding determination at the request of a landowner or a WMD as to whether the proposed activity qualifies for an agricultural-related exemption. It requires DACS and each WMD to enter into or amend a memorandum of agreement regarding the process and procedure that DACS will follow in making its determination.

The bill provides that land converted from agricultural uses will not be subject to mitigation to offset any adverse effects caused by agricultural activities if the adverse effects occurred on the land in the last 4 years preceding the conversion.

The bill expands the definition of “agricultural activities” to include cultivating, fallowing, and leveling as well as best management practices adopted by the DACS or the United States Department of Agriculture’s Natural Resources and Conservation Services provided such operations are not for the sole and predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 37-2; House 108-7

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SB 722 — Saving Dogs

by Senators Norman, Rich and Bogdanoff

This bill repeals s. 767.11(1)(c), F.S., which automatically designates dogs used primarily, or in part, for dog fighting as “dangerous dogs” within the meaning of ch. 767, F.S. Repealing this designation will mean that animal shelters will have discretion in determining whether or not a dog is dangerous on a case by case basis and, because a dangerous dog designation was a nearly impermeable barrier to adopting out a dog, animal shelters will now also have a much greater capacity to adopt out dogs that have been rescued from dog fighting rings.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 39-0; House 99-17

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CS/CS/CS/HB 949 — Pest Control

by State Affairs Committee; Rulemaking & Regulation Subcommittee; Agriculture & Natural Resources Subcommittee; and Reps. Smith and Williams (CS/CS/CS/SB 1290 by Budget Subcommittee on General Government Appropriations, Environmental Preservation and Conservation Committee, Agriculture Committee, and Senator Dean)

This bill makes changes to the Florida Structural Pest Control Act. It authorizes the Department of Agriculture and Consumer Services (department) to issue a license to operate a customer contact center for the sole purpose of soliciting pest control business and to provide more efficient services to consumers for one or more business locations. The bill also provides that a person cannot operate a customer contact center for a pest control business that is not licensed by the department and establishes a licensing fee, biennial renewal fee, and authorizes a late filing fee.

The bill establishes a limited certification for a commercial wildlife management personnel category within the department authorizing persons to use nonchemical methods for controlling rodents. The certification process includes successful completion of an examination, an examination fee, annual recertification, late fees, continuing education classes and proof of a certificate of insurance for minimum financial responsibility. The bill specifies that persons licensed or certified by the department under ch. 482, F.S., and who practice accepted pest control methods are immune from liability under the animal cruelty provisions. Also, persons licensed or certified under ch. 482, F.S., must abide by the rules, regulations, or orders of the Fish and Wildlife Conservation Commission.

The bill increases the minimum requirements for insurance coverage to conduct pest control businesses. In addition, the bill expands the methods by which a pest control licensee may contact the department regarding the location where fumigation will be taking place to include notification by facsimile or other forms of electronic communication.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 38-0; House 116-1

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CS/CS/SB 1312 — School Nutrition Programs

by Budget Committee, Agriculture Committee, and Senators Siplin and Gaetz (CS/CS/HB 7219 by Appropriations Committee, Education Committee, State Affairs Committee and Reps. McKeel and Stargel)

This bill creates the “Healthy Schools for Healthy Lives Act.” It provides for a type two transfer of the administration of school food and nutrition programs from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACS). The transfer includes all powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition programs. The bill also transfers the Food and Nutrition Services Trust Fund in the DOE to the DACS.

The bill authorizes the DACS to conduct, supervise, and administer all school food and nutrition programs that are carried out using federal or state funds or funds from other sources, and to coordinate with the federal government to take advantage of any federal financial allotments and assistance that would benefit the school food and nutrition programs. The DACS may act as an agent of, or contract with, the federal government, another state agency, or any county or municipal government regarding the administration of the school food and nutrition programs, including the distribution of funds provided by the federal government in support of the school food and nutrition programs.

The bill requires each school district to submit an updated copy of its wellness policy and physical education policy to the DOE and the DACS when a change or revision is made. The DACS, as well as the DOE, must provide website links to information regarding the nutritional content of foods and beverages and to healthful food choices in accordance with the dietary guidelines of the USDA.

The bill requires the DOE, in consultation with the DACS, to develop and submit a waiver request to the U.S. Department of Agriculture to transfer administration of the school food service and nutrition programs from the DOE to the DACS within 30 days of the bill becoming law. It also requires the DOE to provide notice of the USDA’s response to certain officials.

The bill also creates the Healthy Schools for Healthy Lives Council to advise DACS on matters relating to nutritional standards and the prevention of childhood obesity, nutrition education, anaphylaxis, and other needs to further the development of the various school nutrition programs.

The bill provides multiple effective dates. The provision requiring the DOE to submit a waiver request and the section providing the effective dates are effective upon becoming law. The effective date for all other provisions is January 1, 2012, and is contingent upon the USDA granting the waiver request on or before November 1, 2011.

Vote: Senate 37-0; House 115-1

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CS/CS/HB 7215 — Department of Agriculture and Consumer Services

by Economic Affairs Committee, Appropriations Committee, Agriculture and Natural Resources Subcommittee; and Rep. Crisafulli (CS/CS/SB 2076 by Budget Subcommittee on General Government Appropriations and Agriculture Committee)

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

- Transfers the regulation of dairy products to the Division of Food Safety;
- Repeals ch. 503, F.S., relating to frozen desserts and transfers statutory authority regarding frozen desserts to ch. 502, F.S.
- Exempts certain Direct Service Organizations within the department from annual audits;
- Deletes provisions allowing department advisory committee members to claim per diem and travel expenses;
- Increases current levels of insurance for pest control businesses;
- Provides for the establishment, monitoring, and regulation of centralized pest control customer contact centers in lieu of licensure as pest control businesses;
- Establishes a limited certification category authorizing persons to use nonchemical methods for controlling rodents in lieu of licensure;
- Requires registered pesticide brand products that undergo label revision during the biennial registration period to provide the department with a copy of the revised label;
- Allows a 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;
- Grants the department with the exclusive authority to enforce the Florida Building Code as it relates to wildfire and law enforcement facilities;
- Establishes a Certified Pile Burner program in statute;
- Authorizes monies received from the sale of surplus state-owned wildland firefighting equipment and vehicles to be used to exchange, maintain or purchase wildland firefighting equipment;
- Authorizes the department to dispose of surplus firefighting equipment and vehicles as it sees fit;
- Authorizes the department to delegate authority to local governments to issue authorizations for open burning;
- Requires anyone who produces, harvests, packs or repacks tomatoes that are not permitted under ch. 500, F.S., to register each location annually and to pay a registration fee;
- Renames the Office of Water Coordination as the Office of Energy and Water;
- Provides fair associations with immunity from liability for damages resulting from certain exhibits and concessions at public fairs; provides exceptions to immunity;
- 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;

- Provides criminal charges for the theft of bee colonies owned by registered beekeepers;
- Authorizes the Commissioner of Agriculture to discontinue a soil and water conservation district if the district fails to comply with reporting and auditing requirements of Florida Statutes;
- Appropriates \$744,000 to the department from the Florida Forever Trust Fund;
- Renames the Division of Forestry as the Florida Forest Service; and
- Directs the Division of Statutory Revision to provide drafting assistance to committees needing to resolve reference conflicts in the Florida Statutes with any other legislation that has been enacted during the 2011 Regular Session or an extension thereof.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 37-1; House 117-0