

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 31, 1998 Revised: \_\_\_\_\_

Subject: Florida Agricultural Development Act

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This bill creates the Florida Agricultural Development Act to provide assistance to citizens who have been detrimentally affected by NAFTA, the elimination of federal crop subsidies, and environmental protection mandates. It establishes the Florida Agricultural Development Authority (authority) which would focus on the specific financial needs of first-time farmers, existing farmers who already have or intend to move into new or alternative agricultural crops, and agribusinesses. The bill establishes beginning farmer loan programs and alternative agriculture assistance programs to:

- Assist in purchasing, leasing, or otherwise acquiring agricultural land, improvements, technology, and depreciable agricultural property for the purpose of farming;
- Provide financing for soil and water conservation practices;
- Promote diversification of the farm economy through the growth and development of new crops or livestock not customarily grown or produced in this state or that emphasize a vertical integration of agricultural products into a finished agricultural product or byproduct for consumption or use;
- Assist in financing operating expenses and cash-flow requirements of farming; and
- Assist qualified producers, processors, and manufacturers of agriculture products and support organizations with financing research and development and other capital requirements or operating expenses.

The authority would act as a facilitator between farmers and financial institutions. It could issue tax exempt bonds to lending institutions to fund agricultural loans and to participate in any federal programs designed to assist beginning farmers.

The bill directs the authority to function as a public entity and requires that it be composed of nine members, including the Commissioner of Agriculture or a designee who will be acting in an ex officio, non-voting capacity. Five standing members would have 4-year terms and three commissioner-appointed members will have 3-year terms. The authority must prepare an annual report to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

It is expected that the authority will be self-sustaining from loan fees, as well as federal, state and local grants, and other revenues generated by its activities.

This bill creates sections 159.8083 and 570.251-570.2815, Florida Statutes. This bill amends sections 159.804 and 159.809, Florida Statutes.

## **II. Present Situation:**

Florida farmers and agribusinesses that have been affected by NAFTA, the elimination of federal crop subsidies, and environmental protection mandates have limited sources of financial assistance if they choose to transition into alternative agricultural crops. The federal government has two agricultural loan programs available to state farmers: the United States Department of Agriculture's Farm Services Agency Program and the Farm Credit System. Farmers meeting specific criteria may apply for this assistance, as provided for in the Federal Agriculture Improvement and Reform Act of 1996. However, Florida does not currently have an agricultural loan program to provide loans to beginning farmers or existing farmers who wish to convert to alternative agricultural crops or to alternative agricultural producers and processors.

According to the National Council of State Agricultural Finance Programs, Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota and Wisconsin have Aggie Bond, or beginning farmer loan programs. The purpose of Aggie Bonds is to provide an effective means for federal-state-industry linkages where government can assist beginning and first-time farmers to purchase land, farm equipment, farm buildings, and breeding livestock. The bonds offer limited tax incentives and allow credit decisions and financial risk to remain with local lending institutions.

Currently, the Department of Agriculture and Consumer Services operates AgVenture Services, a program designed to provide assistance in areas such as planning, marketing, research, facilities and equipment discounts, and resource network referrals for start-up agribusinesses and fledgling enterprises. While the department program does not provide loans or issue bonds, it has indicated that it already offers many of the services outlined in the bill. The department has made a 1998 legislative budget request for funds intended to be used to provide monetary assistance to farmers and agricultural entrepreneurs meeting specific criteria.

The Rural Community Development Revolving Loan Fund Program in the Office of Tourism, Trade, and Economic Development was established in 1996 in s. 288.065, F.S., to "facilitate the

use of existing federal, state, and local financial resources by providing local governments with financial assistance to further promote the economic viability of rural communities.” Enterprise Florida was charged with administering the funds for the benefit of local governments within counties with populations of less than 50,000, or any county that has a population of 100,000 or less and is contiguous to a county with a population less than 50,000. An appropriation of \$2,000,000 was made in fiscal year 1996-97 to be utilized for these loans. Five regional organizations have received rural staffing grants to provide for staff and administration in areas where local government budgets are limited. Enterprise Florida has indicated that the remaining program funds are expected to be used by June 1998 for several additional projects and it plans to request another \$2,000,000 appropriation to continue the loan program.

### III. Effect of Proposed Changes:

**Section 1.** Creates s. 570.251, F.S., to establish that sections 570.251-570.2815, F.S., may be cited as the “Florida Agricultural Development Act.”

Creates s. 570.252, F.S., to provide the following legislative findings:

- Events beyond the control of the state or its citizens have hindered Floridians who wish to pursue agricultural enterprises or enterprises related to agribusiness.
- These conditions have made the sale and purchase of agricultural land by and among family farmers a virtual impossibility in many parts of the state.
- The ordinary operation of private enterprise has not corrected this situation.
- The United States Congress has recognized the need to provide assistance to the rural segment of the national economy and has instituted programs to assist family farmers and agribusinesses by means of tax policy as well as loans, grants, technology transfers, and credit enhancements to qualified state agencies.
- The Legislature should also encourage intellectual, scientific, and agricultural improvement in the rural parts of this state.
- Conditions exist which require the creation of a body politic with corporate power to issue notes, bonds, and other evidences of indebtedness in order to make or acquire loans for the acquisition or development of agricultural lands, improvements, and facilities.

Creates s. 570.253, F.S., to provide definitions for the terms agricultural improvements, agricultural land, agricultural producer, agricultural processor, authority, Bankhead-Jones Farm Tenant Act, beginning farmer, bonds, conservation farm equipment, depreciable agricultural property, FAIR Farm Act, farming, Internal Revenue Code, lending institution, mortgage, mortgage lender, mortgage loan, note, soil and water conservation practices, secured loan, and state agency.

Creates s. 570.254, F.S., to establish the Florida Agricultural Development Authority. Provides that the authority is established in order to undertake programs which:

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- Assist farmers, beginning farmers and agribusiness in purchasing, leasing, or otherwise acquiring agricultural land, improvements, technology, and depreciable agricultural property for the purpose of farming;
  - Provide financing to farmers for soil and water conservation practices;
  - Promote diversification of the farm economy through the growth and development of new crops or livestock not customarily grown or produced in this state or that emphasize a vertical integration of agricultural products into a finished agricultural product or byproduct for consumption or use;
  - Assist in financing operating expenses and cash-flow requirements of farming; and
  - Assist qualified producers, processors, and manufacturers of agriculture products and support organizations with financing research and development and other capital requirements or operating expenses.

Creates a board of nine members, including the commissioner or the commissioner's designee, who shall be an ex officio nonvoting member, except in the case of a tie vote. Provides for the designation five standing members from the following:

- The Florida Farm Bureau Federation;
- The Institute of Food and Agricultural Sciences of the University of Florida;
- The Florida Agricultural and Mechanical University;
- The Florida Agricultural Resources and Mobilization Foundation, Inc. (FARM Foundation); and
- The Technological Research and Development Authority.

Provides for three at-large members to be appointed by the Commissioner of Agriculture. Establishes terms for members and for organization of the board. Provides for the election of a chair and vice chair. Establishes a quorum of five voting members. Provides for per diem and travel expenses. Requires board members to give bond.

Creates s. 570.255, F.S., to provide for general powers of the authority. These include, but are not limited to, the power to:

- Issue negotiable bonds and notes in order to finance programs;
- Sue and be sued in its own name;
- Have and alter a corporate seal;
- Make and alter bylaws for its management and programs;
- Make and execute agreements, contracts, and other instruments with any public or private entity;
- Lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, real or personal property, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of any assets, loans and equity interests acquired in the financing of projects funded by the authority;
- Procure insurance against any loss in connection with its operations and property interests;
- Fix and collect fees and charges for its services;

- Subject to an agreement with bondholders or noteholders, invest or deposit moneys of the authority in a manner determined by the authority;
- Accept appropriations, gifts, grants, loans, or other aid from public or private entities;
- Provide public and private entities with technical assistance, education, counseling, and grants;
- Cooperate with other local, state, or federal governmental agencies to conduct agricultural studies and to exchange information with similar authorities and agencies in other states;
- Enter into contracts for services; and
- Make, alter, and repeal rules.

Creates s. 570.256, F.S., to authorize the board to appoint an executive director of the authority to advise the authority on matters relating to agricultural land and property and finance, carry out all directives from the authority, and hire and supervise staff. Requires the executive director to be custodian of all books, documents, minute books, seals, and papers filed with the authority.

Creates s. 570.257, F.S., to require the authority to submit a report to the Governor, President of the Senate, and the Speaker of the House of Representatives no later than February 15 of each year. Specifies the contents of the report.

Creates s. 570.258, F.S., to require that the authority use surplus moneys to provide loans, grants, subsidies, and other services or assistance to beginning farmers or agricultural producers.

Creates s. 570.259, F.S., to provide that state and federal programs may be combined to facilitate the purposes of the program.

Creates s. 570.260, F.S., to establish a beginning farmer loan program to facilitate the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers. Provides for participation in federal programs. Requires the authority to provide loan criteria. Authorizes the authority to provide in a mortgage or secured loan that the loan may not be assumed or that any interest in the land or improvements or depreciable property may not be leased, sold or otherwise conveyed without prior written consent. Authorizes the authority to provide grounds for permitted assumptions of a mortgage. Requires the authority to state in a mortgage or secured loan that the authority has the power to raise the interest rate of a loan in certain circumstances.

Creates s. 570.261, F.S., to authorize the authority to make mortgage or secured loans to beginning farmers to provide financing for agricultural land and improvements or depreciable agricultural property. The authority may require the beginning farmer to execute a note, loan agreement, or other evidence of indebtedness and furnish additional assurances and guarantees, including insurance, reasonably related to protecting the security of the mortgage or secured loan.

Creates s. 570.262, F.S., to authorize the authority to make loans to mortgage lenders and other lenders.

Creates s. 570.263, F.S., to authorize the authority to purchase mortgage loans and secured loans from mortgage lenders. Mortgage lenders must certify that the mortgage or secured loans purchased are loans made to beginning farmers.

Creates s. 570.264, F.S., to provide powers of the authority relating to loans. Specified powers are subject to agreement with bondholders or noteholders.

Creates s. 570.265, F.S., to authorize the authority to issue negotiable bonds and notes in principal amounts that are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and any other necessary expenditure. Provides that bonds and notes are payable solely and only out of the moneys, assets, or revenues of the authority and as provided in the agreement with bondholders or noteholders pledging any particular moneys, assets, or revenues. Requires bonds and notes to be authorized by a resolution of the authority. Requires the authority to publish a notice of intention to issue bonds or notes in a newspaper of general circulation published in the state. Exempts bonds and notes issued for financing the beginning farmer loan program from taxation by the state. Exempts interest earned on bonds and notes from corporate income tax.

Creates s. 570.266, F.S., to establish bond reserve funds. Requires moneys held in a bond reserve fund, with certain exceptions, to be used solely for the payment of the principal of bonds secured in or in part by the fund or of the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

Creates s. 570.267, F.S., to provide for remedies of bondholders and noteholders. Provides for the appointment of a trustee to represent the holders of bonds or notes in the event the authority defaults in the payment of principal or interest or fails or refuses to comply with the provisions of this act. Specifies duties and powers of the trustee.

Creates s. 570.268, F.S., to pledge that the state will not limit or alter the rights of the authority to fulfill the terms of agreements made with the holders of the bonds or notes or in any way impair the rights and remedies of the holders until the bonds or notes and all related costs are fully met and discharged. Allows this pledge be included in any agreement with the holders of bonds or notes.

Creates s. 570.269, F.S., to state that bonds and notes shall be considered legal investments. Provides that bonds and notes are also securities that may be deposited with and received by public officers, state departments and agencies, and political subdivisions.

Creates s. 570.270, F.S., to provide banking and accounting requirements for moneys of the authority. Authorizes the Auditor General to periodically examine the accounts and books of the authority. Requires the authority to submit reports of every external examination of the

authority's books and accounts to the Governor, the Auditor General, the President of the Senate, and the Speaker of the House of Representatives.

Creates s. 570.271, F.S., to provide limited liability for members of the authority and persons acting on its behalf, while acting within the scope of their employment or agency. Authorizes the authority to carry such insurance or other indemnification for any actions arising out of such duties.

Creates s. 570.272, F.S., to require state officers, departments, and agencies to render services to the authority within their respective functions as requested by the authority.

Creates s. 570.273, F.S., to provide that this act, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

Creates s. 570.274, F.S., to require a conflict of interest to be disclosed to the authority in writing and included in the minutes of the authority. Prohibits the member or employee having the interest from participating in such action by the authority. Specifies conflicts of interest with respect to the executive director of the authority.

Creates s. 570.275, F.S., to exempt the authority and all contracts made by it in carrying out its public and essential government functions from the laws of the state which provide for competitive bids in connection with such contracts.

Creates s. 570.276, F.S., to provide for the transfer of all trust assets held by the federal government in trust for the Florida Rural Rehabilitation Corporation, which has been dissolved.

Creates s. 570.277, F.S., to authorize the authority to enter into agreements with the United States Secretary of Agriculture and to accept, administer, expend and use all or any part of the trust assets or other funds which have been appropriated for the Bankhead-Jones Farm Tenant Act.

Creates s. 570.278, F.S., to hold the United States, the authority, and the United States Secretary of Agriculture free from liability by virtue of the transfer of assets to the Florida Agricultural Development Authority.

Creates s. 570.279, F.S., to authorize an additional beginning farmer loan program. Provides for the issuance of bonds and notes and authorizes the authority to enter into a lending agreement or purchase agreement with one or more bondholders or noteholders. Bonds and notes must be authorized by a resolution of the authority.

Creates s. 570.280, F.S., to authorize the authority to establish and develop an agricultural loan assistance program to provide operating capital to farmers, agricultural producers, or agricultural processors by providing grants to lending or educational institutions. Requires the authority to make application forms available. Specifies the criteria that must be satisfied before the authority

will provide a grant in conjunction with a farmer's operating loan. Authorizes the authority to participate in and cooperate with programs of an agency or instrumentality of the federal government. Authorizes the authority to provide in the loan program that a grant may be provided in conjunction with a farmer's operating loan only if the farmer and lending institution participate in one or more operating loan assistance programs of an agency or instrumentality of the federal government. Provides for grants to be made to lending or educational institutions. Authorizes the authority to establish appropriate enforcement provisions by rule, including, but not limited to, the payment of civil penalties by a lending institution or farmer. Prohibits the authority or lending institution from charging more than 1.5 percent on the amount of the loan as a one time processing charge for any moneys loaned by the authority or lending institution to the farmer under this act. In making any loan of the authority's funds, no other fees or interest may be charged to the farmer for such a loan under this act.

Creates s. 570.2815, F.S., to require the authority to create and develop the following alternative agriculture assistance programs:

- Insurance or loan guarantee program to insure or guarantee all or part of a loan made for the acquisition of seed or root stock.
- Interest buy-down program to reduce the interest rate charged on a loan for the acquisition of seed or root stock.
- Cost-sharing program to reimburse the producer for the cost of converting land planted in row crops or pasture to alternative agricultural crops.
- Management assistance and training programs to train and assist agricultural producers to effectively manage alternative agriculture production operations.

**Section 2.** Creates s. 159.8082, F.S., to establish an agricultural development bond pool to be used solely to provide written confirmations for private activity bonds to the Florida Agricultural Development Authority to finance agricultural development. Requires allocations to be awarded for use on a statewide basis. Provides that any written confirmation issued by the director has no effect unless the bonds have been issued by the authority and written notice has been provided to the director on or before November 15, unless a carryforward has been granted for the allocation.

**Section 3.** Amends s. 159.804, F.S., to allocate, on January 1, 1999, the next \$10 million of the state volume limitation to the agricultural development pool. Requires allocations to be increased in subsequent years in specified \$2 million increments.

**Section 4.** Amends s. 159.809, F.S., to specify that on November 16 of each year, any portion of the initial allocation, other than as provided in ss. 159.8082 and 159.8083, for which an issuance report for bonds has not been received shall be added to the state allocation pool.

**Section 5.** Provides that this act shall take effect July 1 of the year in which it is enacted or upon becoming a law, whichever is earlier.



**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

Refer to private and government sector impacts.

B. Private Sector Impact:

The authority's programs will enable farmers and agribusinesses to support their own enterprises, which should augment rural economic development in the state.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.