

STORAGE NAME: h1409.ag

DATE: March 9, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE
ANALYSIS**

BILL #: HB 1409

RELATING TO: Florida Agricultural Development Act

SPONSOR(S): Representative Spratt

COMPANION BILL(S): SB 146 (s) by Senator Cowin and HB 1637 (s) by Representative Kilmer

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE
 - (2) FINANCIAL SERVICES
 - (3) FINANCE & TAXATION
 - (4) GENERAL GOVERNMENT APPROPRIATIONS
 - (5)
-

I. SUMMARY:

HB 1409 creates the Florida Agricultural Development Act (act), establishing the Florida Agricultural Development Authority (authority). The purposes of the authority are to manage programs which assist beginning farmers and agribusinesses in acquiring agricultural land, improvements, technology, and depreciable agricultural property for farming; programs which promote diversification of the farm economy through the growth and development of new crops or livestock not customarily grown or produced in the state or for farmers who have transitioned out of existing agricultural activities into new or alternative agricultural crops; and programs which provide assistance in financing operating expenses and cash-flow requirements of farming.

The bill establishes beginning farmer loan programs and alternative agriculture assistance programs in which the authority operates as a facilitator between farmers and financial institutions. The authority is given power to issue tax exempt "aggie bonds" to lending institutions to fund agricultural loans and to participate in any federal programs designed to assist beginning farmers. In effect, the authority will identify and coordinate the mechanisms by which beginning farmers and agribusinesses may obtain financing necessary to fund agricultural endeavors and enter into any agreements necessary to accomplish these purposes.

The act directs the authority to function as a state entity under the supervision of the Commissioner of Agriculture (commissioner) who will appoint seven board members, including the commissioner or a designee. The authority must prepare an annual report to be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General.

The bill identifies no start-up funding source for the authority. State expenditures in enacting this legislation would be approximately \$115,927 in non-recurring expenses for FY 1999-2000.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The National Council of State Agricultural Finance Programs reports that there is no state agricultural loan program available in Florida. According to the United States Department of Agriculture National Commission on Small Farms, there are approximately 39 states that have some type of state agricultural loan program. The federal government has three agricultural loan programs available to Florida farmers: the United States Department of Agriculture's Farm Service Agency program, the Farm Credit System, and the Rural Business-Cooperative Service program. Farmers meeting specific criteria may apply for this assistance, as provided in the Federal Agriculture Improvement and Reform Act of 1996.

Currently, the Department of Agriculture and Consumer Services (department) operates a program (AgVenture Services) 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.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Florida Agricultural Development Act, establishing the Florida Agricultural Development Authority (authority), a state body to be operated under the supervision of the Commissioner of Agriculture (commissioner). The authority is to establish programs which accomplish the following:

- assist farmers, beginning farmers (including first-time farmers, family farmers, or farmers who are transitioning into a new or alternative crop), and agribusinesses in acquiring agricultural land, improvements, technology, and depreciable agricultural property for farming;
- 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 state-produced agricultural products into a finished agricultural product or byproduct for consumption or use; and
- assist in financing operating expenses and cash flow requirements of farming.

The authority is to be composed of seven members, appointed by the commissioner, including the commissioner or a designee. The board will be composed of appointments from the following entities:

- the Farm Credit System,
- the Florida Rural Development Committee,
- the Florida Farm Bureau Federation,
- a member who is an agricultural economist,
- a member with bonding or lending experience, and
- one member at large.

Initially, two members of the board are to be appointed for four-year terms, two members for three-year terms, and two members for two-year terms. Thereafter, all members are to be appointed for four-year terms.

Members of the board are directed to elect a chair and a vice chair annually and the commissioner shall appoint an executive director, who serves as secretary to the board, and serves at the pleasure of the commissioner. Duties of the executive director include advising the authority on matters relating to agricultural land and property and finance, carrying out all directives from the authority and the commissioner, and hiring and supervising staff pursuant to the direction of the board and the commissioner. Meetings are to be held at the call of the chair, at the request of the majority of the board membership or the commissioner, or at times prescribed by rules of the authority. Any meeting at which official acts are to be taken or public business is to be transacted or discussed must be open and noticed to the public.

The authority is required to prepare an annual report for the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General, to be presented by February 15th of every year. The report is to include the authority's operations and accomplishments, accounting and financial records, proposed and projected activities, recommendations to the Legislature, an analysis of the needs of Florida's beginning farmers and agribusinesses, and performance goals of the authority.

The authority will be set up as a facilitator between farmers and the lending institutions, and will coordinate communication, ascertain qualifications of applicants, and determine the best market lending rates. While the authority will not be functioning in a lending capacity, the authorization to do so in the future is built into the language of the bill. Tax exempt "aggie bonds" or notes will be issued by the authority to lending institutions to finance loans for qualified farmers and the authority is to function as a USDA-certified lender.

The bill creates provisions to use loans in conjunction with federal programs (such as United States Department of Agriculture Consolidated Farm Service Agency and the federal land bank) that are provided for in the Federal Agriculture Improvement and Reform Act of 1996. Specific financial processes and powers are detailed in sections 570.258-570.270, F.S. The bill provides in section 570.273, F.S., that the act shall be "liberally construed to effect its purposes."

The bill establishes the agricultural development bond pool, and directs the Division of Bond Financing to reserve a \$10,000,000 annual volume cap allocation for the aggregate amount of the bonds in the bond pool. It provides for yearly increases under specific circumstances and expands some of the language to include the agricultural pool when referring to other pools. In effect, section 159.804, F.S., specifies the actual dollar amount (\$10,000,000) for bonds that may be issued with tax exemptions. On November 16th of each year, any unused portion of the initial allocation is to be diverted to the state allocation pool.

The act will take effect July 1, 1999.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Section 570.255, F.S., grants the authority the powers necessary to carry out its purposes and duties, and section 570.255(15) provides a broad grant of rulemaking authorization to the authority so that it may carry out the purposes of the bill. Additionally, there are several specific grants of rulemaking authority.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The authority is placed under the supervision of the Commissioner of Agriculture. According to the Department of Agriculture and Consumer Services, additional duties for the department are indeterminate at this time. See Fiscal Analysis and Economic Impact Statement Section.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced: **Not applicable.**

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?
- (2) what is the cost of such responsibility at the new level/agency?
- (3) how is the new agency accountable to the people governed?

2. Lower Taxes: **Not applicable.**

- a. Does the bill increase anyone's taxes?
- b. Does the bill require or authorize an increase in any fees?
- c. Does the bill reduce total taxes, both rates and revenues?
- d. Does the bill reduce total fees, both rates and revenues?
- e. Does the bill authorize any fee or tax increase by any local government?

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
No.
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

In section 570.255(8), F.S., the bill gives the authority the power to fix and collect fees and charges for its services. The sources and amounts have not yet been determined.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
No.
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?
No.

5. Family Empowerment: **Not applicable.**

- a. If the bill purports to provide services to families or children:
 - (1) Who evaluates the family's needs?

- (2) Who makes the decisions?
- (3) Are private alternatives permitted?
- (4) Are families required to participate in a program?
- (5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?
- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:
 - (1) parents and guardians?
 - (2) service providers?
 - (3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Creates sections 570.251- 570.275, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Creating sections 570.251-570.275, F.S.

Creating s. 570.251, F.S.; establishing that sections 570.251-570.275, F.S., may be cited as the "Florida Agricultural Development Act."

Creating s. 570.252, F.S.; providing legislative findings regarding the need to facilitate access to capital by the agricultural community and the need to encourage intellectual, scientific, and agricultural improvement across the state; granting the authority broad powers to adopt rules to carry out the purposes of the act.

Creating s. 570.253, F.S.; providing definitions.

Creating s. 570.254, F.S.; establishing the Florida Agricultural Development Authority; directing the authority to establish programs; mandating that the authority is to be operated under the supervision of the Commissioner of Agriculture; creating a board of seven members and establishing terms; providing for the election of a chair and vice chair; requiring that meetings where official acts are to be taken shall be open and noticed to the public; establishing a quorum of four voting members; providing for per diem and traveling expenses.

Creating s. 570.255, F.S.; establishing and granting general powers.

Creating s. 570.256, F.S.; providing for an executive director who shall be appointed by and serve at the pleasure of the commissioner, and who shall advise the authority on matters relating to agricultural land and property and finance, carry out all directives from the authority and

commissioner, hire and supervise staff pursuant to the direction of the board and the commissioner, and perform other duties.

Creating s. 570.257, F.S.; requiring the authority to submit an annual report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Auditor General by February 15 of each year.

Creating s. 570.258, F.S.; providing for the use of surplus moneys by the authority.

Creating s. 570.259, F.S.; providing for the combination of state and federal programs to facilitate the purposes of the program.

Creating s. 570.260, F.S.; establishing a beginning farmer loan program to facilitate the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers; providing for participation in federal programs; requiring the authority to provide loan criteria; authorizing the authority to provide loan requirements.

Creating s. 570.261, F.S.; authorizing the authority to make loans to beginning farmers to provide financing for agricultural land and improvements or depreciable agricultural property.

Creating s. 570.262, F.S.; authorizing the authority to make loans to mortgage lenders and other lenders.

Creating s. 570.263, F.S.; authorizing the authority to purchase mortgage loans and secured loans from mortgage lenders.

Creating s. 570.264, F.S.; providing for powers of the authority relating to loans.

Creating s. 570.265, F.S.; authorizing the authority to issue bonds and notes and providing that they must be authorized by a resolution of the authority; specifying that bonds and notes are payable solely and only out of the moneys, assets, or revenues of the authority; mandating that the authority publish intent to issue bonds or notes; exempting bonds and notes issued for financing the beginning farmer loan program from taxation by the state; exempting interest earned on bonds and notes from corporate income tax.

Creating s. 570.266, F.S.; providing for the establishment of bond reserve funds.

Creating s. 570.267, F.S.; providing for remedies of bondholders and noteholders.

Creating s. 570.268, F.S.; providing for the pledging of bonds by the state.

Creating s. 570.269, F.S.; stating that bonds and notes shall be considered legal investments.

Creating s. 570.270, F.S.; providing requirements for authority funds, including banking and accounting requirements; requiring that the authority submit to the Governor, the Auditor General, the President of the Senate, and the Speaker of the House of Representatives copies of reports of external examinations of the authority's books and accounts.

Creating s. 570.271, F.S.; providing limitation of liability for members of the authority and persons acting in its behalf.

Creating s. 570.272, F.S.; requiring the assistance of state officers, departments, and agencies, within their respective functions.

Creating s. 570.273, F.S.; providing that the act shall be liberally construed to effect its purposes.

Creating s. 570.274, F.S.; requiring written disclosure of conflicts of interests to the authority; prohibiting participation in action for such interest(s) by the disclosing member or employee of the authority; specifying conflicts of interest with respect to the executive director of the authority.

Creating s. 570.275, F.S.; exempting the authority from competitive bid laws.

Section 2: Creating s. 159.8082, F.S.; establishing the agricultural development bond pool.

Section 3: Amending s. 159.804, F.S.; providing specific allocations of state volume limitations to the agricultural development pool.

Section 4: Amending s. 159.809, F.S.; specifying provisions for bond issuance reports not received.

Section 5: Providing that the act shall take effect on July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

Non-recurring Effects:

	<u>FY 99-00</u>	<u>FY 00-01</u>	<u>FY 01-02</u>
Positions			
Program Planning Coordinator @ \$42,460	\$42,916		
Administrative Assistant I @ \$23,511	\$24,354		
OPS			
Clerk (26 weeks @ \$8.00 hourly)	\$4,160		
Expenses			
2 standard expense packages @ \$8,611 & \$6,665	\$15,276		
OCO			
1 4x4 vehicle	\$22,617		
2 standard OCO packages @ \$3,302	\$6,604		
Total non-recurring effects (General Revenue)	\$115,927	\$0	\$0

1. Recurring Effects:

None. \$0 \$0 \$0

2. Long Run Effects Other Than Normal Growth:

Unknown.

3. Total Revenues and Expenditures:

Total **\$115,927 \$0 \$0**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Unknown.

2. Recurring Effects:

Unknown.

3. Long Run Effects Other Than Normal Growth:

Unknown.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

Unknown.

2. Direct Private Sector Benefits:

Unknown.

3. Effects on Competition, Private Enterprise and Employment Markets:

Unknown.

D. **FISCAL COMMENTS:**

According to the department, this bill should only be considered in conjunction with the department's 1999-2000 legislative budget request for 2 FTEs, a vehicle, administrative funding, and a promotional allocation for initial start-up. If this bill is passed by the Legislature, the department will need some initial non-recurring General Revenue funding to ensure program success. The salaries and expenses will be paid by the Florida Agricultural Development Authority after its first year of operation, when other revenue streams have been identified and secured. Without the needed funding, this program will be an "unfunded mandate" and could potentially divert in excess of \$125,000 from other critical programs.

The department reports that "start up responsibilities for a program of this magnitude are significant...The extent of assistance on the department is unknown at this time."

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

N/A

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

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