

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.)

BILL: SB 2600

SPONSOR: Senator King

SUBJECT: Forestry/Champion Trees

DATE: March 29, 1999 REVISED: 4/7/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

In this state are older, magnificent trees that have been or may be identified as national champion trees or state champion trees according to lists and records maintained by national and state tree or forestry organizations. They took root before the modern industrial age and have survived as living examples of an extraordinarily rare, unique, and valuable biological heritage. With this bill, the legislature declares that national and state champion trees, their roots, soils, and habitat are a public trust and are of paramount concern for the conservation and development of the natural resources and environment of the state.

This bill requires the Division of Forestry of the Department of Agriculture and Consumer Services (division) to develop and maintain a registry of champion and candidate champion trees. It authorizes anyone to submit to the division a proposal for the inclusion of a champion or candidate champion tree to the registry. The division must give written notice in its publications, public notices, and calendar of all submissions, and must give written notice to the colleges and universities in the state, university research facilities conducting research in agriculture or natural resources, agricultural or botanical organizations or societies, the landowner on whose property the proposed tree is located, and any other person who has made a request in writing to be placed on a notice list. The bill provides a procedure for approval of a proposed champion or proposed candidate champion tree for inclusion on the registry.

The bill requires that the trees be protected during any study, evaluation, or decision period. It prohibits them to be taken, trimmed or pruned, or altered in certain ways for propagation purposes, but provides specified exceptions. It provides that ownership of champion or candidate champion trees located on public or private lands remains with the landowner, subject to a declared public trust in the trees. It requires a landowner to provide specified notice in the event of the sale, lease, or transfer of any land on which a champion or candidate champion tree is located. It authorizes the taking of such trees by a private landowner only in compliance with the act.

The bill provides for a civil fine of up to \$2,500 for each occurrence of a violation of this act. In addition to or in lieu of a civil fine, the circuit court may provide injunctive or other appropriate relief for violations. It allows any person who is aggrieved or injured by reason of a violation to bring an action in the appropriate circuit court and to recover the actual damages sustained and the costs of such action, including a reasonable attorney's fee. It also provides that any person who violates the provisions of this act is guilty of a misdemeanor of the first degree.

This bill creates an as yet unnumbered section of the Florida Statutes.

II. Present Situation:

Florida has more species of trees than any other state. Many individual trees within Florida's forests and parklands are the largest of their kind. Since 1941, the American Forestry Association (now American Forests), Washington, D.C., has retained records and published listings of trees that are the largest in the United States--the "National Champions." Florida leads the country with 151 National Champion trees. Since 1978, the Division of Forestry of the Department of Agriculture and Consumer Services (division) has maintained similar records for the state of Florida--the "Florida Champions." The division has tracked and recorded these giant trees to achieve three goals:

- To gather scientific facts in this area of forestry to learn how large they grow, how long they live, and what causes their death;
- To value and protect our heritage; and
- To educate people throughout the state about the uniqueness of the trees around them and thus to encourage protection both of the trees and the environment they represent.

The Florida Champion Tree Survey is the product of an intensive six-year effort by Dr. Daniel Ward and Dr. Robert Ing, supported by personnel of the district offices of the division, and other participants, to locate and measure the largest trees of all species in the state of Florida. The Survey documents 610 native and 243 non-native trees, for a total of 853 listed trees. The actual record of the 853 largest trees now alive in Florida is documented in the Inventory. Here, the scientific and common name of each tree is documented, who nominated it, its owner, its location, the measured dimensions of its trunk circumference, height, and crown spread, and any related information. With this information, the trees of each species are ranked as to overall size, and a determination is made as to which trees will be designated as champion. The Inventory consists of those Florida trees nominated as potential champions. Each is ranked as to its status as "National Champion," "Florida Champion," "Florida Challenger," or "Honorable Mention." Where individual trees have formerly held the ranking of champion but have been displaced following nomination of a larger tree, the former rank is retained but marked as "Emeritus." For those trees that are believed to surpass the current national champion but are yet to be so designated by American Forests, the provisional title of "National Champion (nominee)" is assigned.

The Champion Tree Project (CTP) is a non-profit, nationwide initiative to identify, preserve and research National and State Champion trees. The first CTP chapters were incorporated in Michigan in July 1996, Florida in March 1997, and New York in November 1997. To preserve Champion genes, the CTP harvests budwood and vegetative tissues, cloning the trees and

propagating them into saplings to plant in protected areas. The sites are dedicated as Living Libraries--archives of special genetic resources in a new generation of living specimens. The first choice of locations for these Living Libraries are colleges, universities and research centers, where they will be easily accessible for scientific study. However, to assure wider distribution of these genetic materials, the CTP also establishes Living Libraries at botanical gardens, secondary schools, public parks, private preserves, old-growth forests, church properties, golf courses, and other appropriate places.

III. Effect of Proposed Changes:

Section 1. Defines "candidate champion tree" as any tree that, according to its circumference, measured at 4.5 feet above the ground and its height is rated a second or third to any champion tree species or genus as measured by national champion standards, or which exceeds or is likely to exceed the standards of a champion or candidate champion tree during its life span. Defines "champion tree" as any tree within a species or genus that has been or is listed on a recognized list of national or state champion trees, including candidate champion trees. Defines "champion tree habitat" as any organic and inorganic matter, plants, and organisms within a screen created by the outline of the outermost branches of a champion tree drawn perpendicular to the surface of the ground, and also includes any surface water, groundwater, or soils upon which a champion or candidate champion tree is dependent for its health and survival. Also defines "division," "registry," "person," "soil," "state forester," "take," and "tree."

Provides legislative intent that national and state champion trees, their roots, soils, and habitat are declared to be a public trust and are of paramount concern for the conservation and development of the natural resources and environment of the state.

Requires the Division of Forestry of the Department of Agriculture and Consumer Services (division) to develop and maintain a registry of champion and candidate champion trees. Allows any person to submit to the division a proposal for the inclusion of a champion or candidate champion tree to the registry. Provides criteria to be submitted to the division for such purposes. Requires the division to give written notice of any submission in its publications, public notices, and calendar of all submissions, and to give written notice to the colleges and universities in the state, university research facilities conducting research in agriculture or natural resources, agricultural or botanical organizations or societies, to the landowner on whose property the proposed tree is located, and to any other person who has made a request in writing to be placed on a notice list. Provides a procedure for approval of a proposed champion or proposed candidate champion tree for inclusion on the registry. Requires the proposed champion or candidate champion tree to be protected during any study, evaluation, or decision period.

Prohibits the taking of a champion or candidate champion tree on the registry unless certain conditions are met. Provides criteria for the division to grant a permit to take a champion tree or a candidate champion tree on the registry. Prohibits a person to trim, prune, or engage in other similar action unless a state forester, in consultation with university professors, experts, and other professionals, determines that there is no likelihood of long-term injury to the sustainability of the tree. Prohibits a person to trim, collect, or remove a portion of a branch of a champion or candidate champion tree for the purpose of propagation. Provides exceptions.

Provides that ownership of champion or candidate champion trees located on public or private land remains with the landowner, subject to a declared public trust in the trees and their propagation. To protect the public trust, a tree may be taken by the private landowner only in compliance with the provisions of this act. However, the public trust shall not deprive or deny any private landowner of his or her lawful use of any such tree. Requires a person who owns and sells, transfers, leases, or licenses any land on which a champion or candidate champion tree is located to give notice to the purchaser, transferee, lessee, or licensee of the existence and location of the tree.

Authorizes the division to manage or cooperate in the management of conservation, forestry, agricultural, horticulture, or plant science propagation projects. Authorizes the division to conduct or contract for certain research. Authorizes the division to establish specified programs and to enter into cooperative agreements with persons who have appropriate knowledge or expertise.

Authorizes the department to impose a civil fine of up to \$2,500 for each occurrence of a violation of this act. In addition to or in lieu of a civil fine, the circuit court may provide injunctive or other appropriate relief for violations. Provides for any person who is aggrieved or injured by reason of a violation to bring an action in the appropriate circuit court and to recover the actual damages sustained and the costs of such action, including a reasonable attorney's fee. Provides that any person who violates the provisions of this act is guilty of a misdemeanor of the first degree.

Section 2. Provides that this act shall take effect upon becoming a law.

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:

None.

B. Private Sector Impact:

The public would benefit from the recognition and protection of champion trees. Property owners may experience restrictions in managing their property due to the provisions of the bill.

C. Government Sector Impact:

The department has indicated that additional staffing, clerical assistance and equipment would be required to carry out the provisions of the bill. Site visits and regulatory and cooperative efforts with other agencies would be necessary.

	Fund	FY 1999-00	FY 2000-01	FY 2001-02
<u>OPERATING COSTS</u>				
Non-Recurring:				
OCO - 1 FTE Professional Package	GR	3,302		
1 Vehicle	GR	22,000		
Total Non-Recurring Costs:	GR	\$25,302		
Recurring:				
1 FTE - Forester	GR	39,092	40,265	41,473
OPS	GR	5,000	5,000	5,000
Professional Exp. Pkg.	GR	8,611	8,611	8,611
Travel (per diem, gas)	GR	5,000	5,000	5,000
Total Recurring Costs:	GR	\$57,703	\$58,876	\$60,084
<u>NON-OPERATING COSTS</u>		0	0	0
TOTAL OF ALL COSTS:	GR	\$83,005	\$58,876	\$60,084

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Agriculture and Consumer Services:

This amendment strikes everything after the enacting clause. It:

- Provides definitions, including the definitions for champion tree, co-champion tree, and Florida Challenger tree.
- Provides legislative intent.
- Requires the Division of Forestry of the Department of Agriculture and Consumer Services to develop and maintain a registry of champion and co-champion trees.
- Authorizes anyone to submit to the division a proposal for the inclusion of a champion or co-champion tree to the registry.
- Provides a procedure for approval of a proposed champion or cochampion tree for inclusion on the registry.
- Provides that ownership of champion or co-champion trees located on public or private lands remains with the landowner.
- Provides that a landowner may give notice to a purchaser, transferee, lessee, or licensee of the existence and location of a champion or co-champion tree.
- Provides that this act shall not affect the right of any person engaged in the occupation of silviculture.
- Authorizes the division to manage or cooperate in the management of conservation, forestry, agricultural, horticulture, or plant science propagation projects related to any champion, co-champion, or proposed champion trees and their habitat.
- Authorizes the division to conduct, contract, or arrange for certain research and investigations required to maintain or enhance champion or co-champion trees or their roots.
- Authorizes the division to establish programs it considers necessary to carry out the provisions of this act.
- Authorizes the division to enter into cooperative agreements.

- This amendment significantly reduces Senate Bill 2600's fiscal impact on the department.
(WITH TITLE AMENDMENT)