

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: CS/SB 1904

SPONSOR: Senator Thomas

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 23, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>NR</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill addresses the following administrative duties of the Department of Agriculture and Consumer Services (department):

- Deletes references to specific fire tower sites and work centers to allow the department to relocate work centers to better serve fire fighting and forestry operations.
- Authorizes the department to set temporary meal expenditure limits for up to \$50 a day when its employees are responding to a prolonged emergency situation.
- Eliminates the word “soil” with regard to preconstruction treatments for the prevention of subterranean termites to expand the regulation to cover all products, not just the materials that are soil applied.
- Deletes certain requirements relating to the setting and use of fees for bottled water plants, packaged ice plants, and water vending machines.
- Authorizes the department to adopt a rule for voluntary registration of private weighing and measuring device service agencies and personnel.
- Revises the membership appointment and terms of the Florida Agriculture Center and Horse Park Authority.
- Repeals obsolete sections of the statutes pertaining to meat inspection which is no longer regulated by the state.
- Revises the definition of “wild land” to include pastures in lands that the department has the primary responsibility to protect from wildfires.
- Revises timing requirements for department inspection and permitting of amusement rides. Removes exemptions from inspection requirements for certain temporary rides at public events.
- Deletes a provision that the Division of Forestry of the Department of Agriculture and Consumer Services may issue a warning citation if an authorized fire escapes from the boundaries of an authorized area, if the fire does not leave the land owned or controlled by the authorization holder, and if no damage has occurred.
- Redesignates the offense of careless burning as “reckless” burning.

- Limits local government regulations with respect to the Right to Farm Act.
- Authorizes the Department of Agriculture and Consumer Services to negotiate agreements with landowners for water use in rural areas.

This bill amends sections 253.025, 482.051, 500.12, 500.459, 531.41, 570.07, 570.952, 585.89, 585.92, 590.015, 590.14, 590.28, 616.242, and 823.14, Florida Statutes.

This bill repeals sections 585.70, 585.71, 585.715, 585.72, 585.73, 585.74, 585.75, 585.76, 585.77, 585.78, 585.79, 585.80, 585.81, 585.82, 585.83, 585.84, 585.85, 585.86, 585.87, 585.88, 585.90, 585.902, 585.903, 585.904, 585.91, 585.93, 585.96, and 205.1951, Florida Statutes.

II. Present Situation:

Division of Forestry

The Department of Agriculture and Consumer Services (department) is authorized to sell, convey, transfer, exchange, trade, or purchase land on which a forestry facility resides with the consent of the majority of the Governor and Cabinet. The proceeds are deposited into the Department of Agriculture and Consumer Services Relocation and Construction Trust Fund. Specific forestry fire towers and work centers are listed in s. 253.025(13)(d), F.S. This language is obsolete because some of the forestry facilities listed have already been sold and disposed of. In addition, as development increases around forested areas, the location of some of the listed forestry facilities may not provide the most efficient use of the department's staff and facilities. Deleting this language will allow the department to move forestry facilities where most needed.

Section 112.061(6), F.S., allows state employees who travel on official business \$21 a day per diem. When the department responds to an emergency, it negotiates with a restaurant in the area to provide meals for employees for the current \$21 per day allowance. For employees who are working long, physical hours, \$21 a day is not sufficient to provide the amount of nutritious food and drink needed. Federal employees who are also responding to the same emergency are allowed \$34 a day, which enables the purchase of more appropriate meals than department employees are provided.

Division of Agricultural Environmental Services

The department regulates pest control in Chapter 482, F.S. Current language concerning the prevention of subterranean termites only refers to soil treatments. Elimination of the word "soil" would expand the regulation to cover all products, not just the materials that are soil applied.

Division of Food Safety

In 1997, the Legislature transferred language regarding bottled water, vended water, and packaged ice requirements into appropriate sections of the Florida Food Safety Act. Chapter 500, F.S., currently requires separate record keeping for bottled water, vended water, and packaged ice. Consolidation of these processes would standardize food safety inspections, making them more cost effective by eliminating some administrative costs associated with extensive record keeping.

Division of Standards

In 1973, the department created, by rule, a voluntary registration program by which private scale or measuring device service agencies may register with the department. Upon meeting registration criteria, the company is authorized to place newly installed scales or measuring devices into commercial service before the device is inspected by a Weights and Measures inspector. The company is also authorized to return rejected devices, after they have been repaired, to commercial service until such time as the devices can be inspected by a state inspector.

In 1998, the Legislature substantially revised the safety standards for amusement rides. An amusement ride may not be operated without a current annual permit which must provide certain information required in s. 616.242(5)(b), F.S. This paragraph contains an inconsistency regarding the inspection of fair rides. This bill would align the allotted affidavit/annual permit inspection period of 120 days for both the owner and the department.

Currently s. 616.242(7)(a)2., F.S., states that a temporary amusement ride does not have to be inspected and does not need an inspection certificate when used at a public event if there are no more than three rides at the event, and the capacity of each amusement ride does not exceed eight persons.

Right to Farm Act

Florida's growing urban population continues to encroach upon traditional agricultural areas, which has resulted in nuisance complaints from residents of subdivisions regarding odors, noise, dust, flies, light, vibration or smoke emanating from farming operations. In the late 1970s and early 1980s, many states passed laws in response to pressures from suburban sprawl. The laws are aimed at protecting farms by offering them a qualified defense to nuisance lawsuits by neighbors who object to the normal incidents of farming operations.

In 1979, the Florida Right To Farm Act was enacted by the Legislature to prevent burdensome lawsuits against farmers which were intended to cease or curtail farm operations and which discouraged investments in farm improvements. Section 823.14(4)(a), F.S., states that, with certain exceptions, "No farm operation which has been in operation for one year or more since its established date of operation and which was not a nuisance at the time of its established date of operation shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices."

In response to nuisance complaints that an agricultural operation is infringing upon a neighboring property owner's enjoyment of his or her property, some local governments are developing local ordinances that they believe preempt state law. Further, some local governments have sought to regulate agriculture by changing land use and zoning on existing farms and then applying local zoning ordinances to the farms' agricultural practices. Even when there are no neighbors and there has been no disturbance of any kind, these ordinances are used to enforce such local policies as landscaping, environmental requirements for numbers and sizes of trees, etc. There is no existing statutory language that clarifies the preemption issue between state and local governments regarding the practice of agriculture.

Local governments are given statutory authority to regulate development under chapter 163, F.S. Section 380.04, F.S., defines the term “development,” states the activities or uses that are defined as “development,” and very specifically exempts certain operations from the definition of “development.” “The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes” is an operation or use that does not involve “development” as defined in s. 380.04, F.S.

Meat Inspection

The United States Department of Agriculture assumed responsibility for the state’s Meat Inspection Program in 1997. The statutes still contain sections that address the state’s prior responsibilities regarding meat inspection. This bill deletes sections that are now obsolete.

III. Effect of Proposed Changes:

Section 1. Amends s. 253.025, F.S., to clarify that the Board of Trustees of the Internal Improvement Trust Fund may deed property to the Department of Agriculture and Consumer Services (department) so that the department shall be able to sell, convey, transfer, exchange, trade, or purchase land on which a forestry facility resides for money or other more suitable property on which to relocate the facility. Deletes references to specific fire tower sites and work centers to allow the department to relocate work centers to better serve fire fighting and forestry operations.

Section 2. Amends s. 482.051, F.S., to eliminate the word “soil” with regard to preconstruction treatments for the prevention of subterranean termites to expand the regulation to cover all products, not just the materials that are soil applied.

Section 3. Amends s. 500.12, F.S., to delete certain requirements relating to the setting and use of fees for bottled water plants and packaged ice plants.

Section 4. Amends s. 500.459, F.S. to delete certain requirements relating to the setting and use of fees for water vending machines.

Section 5. Amends s. 531.41, F.S., to authorize the department to provide by rule for the voluntary registration of private weighing and measuring device service agencies and personnel.

Section 6. Amends s. 570.07, F.S., to authorize the department to purchase supplemental nutritional food and drink items and set temporary meal expenditure limits for employees engaged in physical activity for prolonged periods of time, in excess of the established rate, but not to exceed \$50 per day.

Section 7. Amends s. 570.952, F.S., to revise the membership appointment and terms of the Florida Agriculture Center and Horse Park Authority.

Section 8. Amends and renumbers s. 287.1395, F.S., relating to meat inspection. Deletes references to the department, which no longer regulates meat inspections, and inserts United States Department of Agriculture.

Section 9. Amends and renumbers s. 287.1396, F.S., relating to the labeling of meat sold to the state, which is now regulated by the United States Department of Agriculture rather than the department.

Section 10. Repeals ss. 585.70, 585.71, 585.715, 585.72, 585.73, 585.74, 585.75, 585.76, 585.77, 585.78, 585.79, 585.80, 585.81, 585.82, 585.83, 585.84, 585.85, 585.86, 585.87, 585.88, 585.90, 585.902, 585.903, 585.904, 585.91, 585.93, 585.96, and 205.195, F.S., relating to animal and animal product inspection and labeling and custom slaughtering.

Section 11. Amends s. 590.015, F.S., to revise the definition of “wild land”. Includes pastures in lands that the department has the primary responsibility to protect from wildfires.

Section 12. Amends s. 590.14, F.S., to delete a provision that the Division of Forestry of the Department of Agriculture and Consumer Services may issue a warning citation if an authorized fire escapes from the boundaries of an authorized area, if the fire does not leave the land owned or controlled by the authorization holder, and if no damage has occurred.

Section 13. Amends s. 590.28, F.S. to redesignate the offense of careless burning as “reckless” burning.

Section 14. Amends s. 616.242, F.S., to revise timing requirements for department inspection and permitting of amusement rides. Removes exemptions from inspection requirements for certain temporary rides at public events.

Section 15. Amends s. 823.14, F.S., to prohibit a local government to adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit the continuing agricultural use of any land currently engaged in bona fide production of a farm product.

Section 16. Provides authority to the Department of Agriculture and Consumer Services to negotiate agreements with certain land owners for water use in rural areas.

Section 17. Provides that this act shall take effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill prohibits local governments from restricting the practice of agriculture through the use of local ordinances, regulations, rules, or policies.

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:

This bill requires owners of temporary amusement rides to obtain setup inspections of temporary amusement rides when they are used at a public event. The only cost to industry is the actual direct cost of the amusement ride inspections. The Department of Agriculture and Consumer Services conducts over 9,000 amusement ride inspections each year in Florida. A reasonable estimate of the number of additional inspections this bill will require is about 100, with an estimated cost to the regulated entities of \$4,660 a year. The department estimates that, of the new inspections, about 60 percent will be kiddie rides and 40 percent will be adult rides. These additional inspections can be handled by the department’s current staff.

60 kiddie ride inspections @ \$31	\$1,860
40 adult ride inspections @\$70	\$2,800
Total yearly cost to industry:	\$4,660

The industry will benefit from the additional inspections because deficiencies and problems will be identified and corrected, resulting in increased patron safety.

C. Government Sector Impact:

	Trust Fund	FY 2000-01	FY 2001-02	FY 2002-03
TOTAL EXPENDITURES:		0	0	0
TOTAL REVENUES:	GITF	\$4,660	\$4,660	\$4,660
(Increased fair ride inspections)				

The fiscal impact to the department for the purchase of supplemental nutritional food and drink items for employees engaged in physical activity for prolonged periods of time, will vary greatly from year to year depending upon the number and scope of the emergency operations.

Deletion of language pertaining to the amount of the fee and the cost of conducting program operations for bottled water plants, packaged ice plants, and water vending machines will not bring about a change in fees or the department's cost in inspection of these firms. The deletion will reduce indirect administrative costs associated with the extensive record keeping required by the current language.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
