

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/CS/SB 1904

SPONSOR: Natural Resources Committee, Agriculture Committee, and Senator Thomas

SUBJECT: Department of Agriculture and Consumer Services

DATE: April 11, 2000 REVISED: _____

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

I. Summary:

This bill addresses various administrative duties and functions 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.
- Allows the Board of Trustees of the Internal Improvement Trust Fund to deed certain properties to the department. Provides that the sale of such properties is excluded from ch. 259 and 375, F.S.; however, the exclusion does not apply to lands acquired for conservation purposes.
- Authorizes the department to deposit moneys received from the disposition of certain state-owned tangible personal property in the employees' benefit fund.
- 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 since such inspection 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 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 to negotiate agreements with landowners for water supply in rural areas under certain conditions.
- Redefines the term “agriculturally depressed area” to expand the characteristics of a rural area to include certain crop losses and or economic depression.
- Revises the membership of the Agricultural Economic Development Project Review Committee to delete a representative from the Florida Rural Development Committee and add a representative from Enterprise Florida, Inc.
- Creates an Agricultural Economic Development Disaster Loan Program. Specifies uses of loan funds. Provides for security requirements and loan repayment.
- Requires the department to establish an equestrian educational sports educational sports program with one or more accredited 4-year state universities.

This bill amends ss. 253.025, 482.051, 500.12, 500.459, 531.41, 570.07, 570.952, 585.89, 585.92, 287.1395, 287.1396, 590.015, 590.14, 590.28, 616.242, 823.14, 570.242, and 570.248, F.S.

This bill 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 203.1951, F.S.

The bill creates ss. 570.249 and 570.911, F.S.

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 259.101(6), F.S., prohibits the disposition of any land purchased with bonded P-2000 funds if such disposition would have the effect of causing all or any portion of the interest on any

revenue bonds issued to fund the Florida Preservation 2000 Act to lose their exclusion from gross income for purposes of federal income taxation.

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 ch. 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 ch. 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 provide 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. Currently, the department has the authority to sell, convey, transfer, exchange, trade, or purchase land for such purposes with the consent of a majority of the Governor and Cabinet, but the department does not hold the deed to the property. With certain exceptions, the bill provides that the department would be excluded from following the provisions of ch. 253, 259, and 375, F.S. This bill clarifies that the exclusion does not apply to lands acquired for conservation purposes in accordance with s. 253.034(6)(a) or (b), F.S.

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 allow the department to deposit moneys received from the disposition of state-owned tangible personal property, specifically livestock maintained and located at the Doyle E. Conner Complex, in the employees’ benefit fund. The department is also authorized 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. 585.89, F.S., as 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. 585.92, F.S., as 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” to include 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 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 provide that except as otherwise provided in this section or s. 487.051, F.S., a local government may not adopt laws, ordinances, regulations, rules, or policies to prohibit, restrict, regulate, or otherwise limit any continuing farm operation on any land currently engaged in bona fide production of a farm product as produced by those agricultural industries enumerated in s. 570.02(1), F.S. This prohibition does not apply to the powers of local approved environmental programs.

Section 16. Provides authority to the department to negotiate agreements with certain land owners for water supply in rural areas provided:

- The water to be supplied is currently available to property owned or controlled by the department; and
- The intended use and quantity are not inconsistent with any permit required un part II of ch. 373, F.S., for the source of supply in effect at the time of the agreement.

Currently, part II, ch. 373, F.S., provides for the permitting of consumptive uses of water by the water management districts and the Department of Environmental Protection. The water management districts and the Department of Environmental Protection are authorized to require permits for the consumptive use of water and may impose such reasonable conditions as are necessary to assure that such use is consistent with the overall objectives of the district or the department and is not harmful to the water resources of the area. To obtain a permit from the water management district or the Department of Environmental Protection, the applicant must establish that the proposed use of water:

- Is a reasonable-beneficial use as defined in s. 373.019, F.S.;
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.

Section 17. Amends s. 570.242, F.S., to provide that the definition of “agriculturally depressed area” means a rural area which has declining profitability from agricultural enterprises and one or more of certain specified characteristics including crop losses or economic depression resulting from a natural disaster or socioeconomic conditions or events which negatively impact a crop. This definition would have application to the new disaster loan program provision included in section 19 and could have potential application to declining profitability of crops such as tobacco and allow a state-funded loan program for such growers.

Section 18. Amends s. 570.248, F.S., to delete a representative from the Florida Rural Development Committee as a member of the Agricultural Economic Development Project Review Committee and add a representative from Enterprise Florida, Inc.

Section 19. Creates s. 570.249, F.S., to establish an Agricultural Economic Development Disaster Loan Program. Loans may be made to agricultural producers who have experienced crop losses from a natural disaster or a socioeconomic condition or event. Loan funds may be used to:

- Restore or replace essential physical property, such as animals, fences, equipment, structural production facilities, orchard trees;
- Pay essential family living expenses; and
- Restructure farm debts.

Funds may be issued as direct loans, or as loan guarantees for up to 90 percent of the total loan, in amounts not less than \$30,000 nor more than \$250,000. Applicants must provide at least 10 percent equity.

Crops eligible for the emergency loan program include:

- Crops grown for human consumption;
- Crops planted and grown for livestock consumption, including, but not limited to, grain, seed, and forage crops;
- Crops grown for fiber, except for trees; and
- Speciality crops, such as aquacultural, floricultural, or ornamental nursery crops; Christmas trees; turf for sod; industrial crops; and seed crops used to produce eligible crops.

A borrower must keep complete and acceptable farm records and present them as proof of production levels. A borrower must operate in accordance with a farm plan that he or she develops and that is approved by the commission. A borrower may be required to participate in a financial management training program and obtain crop insurance.

In order to qualify for a loan, an applicant must submit an application to the Agricultural Economic Development Project Review Committee within 30 days after the natural disaster or socio-economic condition or event occurs or the date the crop damage becomes apparent. An applicant must be a U.S. citizen, a bona fide resident of the state, and together with the applicant's spouse and their dependents, have a total net worth of less than \$100,000. The value of any residential homestead owned by the applicant must not be included in determining the applicant's net worth. An applicant must also demonstrate the need for economic assistance, be worthy of credit according to standards established by the commissioner, prove that he or she cannot obtain commercial credit, and demonstrate that he or she has the ability to repay the loan.

All loans must be fully collateralized. A first lien is required on all property or product acquired, produced, or refinanced with loan funds. The specific type of collateral required may vary depending upon the loan purpose, repayment ability, and the particular circumstances of the applicant.

Repayment of loans for crops, livestock, and non-real-estate losses shall normally be repaid within 7 years, or in special circumstances within 20 years. Loans for physical losses to real estate and buildings shall not exceed 30 years. Borrowers are expected to return to conventional credit sources when they are financially able. Loans are a temporary source of credit and borrowers must be reviewed periodically to determine whether they can return to conventional credit.

Section 20. Creates s. 570.911, F.S., to require the Department of Agriculture and Consumer Services to establish an equestrian educational sports program with one or more accredited 4-year state universities designed to give student riders the opportunity to learn, complete, and succeed at the collegiate level, while at the same time promoting the state’s multi-billion equine industry.

Section 21. This act takes 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
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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.

Section 19 of the bill provides for a new loan program for agricultural producers who have experienced crop losses from a natural disaster or a socioeconomic condition or event. It is not clear what “socioeconomic conditions or events” would impact crops to the point where the area becomes an “agriculturally depressed area.” “Economic depression...or socioeconomic conditions or events which negatively impact a crop” are neither distinctively agricultural or economic terms. They deal with adverse consequences resulting from changes in social policy. Conceivably, it could include situations where heavy jury awards, such as those experienced by the tobacco industry, force farmers and others out of the business of growing such crops. To provide loans under such conditions could have the effect of using funds accruing to the state as a result of such judicial awards to pay for the cause of such awards. The bill does specify the crops eligible for the emergency loan program as those grown for human consumption, livestock consumption, fiber, and specialty crops. While it lists several specialty crops as examples, the list is not confined to just those listed. The economic impact of this provision cannot be determined at this time.

In addition, even though the bill established a loan program, there is no money provided to capitalized the loan fund.

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.

The department is required by this bill to establish at one or more 4-year universities an equestrian educational sports program. The details of such a program are not specified. It is not known what costs the department would incur in establishing these programs. The bill does not provide an appropriation to the department for this purpose.

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.
