

**STORAGE NAME:** h2237s1.gg  
**DATE:** April 20, 2000

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
GENERAL GOVERNMENT APPROPRIATIONS  
ANALYSIS**

**BILL #:** CS/HB 2237 (PCB AG 00-02)

**RELATING TO:** Department of Agriculture and Consumer Services

**SPONSOR(S):** Committees on General Government Appropriations, Agriculture, Representative Putnam, and others

**TIED BILL(S):** None

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

- (1) AGRICULTURE YEAS 8 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 1
- (3)
- (4)
- (5)

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**I. SUMMARY:**

CS/HB 2237 addresses a variety of issues relating to the powers and duties of the Department of Agriculture and Consumer Services (department).

In regards to acquisition of state lands, current language is being clarified due to an opinion issued by the Attorney General stating the current statute does not allow for the Board of Trustees (BOT) of the Internal Improvement Trust Fund to convey property to the department. The bill removes language allowing the department to issue warning citations when an authorized fire escapes due to unpredicted atmospheric conditions. The bill provides penalties for the "reckless" burning of lands. Also, the specific names of forestry fire towers and work centers are being deleted to allow the department to relocate or dispose of any tower or center in the state.

The department's regulation of pesticides is expanded to cover all products used for subterranean termites rather than just soil treatments. The bill also allows three years of experience performing pest control for the United States Department of Defense to satisfy the minimum requirement for licensure by the department. The bill consolidates the record keeping process for bottled water, vended water, and packaged ice.

Within the Division of Standards, the department is authorized to adopt a rule allowing companies, who meet appropriate registration criteria, to place newly installed scales and measuring devices into commercial use before the device has been inspected by the department. The bill also requires any amusement ride operating at a public event to be inspected. The bill corrects an inconsistency in current law regarding when an amusement ride inspection must take place once the affidavit has been filed.

CS/HB 2237 allows the department to purchase additional rations, under emergency conditions, for employees engaged in emergency response activities and to deposit proceeds from the sale of specific state-owned tangible personal property into the employees' benefit fund. The bill allows the department to negotiate agreements with landowners for water supply in rural areas.

The bill also establishes disaster loans through the Agricultural Economic Development Program. The program provides timely capital loans to agricultural producers who do not meet eligibility requirements of other state and federal disaster assistance programs or supplements payment from those programs.

As well as the above changes, CS/HB 2237 revises membership requirements of the Florida Agriculture Center and Horse Park Authority, prohibits horse tripping, requires the department to establish an equestrian educational sports program at an accredited 4-year state university, revises various definitions pertaining to agriculture, and repeals language relating to the state's meat inspection program which is no longer in existence.

The bill also amends the "Florida Right to Farm Act" to prohibit local government interference with land classified as agricultural and subject to regulation by a state agency or water management district.

The fiscal impact includes a \$4,660 increase in fair ride inspection fee revenues into the General Inspection Trust Fund. Also, the Conference Committee on the General Appropriations Act is currently considering an appropriation of \$3 million in General Revenue for disaster loans.

**II. SUBSTANTIVE ANALYSIS:**

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Forestry:** Currently, the statutes list specific forestry fire towers and work centers relocations which are to be funded from the Relocation and Construction Trust Fund. Also, the statutes currently imply the Board of Trustees of the Internal Improvement Trust Fund are authorized to convey property to the Department of Agriculture and Consumer Services (department), although it is not specifically stated.

In addition, the department is now allowed to issue a citation of warning if an authorized fire escapes because of unpredicted atmospheric conditions. Also, existing law provides penalties for the "careless" burning of land. And lastly, the current definition of "wild lands" does not include a reference to pasture.

**Agricultural Environmental Services:** Present law provides for regulation of preconstruction soil treatment of subterranean termites. Since this law was passed, there have been a number of new products developed and put on the market for preconstruction treatment of subterranean termites. These new products are not applied to the soil.

**Food Safety:** The statutes currently require food establishments to keep separate records for bottled water, vended water, and packaged ice. While the state's meat inspection program was eliminated in 1998, the statutory language has never been repealed nor removed. The United States Department of Agriculture provides for meat inspection in Florida.

**Standards:** The department currently has a voluntary registration program in rule, whereby upon meeting registration criteria, a company is authorized to place newly installed scales or measuring devices into commercial service prior to being inspected by the department.

**Florida Agriculture Center and Horse Park Authority:** Currently, the Florida Agriculture Center and Horse Park Authority (authority) is composed of 23 members: one citizen at large, who represents the views of the general public toward agriculture and equine activities in the state; one representative of the department; one representative from Enterprise Florida, Inc.; one representative from the Department of Environmental Protections' Office of Greenways and Trails; one member of the Ocala/Marion County Chamber of Commerce; one public/private partnership expert; one member of a private environmental organization; one fruit and vegetable grower; one citrus grower; one commercial feed producer; one livestock/cattle breeder; one quarter horse breeder; one thoroughbred horse breeder; one standardbred horse breeder; one Arabian horse breeder;

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one color breeds horse breeder; one licensed veterinarian; one Paso Fino horse breeder; one ornamental or nursery stock grower; one representative from the horse show industry; one representative from the horse sport industry; one representative from the horse trail riders industry; and, one representative from the Board of County Commissioners of Marion County.

With the exception of department employees and the citizen at large, each member is selected from two or three nominees submitted by recognized statewide organizations representing the various interests and trades composing the membership of the authority.

**Amusement Rides:** Presently, the statutes require the department to inspect and permit an amusement ride within 60 days of the date the affidavit was executed. Also, amusement rides operating at a public event do not need an inspection certificate if there are no more than three amusement rides at the event, and the capacity of each of the rides does not exceed eight persons.

**Agricultural Economic Development Program:** Presently, there is no state agricultural loan program available in Florida. According to the United States Department of Agriculture's National Commission on Small Farms, there are approximately 30 states that have some type of state agricultural loan program. The federal government has three agricultural loan programs available to Florida farmers:

- United States Department of Agriculture's Farm Service Agency;
- Farm Credit System; and,
- Rural Business-Cooperative Service.

Farmers meeting specific criteria may apply for assistance, as provided in the Federal Agriculture Improvement and Reform Act of 1996. Unfortunately, these loan programs are not designed to quickly assist seasonal producers who have been affected by a natural or socio-economic disaster. The federal application process sometimes takes too long for the producer to qualify before losing more money after the opportunity to plant another seasonal crop has been lost. In addition, the producer may make too much money to qualify for a federal loan.

**Other:** Presently, the meal per diem rate for state employees is \$21. However, when department employees are engaged in emergency response activities (such as firefighting) requiring arduous physical activity for extended periods of time, additional rations of food and drink are needed.

Presently, when the department disposes of state-owned tangible property, proceeds are deposited into one of the department's operating funds.

#### C. EFFECT OF PROPOSED CHANGES:

**Forestry:** The specific names of forestry fire towers and work centers are deleted to allow the department to relocate or dispose of the towers/centers, as needed. The authority of the Board of Trustees of the Internal Improvement Trust Fund, as it relates to conveying state lands to the Department of Agriculture and Consumer Services (department), is clarified to allow the Board to deed property to the department. The bill also clarifies that the exemptions do not apply to property purchased with P-2000 or CARL funds.

The department will no longer have authority to issue a warning citation when an authorized fire escapes due to unpredicted atmospheric conditions. Also, penalties are

now provided for the “reckless” burning of land, rather than the “careless” burning of land. The definition of “wild lands” is amended to include pasture.

**Agricultural Environmental Services:** The department’s regulation of pesticides is expanded to cover all products used for treatment and/or prevention of subterranean termites. The bill allows three years of experience performing pest control for the United States Department of Defense to satisfy the minimum requirement for acquiring a pest control operator’s certificate from the department.

**Food Safety:** The bill consolidates the record keeping process for bottled water, vended water, and packaged ice. The bill also repeals the language relating to the state’s meat inspection program, which was eliminated in 1998. Two sections of the meat inspection language relating to the purchase of fresh beef or pork by the state or any municipality and meat or meat products labeled as “Genuine Florida” are transferred to Chapter 287, F.S.

**Standards:** The bill authorizes the department to adopt a rule allowing companies, who meet appropriate registration criteria, to place newly installed scales and measuring devices into commercial use prior to being inspected by the department.

**Florida Agriculture Center and Horse Park Authority:** The bill changes the membership of the Florida Agriculture Center and Horse Park Authority (authority) from 23 to 21: three citizens-at-large, who shall represent the views of the general public toward agriculture and equine activities in the state; one representative from the department; one representative from Enterprise Florida, Inc.; one representative from the Department of Environmental Protections’ Office of Greenways and Trails; one member of the Ocala/Marion County Chamber of Commerce; two representatives of the tourism/hospitality industry; three representatives of the commercial agriculture industry; three representatives from recognized horse breed associations; one representative of the veterinary industry; three representatives from the competitive equine industry; one representative from the horse pleasure and trail riding industry; and, one representative recommended by the Board of County Commissioners of Marion County.

Initially, the Commissioner of Agriculture and Consumer Services shall appoint 11 members for 4-year terms and 10 members for 2-year terms. The bill provides for current members to serve until successors are appointed.

**Amusement Rides:** The bill requires the department to inspect and permit an amusement ride within 60 days of the date of filing the application with the department. The bill also requires all amusement rides operating at public events to be inspected.

**Agricultural Economic Development Program:** The bill establishes a disaster loan program through the Agricultural Economic Development Program (program). The program will provide loans to farmers who have experienced crop losses due to natural disasters or socio-economic events or conditions. The loans may be used to:

- restore or replace essential physical property, such as animals, fences, equipment, structural production facilities; or orchard trees;
- pay all or part of production costs associated with the disaster year; or
- 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.

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A representative of Enterprise Florida, Inc. replaces the representative from the Florida Rural Economic Development Committee on the Agricultural Economic Development Project Review Committee.

**Other:** The department is given authority, in an emergency situation, to purchase additional rations, not to exceed \$50 per day per employee, for employees engaged in emergency response activities.

The department is given authority to deposit money from the disposition of specific state-owned tangible personal property into the employees' benefit fund. Previously, this fund was supported by recycled proceeds as referenced in s. 403.7145(2), F.S. However, the Department of Management Services has discontinued this transfer due to the cost of production of the recycling program. The employees' benefit fund is used for flowers for employees who are hospitalized, flowers for funerals of employees/immediate family members, to enhance break areas, mementos for guest speakers or instructors, and various other internal uses.

The "Florida Right to Farm Act" is amended to prohibit regulation by local government on land classified as agricultural where activities are already regulated by another state agency or water management district.

The bill provides a waiver of liability to persons who apply pesticides in accordance with state and federal law, applicable registered labels, and rules of the department.

The department is instructed to establish an equestrian educational sports program with one or more accredited four-year state universities. And lastly, the department is authorized to negotiate agreements with landowners for water supply in rural areas.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amending s. 212.02, F.S.; providing a definition for "agricultural production".

**Section 2:** Amending s. 253.025, F.S.; clarifying the authority of the Board of Trustees of the Internal Improvement Trust Fund to convey property to the Department of Agriculture and Consumer Services (department); and, allowing the department to relocate/dispose of forestry fire towers and work centers, as needed.

**Section 3:** Amending s. 482.051, F.S.; expanding the department's regulation of pesticides to cover all products used for subterranean termites.

**Section 4:** Amending s. 482.132, F.S.; allowing three years experience performing pest control for the United States Department of Defense (DOD) to satisfy the minimum requirements for licensure by the department; and, requiring application for certification to be submitted to the department within twelve months after the date of termination from the DOD.

**Section 5:** Amending s. 487.081, F.S.; waiving liability for contamination by persons using pesticides in accordance with state and federal law, applicable registered labels, and rules of the department; authorizing the department to adopt rules regarding record keeping; and, providing this subsection be retroactive.

**Section 6:** Amending s. 500.12, F.S.; clarifying the rule-making authority of the department as it relates to setting fees for operating a bottled water/package ice plant.

**Section 7:** Amending s. 500.459, F.S.; clarifying the rule-making authority of the department as it relates to setting fees for permits for operating water vending machines; and, deleting requirement for usage of fees collected from permits for water vending machines.

**Section 8:** Amending s. 531.41, F.S.; authorizing the department to adopt a rule allowing companies, meeting appropriate registration criteria, to place newly installed scales and measuring devices into commercial use prior to the devices being inspected by the department.

**Section 9:** Amending s. 570.07, F.S.; authorizing the department to deposit proceeds from the disposition of specific state-owned tangible personal property into the employees' benefit fund; and, authorizing the department to purchase additional rations, under emergency conditions, for personnel engaged in emergency response activities.

**Section 10:** Amending s. 570.242, F.S.; amending the definition of an "agriculturally depressed area" to include an economy adversely affected or depressed due a natural disaster or a socio-economic condition or event.

**Section 11:** Amending s. 570.248, F.S.; revising the membership of the Agricultural Economic Development Project Review committee.

**Section 12:** Creating s. 570.249, F.S.; establishing a disaster loan program within the Agricultural Economic Development Program (program); establishing use of loan funds; identifying eligible crops for the program; providing farming information necessary for application to the program; establishing a loan application; providing loan security requirements; and, providing loan repayment criteria.

**Section 13:** Creating s. 570.92, F.S.; establishing an equestrian educational sports program with one or more accredited 4-year state universities.

**Section 14:** Amending s. 570.952, F.S.; revising membership and terms of members of the Florida Agriculture Center and Horse Park Authority.

**Section 15:** Creating s. 287.0822, F.S.; transferring s. 585.89, F.S., relating to purchase of fresh beef or pork by the state or any municipality.

**Section 16:** Creating s. 287.0821, F.S.; transferring s. 585.92, F.S., relating to meat products labeled as "Genuine Florida" or "All American".

**Section 17:** Amending s. 590.015, F.S.; revising the definition of "wild land" to include pasture.

**Section 18:** Amending s. 590.14, F.S.; amending the authority of the department in regards to issuing warning citations when an authorized fire escapes due to unpredicted atmospheric conditions.

**Section 19:** Amending s. 590.28, F.S.; providing penalties for the "reckless" burning of lands.

**Section 20:** Amending s. 616.242, F.S.; requiring the department to inspect an amusement ride within 60 days after the application has been filed; and, requiring any amusement ride operating at a public event to be inspected.

**Section 21:** Amending s. 823.14, F.S.; prohibiting regulation by local government on land classified as agricultural where activities are already regulated by another state agency or water management district.

**Section 22:** Amending s. 828.12, F.S.; prohibiting horse tripping, with some exceptions.

**Section 23:** Allowing the department to negotiate agreements with landowners for water supply in rural areas.

**Section 24:** Repealing ss. 205.1951, 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, 585.903, 585.904, 585.91, 585.93, and 585.96, Florida Statutes.

**Section 25:** Providing an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

Department of Agriculture and Consumer Services

	Amount Year 1 <u>(FY 00-01)</u>	Amount Year 2 <u>(FY 01-02)</u>	Amount Year 3 <u>(FY 02-03)</u>
1. <u>Revenues:</u>			
Amusement Ride Inspections	<u>\$4,660</u>	<u>\$5,126</u>	<u>\$5,639</u>
Total Revenues (General Inspection Trust Fund)	<u>\$4,660</u>	<u>\$5,126</u>	<u>\$5,639</u>
2. <u>Expenditures:</u>			
Recurring:			
Non-Operating Disbursements:			
Service charge to General Revenue	<u>\$340</u>	<u>\$374</u>	<u>\$ 411</u>
Total Expenditures (General Inspection Trust Fund)	<u>\$340</u>	<u>\$374</u>	<u>\$411</u>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The only direct cost to industry is the actual cost of the amusement ride inspections. The change will require approximately 100 additional amusement ride inspections each year:

60 kiddie ride inspections @ \$31	\$1,860
40 adult ride inspection @ \$70	<u>\$2,800</u>
Total first year cost to industry	<u>\$4,660</u>

Costs to the industry during each succeeding fiscal year should increase somewhat as a result of an increase in the number of inspections performed, but increases in total cost to the industry should not exceed 10% per year.

D. FISCAL COMMENTS:

The fiscal impact for the revision to s. 570.07(35), F.S., to exceed the per diem rate and raise it to \$50, is difficult to predict and will vary greatly from year to year depending on the number and scope of the emergency operations.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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:

A. CONSTITUTIONAL ISSUES:

N/A



**B. RULE-MAKING AUTHORITY:**

In s. 531.41, F.S., the department is given rule-making authority to allow companies, who meet appropriate registration criteria, to place newly installed scales and measuring devices into commercial use prior to inspection by the department.

**C. OTHER COMMENTS:**

Representatives from the Florida League of Cities, the Association of Counties, and the American Planning Association expressed concern regarding the language being added to s. 823.14, F.S. (the Florida Right to Farm Act). They felt as though the language was so broad as to tie the hands of local governments in resolving conflicts. Representatives from the Florida Farm Bureau Federation and the Florida Fruit and Vegetables Growers have agreed to work with the local government representatives to reach a mutual consensus.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

On April 18, 2000, the General Government Appropriations Committee adopted 8 amendments and moved to make the bill a committee substitute. One amendment was withdrawn.

**Amendment 1** provides a definition for agricultural production.

**Amendment 2** clarifies that exemptions do not apply to property purchased with P-2000 or CARL funds.

**Amendment 3** allows three years of experience performing pest control for the United States Department of Defense to satisfy the minimum requirements for acquiring a pest control operator's certificate from the department.

**Amendment 4** waives liability for persons who use pesticides in accordance with state and federal law, applicable registered labels, and rules of the department.

**Amendment 5** requires the department to establish an equestrian educational sports program with one or more accredited four-year state universities.

**Amendment 6** prohibits horse tripping.

**Amendment 7** prohibits regulation by local government on land classified as agricultural where activities are already regulated by another state agency or water management district.

**Amendment 8** was withdrawn.

**Amendment 9** allows the department to negotiate agreements with landowners for water supply in rural areas.

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VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Debbi Kaiser

Staff Director:

Susan D. Reese

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Marsha M. Belcher

Staff Director:

Cynthia P. Kelly