

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Agriculture Committee

BILL: CS/SB 1648

INTRODUCER: Agriculture Committee and Senator Hays

SUBJECT: Department of Citrus

DATE: January 30, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Buford	AG	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute contains substantial revisions to the Florida Citrus Code which were agreed to last summer by an advisory committee created of interested citrus industry organizations, individual growers, and interested stakeholders. After several committee meetings that incorporated input and approval from industry organization executive committees and boards, the industry has recommended the following changes to chapter 601, F.S.:

- Update the short title from “The Florida Citrus Code of 1949” to the “Florida Citrus Code.”
- Update terminology to more correctly reflect processes.
- Revision of qualifications and staggered 3-year terms for members of the commission.
- Shorten the terms of current members to create staggered terms.
- Require the commission to review the citrus districts every 5 years and, upon certain findings, make recommendations to the Legislature for redistricting of the districts.
- Require the Department of Citrus (department) to be staffed 5 days per week, 40 hours per week.
- Clarifies and readopts the department’s authority to adopt rules to implement certain powers and duties.

- Authorize the department to conduct, or arrange to be conducted, research related to disease and crop efficiency that advances the purpose of the Florida citrus industry and commercialization related to advancing such research.
- Update obsolete tax language. The committee substitute substitutes the term “assessment” for “excise tax” and sets the maximum assessments for grapefruit, oranges, tangerines, and citrus hybrids entering the primary channel of trade in the fresh and/or processed form.
- Require persons liable for the periodic payments of assessments to submit a letter of credit from an issuing financial institution located in the United States to guarantee payment.
- Change the majority of voting members of the commission from nine to seven.
- Specify dimensions for standard shipping and field boxes for fresh fruit and revise circumstances relating to use of such boxes.
- Require approval of a majority of the commission for any salary adjustment of a department employee who earns \$100,000 or more.

This committee substitute amends sections 20.29, 570.55, 600.041, 601.01, 601.03, 601.04, 601.045, 601.05, 601.06, 601.07, 601.08, 601.09, 601.10, 601.101, 601.11, 601.111, 601.13, 601.15, 601.152, 601.155, 601.24, 601.25, 601.28, 601.31, 601.32, 601.33, 601.34, 601.35, 601.37, 601.38, 601.40, 601.43, 601.44, 601.45, 601.46, 601.49, 601.50, 601.501, 601.51, 601.52, 601.54, 601.55, 601.56, 601.57, 601.58, 601.60, 601.601, 601.61, 601.64, 601.66, 601.67, 601.69, 601.70, 601.701, 601.731, 601.74, 601.75, 601.76, 601.77, 601.78, 601.80, 601.85, 601.86, 601.91, 601.9901, 601.9902, 601.9903, 601.99035, 601.99036, 601.9904, 601.9908, 601.9910, 601.9911, 601.9918, 601.992, and 603.161 of the Florida Statutes.

This committee substitute repeals sections 601.16, 601.17, 601.18, 601.19, 601.20, 601.21, 601.22, 601.87, 601.90, 601.901, 601.981, 601.9905, 601.9906, 601.9907, 601.9909, 601.9913, 601.9914, and 601.9916 of the Florida Statutes.

II. Present Situation:

In 1935, at the request of the citrus industry, the Legislature created the Florida Citrus Code, the Florida Citrus Commission and established the Florida Department of Citrus as an agency of the state to provide marketing, research and regulatory support to the entire citrus industry. After signing the bill, Governor David Scholtz began his search for Citrus Commission members who would solidify the industry and make it profitable for both those involved and for the state's economy.

The Florida Citrus Commission acts as the head of the Department of Citrus. The commission is composed of nine representatives of the citrus industry who are citizens of the state and have at least five years of experience as citrus growers, packers or processors. Additionally, during the five years immediately prior to appointment, each member must have derived a major portion of his/her income from activities listed above or been the owner of, member of, officer of, or paid employee of a corporation, firm, or partnership which has derived the major portion of its income from the growing, growing and shipping, or growing and processing of citrus fruit.

Members of the commission are appointed by the governor for three year terms. Appointments are made by February 1 preceding the commencement of the term and must be confirmed by the Senate in the following legislative session. Four members are appointed each year. Members

serve until their respective successors are appointed and qualified. The regular terms begin on June 1 and end on May 31 of the third year after appointment. Effective July 1, 2011, the terms of all members of the commission appointed on or before May 1, 2011, were terminated and the Governor appointed members in accordance with the provisions of chapter 601, F.S.

When appointments are made, the Governor publicly announces the actual classification and district that each appointee represents. A majority of the members of the commission constitutes a quorum for the transaction of business and for carrying out the duties of the commission. Prior to beginning their duties as members of the commission, each member must take and subscribe to the oath of office as prescribed in s. 5, Art. 11 of the State Constitution.

The commission must elect a chair and vice chair and such other officers as it deems necessary. The chair, with the concurrence of the commission, may appoint such advisory committees or councils composed of industry representatives as he/she deems appropriate. In appointing such committees or councils, the chair must set forth areas of committee or council concern that are consistent with the statutory powers and duties of the commission and the department.

Current law provides legislative intent that the commission be redistricted every five years. Redistricting is based on the total boxes produced from each of the three districts during that five-year period.

The Department of Citrus carries out commission policy and acts as the commission's staff by conducting a wide variety of programs involving regulation, scientific, market and economic research, advertising, merchandising, public and industry relations and consumer promotion. Section 601.10, F.S., provides the department with various powers. The department has the power to employ and, at its pleasure, discharge an executive director as it deems necessary. The executive director of the department is appointed by a majority vote of the commission for a term of 4 years, with confirmation by the Senate in the legislative session following appointment. The initial term of the executive director ends June 30, 2011, and each subsequent 4-year term begins July 1, and is filled in the same manner as the original appointment.

Current law requires employees of the department to work a 5 day, 40-hour week. Unless on approved leave, an employee's salary can be decreased by 20 percent for each day not worked during the 5-day work week if the employee chooses to regularly work less than a 5-day work week.

The department also has the power to establish minimum maturity and quality standards for citrus fruits not consistent with existing laws. When, in the opinion of the department, the tax revenues collected pursuant to chapter 601, F.S., are not immediately needed for the purpose for which they were allocated, the Chief Financial Officer is authorized to, upon the request and approval of the department or its general manager, if he or she has been given such authority, invest and reinvest the funds designated and for the period of time specified in such request.

The Florida Citrus Code is comprehensive legislation that establishes administrative authority to protect, advance, monitor, and regulate the state's citrus industry. To carry out this broad mandate the code empowers administering agencies to collect excise taxes from citrus handlers and inspection fees for certification of citrus fruit or processed citrus products. Penalties for

violations of the code include fines, criminal prosecution, loss of any required license, and injunction. These penalties enable the Department of Citrus and the Department of Agriculture and Consumer Services to effectively implement the code's provisions.

Over the years, sections of chapter 601, F.S., have been revised and others have been added, resulting in inconsistencies throughout the chapter. This bill substantially rewrites chapter 601, F.S., to correct the inconsistencies, remove obsolete and out-of-date language, and makes other substantive changes.

III. Effect of Proposed Changes:

Section 1 amends s. 20.29, F.S., to provide that the head of the Department of Citrus is the Florida Citrus Commission. It also provides for the appointment, compensation, and powers and duties of the department's executive director.

Section 2 amends s. 570.55, F.S., to correct a cross-reference contained in the definition of the term "tropical or subtropical fruit."

Section 3 amends s. 600.041, F.S., to correct a cross-reference contained in the definition of the term "standard-packed box."

Section 4 amends s. 601.01, F.S., to change the chapter's short title from "The Florida Citrus Code of 1949" to the "Florida Citrus Code."

Section 5 amends s. 601.03, F.S., to make technical updates to the definitions used in chapter 601, F.S. It provides a definition for "department," meaning the Department of Citrus, to correct the inconsistent use of "department" and "Department of Citrus" throughout the chapter. The term "coloring room" is updated to the term "degreening room" to more correctly reflect a process. Finally, the definition for "primary channel of trade" is updated to include the routes through which citrus fruit is marketed.

Section 6 amends s. 601.04, F.S., to revise the qualifications and terms of members of the Florida Citrus Commission. It provides that three commission members must be appointed from each of the three citrus districts. Members appointed from the same citrus district serve staggered terms so that the term of one of the district's three members expires each year. In order to create the staggered terms, the terms of members appointed before July 1, 2012, are shortened as follows:

- The term of one member from each citrus district expires June 30, 2012, and her or his successor shall be appointed to a term beginning July 1, 2012, and expiring May 31, 2015.
- The term of one member from each citrus district expires June 30, 2013, and her or his successor shall be appointed to a term beginning July 1, 2013, and expiring May 31, 2016.
- The term of one member from each citrus district expires June 30, 2014, and her or his successor shall be appointed to a term beginning July 1, 2014, and expiring May 31, 2017.
- Subsequent appointments are made in accordance with this section.

The committee substitute requires the Governor to announce the term, as well as the district and classification, when making appointments to the commission. The commission must elect a chair and a secretary and may elect a vice chair and such other officers as the commission deems advisable.

The committee substitute also makes non-substantive, technical revisions that do not change the statutory meaning of the section.

Sections 7-11 amend ss. 601.045, 601.05, 601.06, 601.07, and 601.08, F.S. to consistently use “department” instead of “Department of Citrus.”

Section 12 amends s. 601.09, F.S., to provide Legislative intent that the citrus districts be reviewed and, if necessary, to maintain substantially equal volumes of citrus production within each district, to be redistricted every five years. The commission may, once every five years, review the citrus districts based on the total boxes produced within each district during the preceding five years and, based on the commissions’ findings, submit recommendations to the Legislature for redistricting.

Section 13 amends s. 601.10, F.S., to remove provisions relating to the appointment of an executive director. Provisions for the appointment, compensation, and powers and duties of the department’s executive director have been relocated to s. 20.29, F.S. (Section 1 of this bill.)

The bill deletes language which requires a 20 percent reduction for each day an employee does not work during the 5-day work week if the employee chooses to regularly work less than a 5-day work week. Subject to all applicable requirements of Florida’s Department of Management Services, the department must be staffed 5 days per week, 40-hours per week to accommodate industry inquiries. However, with commission approval, the executive director has the authority to set alternative schedules for individual department employees to ensure maximum efficiencies.

The bill also makes conforming and technical revisions that do not change the statutory meaning.

Section 14 amends s. 601.101, F.S., to make conforming and technical revisions that do not change the statutory meaning.

Section 15 amends s. 601.11, F.S., to revise the powers and duties of the department to adopt maturity and quality standards for citrus fruit and citrus fruit products. These standards must be designed to increase the acceptance and consumption by the consuming public of such regulated citrus fruits and food products of citrus and may include, but are not limited to, standards for:

- Color break, predominant color, total soluble solids, juice content, and ratio of soluble solids of the juice to anhydrous citric acid of oranges, grapefruit, and tangerines.
- Total soluble solids, juice content, and ratio of soluble solids of the juice to anhydrous citric acid of citrus fruit grown in the state for export to foreign countries other than Canada and Mexico.
- Canned orange juice or frozen concentrated orange juice that is sold, offered for sale, shipped, or offered for shipment, including, but not limited to, standards for total soluble

solids, ratio of soluble solids of juice to anhydrous citric acid, amount of anhydrous citric acid, amount of recoverable oil, color, taste, flavor, and absence of additives or defects, and labeling requirements for substandard juice. These standards may establish separate density, compositional, labeling, and inspection requirements for high-density frozen concentrated orange juice that is sold, offered for sale, shipped, or offered for shipment in retail, institutional, or bulk size containers.

- The processing, shipping, and sale of frozen concentrated orange juice and concentrated orange juice for manufacturing to which nutritive sweetening ingredients are added, including, but not limited to, total soluble solids of orange juice exclusive of the added nutritive sweetening ingredients; labeling requirements; and requirements for the inspection and reinspection of such concentrated orange juice before and after nutritive sweetening ingredients are added.
- Grapefruit juice products, including, but not limited to, standards for the ratio of soluble solids of juice to anhydrous citric acid and any other standards designed to increase the acceptance and consumption by the consuming public of such regulated grapefruit juice products.
- Canned blends of orange juice and grapefruit juice that are sold, offered for sale, shipped, or offered for shipment, including, but not limited to, standards for total soluble solids, ratio of soluble solids of juice to anhydrous citric acid, amount of anhydrous citric acid, amount of recoverable oil, color, taste, flavor, absence of defects, and labeling requirements for substandard juice blends.

In addition, the department is authorized to:

- Issue permits for the export to foreign countries other than Canada and Mexico of citrus fruit grown in the state.
- Establish standards limiting any increase of spacing between stacked field boxes caused by the placement of cleats or other devices on the field boxes.

The commission shall:

- Issue and renew permits for processors of frozen concentrated orange juice and concentrated orange juice for manufacturing to which nutritive sweetening ingredients are added and, in addition to disciplinary action that may be taken by the Department of Agriculture and Consumer Services (DACCS) against a citrus fruit dealer for violations of chapter 601, F.S., to suspend or revoke the permit of any processor that does not comply with established standards.
- Determine whether freezing temperatures have caused damage or freeze-related injury to citrus fruit and, if the commission determines that such damage has been caused, issue emergency quality assurance orders that:
 - Temporarily prohibit the preparation for market, sale, offer for sale, or shipment of any citrus fruit showing freeze damage or freeze-related injury.
 - Establish the degree of freeze damage or freeze-related injury that is temporarily permitted in citrus fruit used in frozen concentrate products, including concentrate for manufacturing purposes.

The committee substitute also provides that the department shall adopt rules concerning labeling, grading, and use of containers for citrus fruit or products. In addition, the bill makes other non-substantive, technical revisions which do not change the statutory meaning.

Section 16 amends s. 601.111, F.S., to revise Legislative findings concerning emergencies that affect the state's citrus industry. It revises the department's authority to temporarily modify maturity standards for citrus fruit during abnormal conditions. It authorizes emergency rules and requires them to be adopted by an affirmative vote of at least seven members of the commission. Notwithstanding the limitation on the effective date for emergency rules, each emergency rule must contain an expiration date of not later than one year after its effective date.

Section 17 amends s. 601.13, F.S., to require the department to conduct, or cause to be conducted, any research related to disease and crop efficiency that would advance the purposes of Florida's citrus industry and commercialization related to advancing such research. Other changes made to s. 601.13, F.S., are non-substantive, technical revisions that do not change the statutory meaning.

Section 18 amends s. 601.15, F.S., to redesignate the advertising excise tax on citrus fruit as an assessment. It sets the maximum assessment for grapefruit entering the primary channel of trade for use in fresh or processed form at 36 cents per box. The maximum assessment for oranges entering the primary channel of trade in the fresh form is 7 cents per box and 25 cents per box in the processed form. The bill provides that the actual assessment levied each year on tangerines and citrus hybrids regulated by the department that enter the primary channel of trade for use in processed form cannot exceed 25 cents per box or 16 cents per box in the fresh form. It also provides that persons liable for the periodic payments of assessments must also submit a letter of credit from an issuing bank located in the United States to guarantee payment.

Other changes made to s. 601.15, F.S., are non-substantive, technical revisions that do change the statutory meaning.

Section 19 amends s. 601.152, F.S., to change the majority of voting members of the commission from nine to seven. It also makes non-substantive, technical revisions that do not change the statutory meaning.

Section 20 amends s. 601.155, F.S., to substitute the term "assessment" for "excise tax." It provides that persons liable for the periodic payment of assessments must submit a letter of credit from an issuing financial institution located in the United States to guarantee payment. It also makes non-substantive, technical revisions that do not change the statutory meaning.

Sections 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47 amend sections 601.24, 601.25, 601.28, 601.31, 601.32, 601.33, 601.34, 601.35, 601.37, 601.38, 601.40, 601.43, 601.44, 601.45, 601.46, 601.49, 601.50, 601.501, 601.51, 601.52, 601.54, 601.55, 601.56, 601.57, 601.58, 601.60, and 601.601, F.S. The changes are non-substantive, technical revisions that do not change the statutory meaning.

Section 48 amends s. 601.61, F.S., to specify that the amount of bonds or certificates of deposit that must be furnished by citrus fruit dealer licensees must be determined by the department pursuant to department rules.

The bill also deletes s. 601.61(6), F.S., to remove obsolete language relating to the constitutionality of any of the provisions of this section discussed above.

Sections 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, and 61 amend sections 601.64, 601.66, 601.67, 601.69, 601.70, 601.701, 601.731, 601.74, 601.75, 601.76, 601.77, 601.78, and 601.80, F.S. The changes are non-substantive, technical revisions that do not change the statutory meaning.

Section 62 amends s. 601.85, F.S., to specify the dimensions for the fresh fruit standard shipping box, when used as a unit of trade or for reporting purposes.

Section 63 amends s. 601.86, F.S., to specify dimensions for the fresh citrus fruit standard field box, when used as a unit of trade or for reporting purposes.

Sections 64, 65, 66, 67, and 68 amend sections 601.91, 601.9901, 601.9902, 601.9903, and 601.99035, F.S. The changes are non-substantive, technical revisions that do not change the statutory meaning.

Section 69 amends s. 601.99036, F.S., to provide that any changes in the annual salary of a department employee who earns \$100,000 or more must be approved by a majority of the commission before the salary adjustment is made.

Sections 70, 71, 72, 73, 74, and 75 amend sections 601.9904, 601.9908, 601.9910, 601.9911, 601.9918, and 601.992, F.S. The changes are non-substantive, technical revisions that do not change the statutory meaning.

Section 76 amends s. 603.161, F.S., to conform a cross-reference.

Section 77 repeals the following obsolete sections, effective January 1, 2013:

- **ss. 601.16, 601.17, 601.18, 601.19, 601.20, 601.21, and 601.22, F.S.**, relating to maturity and quality standards for grapefruit, oranges, and tangerines;
- **601.87, F.S.**, relating to limits on increased spacing between stacked field boxes caused by the placement of cleats or other devices on the field boxes;
- **ss. 601.90 and 601.901, F.S.**, relating to the issuance of emergency quality assurance orders following freezing temperatures that cause damage or freeze-related injury to citrus fruit and the use of such freeze-damaged citrus fruit in frozen concentrated products;
- **s. 601.981, F.S.**, relating to permits for the export to certain foreign countries of citrus fruit grown in the state and quality standards for such exported fruit;

- s. 601.9905, F.S., relating to quality standards and labeling requirements for canned orange juice;
- s. 601.9906, F.S., relating to quality standards for certain grapefruit juice products;
- ss. 601.9907, 601.9909, and 601.9913, F.S., relating to quality standards and labeling requirements for canned blends of orange juice and grapefruit juice, frozen concentrated orange juice, and high-density frozen concentrated orange juice sold in retail, institutional, or bulk size containers;
- s. 601.9914, F.S., relating to authority of the commission to adopt rules modifying citrus juice quality standards for specified purposes;
- s. 601.9916, F.S., relating to the issuance of permits for the processing, shipping, and sale of frozen concentrated orange juice or concentrated orange juice for manufacturing into which certain nutritive sweetening ingredients are added, the inspection of such processors, and quality standards and labeling requirements for such concentrated orange juice.

Section 78 provides an effective date of July 1, 2012, except as otherwise expressly provided.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Agriculture on January 30, 2012:**

Two amendments were adopted that:

- Clarify proposed language pertaining to the powers and duties of the department and the commission as well as revising present language in chapter 601, F.S.
- Clarify the rulemaking authority of the department.
- Change the word “bank” to “financial institution” to avoid limiting the variety of depository institutions from which letters of credit may be obtained to pay assessments.

B. Amendments:

None.