

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 Committee on Governmental Oversight and Accountability

BILL: SB 1276

INTRODUCER: Senator Albritton

SUBJECT: Department of Citrus

DATE: January 17, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Akhavein	Becker	AG	Favorable
2. Hackett	McVane	GO	Favorable
3. _____	_____	AP	_____

I. Summary:

SB 1276 establishes the Friends of Florida Citrus Program within the Department of Citrus (department). It provides for the powers and duties of the program and requires any funds received to be deposited into the Florida Citrus Advertising Trust Fund. It also creates the Friends of Florida Citrus Advisory Council which is to advise and provide recommendations to the Florida Citrus Commission regarding the use of any funds received for the Friends of Florida Citrus Program.

The bill authorizes the department to loan its employees to or to share its employees with specified state and federal entities and to enter into related agreements with such entities. The bill also deletes provisions setting out the required work schedule and staffing of the department.

The bill is expected to have an indeterminate fiscal impact on the private and governmental sectors.

The bill takes effect on July 1, 2020.

II. Present Situation:

Florida Department of Citrus

The department is an executive agency of Florida government charged with the marketing, research, and regulation of the Florida citrus industry. Its activities are funded by an assessment paid by growers on each box of citrus that moves through commercial channels. The industry employs more than 45,000 people, provides an annual economic impact of \$8.6 billion to the state, and contributes hundreds of millions of dollars in tax revenues that help support Florida's schools, roads and health care services. The department also has extensive regulatory

responsibilities, covering every aspect of the industry, including research, production, maturity standards, licensing, transportation, labeling, packing and processing.¹

The Florida Citrus Commission

The Florida Citrus Commission (commission) governs the department.² The commission is a nine-member board appointed by the governor to represent citrus growers, processors, and packers. The department 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 promotions.³

Assessments collected and levied by the department are paid into the State Treasury and accounted for in the Florida Citrus Advertising Trust Fund.⁴ All money in the State Treasury, including that deposited into the Florida Citrus Advertising Trust Fund, is subject to the legislative appropriations process.⁵

Advisory Councils

Section 20.03(7), F.S. defines an advisory council as an advisory body created by statute and appointed to study problems arising in a specified functional or program area of state government and to recommend policy alternatives. Advisory councils are created on a continuing basis, and therefore have no natural ending date.

Section 20.052, F.S., provides guidelines and procedures for a collegial body created by statute such as an advisory council. The body must meet a statutorily defined purpose, conform with s. 20.03, F.S., and its members shall be appointed to staggered 4-year terms.⁶ The section also provides that an advisory body's members are to serve without additional compensation but may receive per diem and reimbursement for travel expenses.⁷

Advisory committees serve a public purpose by providing the department with information and expertise on a number of issues important to the citrus industry, such as identifying and prioritizing citrus harvesting problems and evaluating proposals for conducting research on the nutritional benefits of citrus products. Department funding support for these committees comes from excise taxes paid by Florida citrus growers on each box of citrus moved through commercial channels.⁸

The commission currently has the following five advisory councils/committees:

¹ Florida Department of Citrus, See <https://www.floridacitrus.org/grower/about/florida-department-of-citrus> (Last visited January 8, 2020).

² See generally s. 601.04, F.S.

³ Florida Citrus Commission, See <https://www.floridacitrus.org/grower/about/florida-citrus-commission/> (Last visited January 8, 2020).

⁴ Section 601.15(7), F.S.

⁵ FLA. CONST. Art. VII, s. 1(d).

⁶ Section 20.052(4), F.S.

⁷ *Id.*

⁸ Office of Program Policy Analysis and Government Accountability, "Florida Department of Citrus Advisory Committees," September 6, 2007, See <http://www.oppaga.state.fl.us/reports/pdf/07-S09.pdf> (Last visited January 8, 2020).

- Fruit Classification & Standards Committee
- Gift Fruit Advisory Council
- Processing Statistics Reporting Advisory Committee
- Scientific Research Advisory Committee
- State Test House Advisory Council

The chair of the commission is authorized to appoint any advisory committee or council deemed appropriate, subject to the commission's concurrence. No statutory enactment is required for a new advisory council.⁹

Unless specifically exempted from public meetings requirements, all advisory council meetings are public meetings.¹⁰ Minutes and voting records must be recorded and maintained, and the meetings must be noticed.¹¹

Intergovernmental Interchange of Public Employees

Section 112.24, F.S., provides for interchange of public employees within the government. Agencies are allowed to enter into employee interchange agreements with other state agencies, the Federal Government, another state, a municipality, a political subdivision, an institution of higher education, or a nonprofit organization. The details of an interchange program are to be put into an agreement reported to the Department of Management Services, and is not to last longer than two years. Section 112.24(3), F.S., provides regulations for how salary, leave, travel, transportation, and reimbursements for the employee are to be handled in the agreement. For the 2019-2020 fiscal year, ending July 1, 2020, the assignment of an employee may be made if recommended by the Governor or Chief Justice and approved by the chairs of the legislative appropriations committees.¹²

Marketing Orders

Marketing agreements and orders allow cooperation among handlers, producers, and governmental entities like the department to help provide stable markets for dairy products and twenty-one types of fruits, vegetables, and specialty crops. Each order and agreement is tailored to the individual industry's needs. Marketing Orders are binding regulations for the signatories in the specified geographical area, once approved by the signatories and the Secretary of Agriculture. Marketing Agreements are only binding for those handlers that sign the agreement.¹³

Fruit, vegetable, and specialty crop marketing orders and agreements help producers and handlers work together to solve marketing problems that they cannot solve individually by (1) maintaining the high quality of produce that is on the market; (2) standardizing packages and containers; (3) regulating the flow of product to market; (4) establishing reserve programs for storable commodities; and (5) authorizing production research, marketing research and

⁹ Section 601.04(3)(b), F.S.

¹⁰ Section 20.052(5)(c), F.S.

¹¹ Section 286.011, F.S.

¹² Section 112.24(6), F.S.

¹³ See generally s. 600.051, F.S.

development, and advertising.¹⁴ Provisions in this bill will help the department accommodate the federal Marketing Order process.

III. Effect of Proposed Changes:

Section 1 creates s. 601.041, F.S., to establish the Friends of Florida Citrus Program within the department. Its purpose is to support and assist existing and future programs within the department. Through the program, the department shall:

- Conduct programs and activities related to the protection and enhancement of the quality and reputation of Florida citrus fruit and the canned and concentrated products that are sold in domestic and foreign markets;
- Identify and pursue methods to provide resources and materials for the program; and
- Research methods to integrate the resources and materials that have been identified.

The bill authorizes the department to receive donations from private corporations to support the program. Donations must be deposited into the Florida Citrus Advertising Trust Fund.

The bill establishes The Friends of Florida Citrus Advisory Council (advisory council) to advise and provide recommendations to the commission regarding the use of any funds received for the Friends of Florida Citrus Program. The advisory council shall consist of the following members, appointed by the chair of the commission annually upon the concurrence of the commission:

- One member of the commission;
- One member recommended by a consortium of citrus processors in Florida;
- One member recommended by the statewide voluntary Florida citrus growers association with the highest membership; and
- Two at-large members, at the discretion of the commission.

This program and the advisory council will allow the department to capture and coordinate marketing efforts and marketing funds from outside sources not otherwise subject to the box assessment. More efficient coordination will allow the industry greater flexibility in communal efforts in advertising and outreach than reliance on federal marketing orders, which can take more than a year to be approved.

Section 2 amends s. 601.10, F.S., to authorize the department to loan department employees to or to share department employees with other state and federal agencies, state universities, or the Department of Agriculture and Consumer Services or its direct support organizations or for marketing orders adopted under the authority of the United States Secretary of Agriculture. The bill authorizes the department to enter into agreements with such entity or entities under terms and conditions that will benefit the state, if the agency or entity with which the employee is loaned or shared reimburses the state for all pay and benefits of the employee, not including a service fee for administration. If the entity directly pays the loaned or shared employee his or her salary and benefits, if applicable, an agreement with the department is not necessary and the employee may work part-time with the department under terms and conditions mutually agreed

¹⁴ United States Department of Agriculture, Agricultural Marketing Service, See <https://ams.usda.gov/rules-regulations/moa> (Last visited January 8, 2020).

to between the department and the employee. All arrangements and agreements are subject to approval by the department.

The bill deletes provisions setting out the required work schedule and staffing of the department.

Section 3 provides that this act shall take effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate. The department will be responsible for per diem and travel costs related to the advisory council.

VI. Technical Deficiencies:

Lines 39-40 of the bill permit the department to receive donations from private corporations for deposit into the Florida Citrus Advertising Trust Fund. Limiting donations to originating from “corporations” as opposed to “persons,” which would include other types of firms, associations, partnerships, and business entities, may have the unintended effect of disallowing donations the program would otherwise receive.

Lines 54-55 of the bill state that one member of the council will be “recommended by a consortium of citrus processors in this state.” This is a general statement that doesn’t refer to a particular consortium or association, and fails to adequately specify what body will recommend the member.

The bill creates an advisory council and directs it to operate in a manner consistent with s. 20.052, F.S. To be consistent with s. 20.052, F.S., the Legislature should consider the following:

- Section 20.052(3)(c), F.S., requires, unless expressly provide otherwise in the State Constitution, members of advisory councils to be appointed to staggered 4-year terms. Line 51 of the bill states the members are to be appointed annually.
- Section 20.052(5)(a), F.S., requires private citizen members of an advisory council adjunct to an executive agency to be appointed by the governor, a cabinet officer, or the head of the department, in this case the Citrus Commission as a whole. Lines 50-52 of the bill authorize the commission chair to appoint private citizen members to the advisory council with the concurrence of the commission.

Lines 44-59 of the bill do not identify operating procedures for the advisory council, including the selection of a chair, the adoption of rules, the location and schedule for meeting, and quorum.

VII. Related Issues:

Until s. 112.24(6), F.S., expires and is not reenacted for an additional period of time, the intergovernmental loan program prescribed in section 2 of the bill cannot be utilized without the recommendation of the Governor or Chief Justice and the consent of both legislative appropriations committee chairs.

VIII. Statutes Affected:

This bill amends section 601.10 of the Florida Statutes.
This bill creates section 601.041 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
