

STORAGE NAME: h0539a.ag

DATE: April 9, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE
ANALYSIS**

BILL #: HB 539

RELATING TO: Forestry

SPONSOR(S): Representative Rayson

COMPANION BILL(S): SB 2600 (s) by Senator King

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

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

I. SUMMARY:

The Florida chapter of the national Champion Tree Project is currently run in cooperation with the University of Florida and the state Division of Forestry (division) of the Department of Agriculture and Consumer Services (department). The national program exists to facilitate location and measurement of the largest trees of all species in the state and to provide legal protection for trees that meet specific champion tree criteria. Currently, Florida has 853 trees listed on the national Champion Tree registry.

This bill requires the division to develop and maintain a state champion and candidate champion tree program and registry, give written notice of any submissions to the champion tree registry, classify, study, and evaluate any submissions for one year, conduct meetings, and give written notice of such meetings. It authorizes anyone to submit to the division a proposal for the inclusion of a champion or candidate champion tree to the registry. The bill provides legislative intent that national and state champion trees, their roots, soils, and habitat are declared to be a public trust. The bill authorizes the division to conduct, contract or arrange for research and investigations of any champion or candidate champion tree, establish programs, and create rules to implement the provisions of the act. The bill prohibits the taking, trimming, collecting, or removal of a portion of any tree on the registry or any tree being studied or evaluated for the registry, providing exceptions. In addition, the bill provides for civil fines and penalties.

State expenditures in enacting this legislation would be approximately \$83,005 in FY 1999-2000, \$58,876 in FY 2000-2001, and \$60,084 in FY 2001-2002.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida chapter of the national Champion Tree Project currently is run in cooperation with the University of Florida and the state Division of Forestry (division) of the Department of Agriculture and Consumer Services (department) and has been in place since 1978. The national program exists to facilitate location and measurement of the largest trees of all species in the state and to provide legal protection for trees that meet specific champion tree criteria.

Florida currently has 853 trees listed on the national Champion Tree registry. For each individual tree, information is given as to its common and scientific name, its measurements in terms of circumference of trunk, height, and spread of canopy, its location, owner, and nominator, and its rank as a champion or other status among the elite trees of Florida.

B. EFFECT OF PROPOSED CHANGES:

The bill provides legislative intent that the protection, management, sustainability, and restoration of Florida's trees and forests are of paramount concern to the state, and national and state champion trees, their roots, soils, and habitat are declared to be a public trust.

The bill authorizes anyone to submit a proposal for a champion or candidate champion tree to be included on the registry and directs the submitter to provide to the division the following:

- the family, genus, and species of the tree;
- applicable measurements of the tree;
- the soils, hydrology, and habitat of the tree;
- the location of the tree according to section, town, and range;
- written consent to the inclusion of the tree on the registry by the landowner, if on private property; and
- any other botanical, biological, scientific, or ecological evidence demonstrating a likelihood for inclusion on the registry.

The bill directs the division to develop and maintain a registry of champion and candidate champion trees that describes the family, genus, species, measurements of parameters of the tree, as well as the section, town and range of its location. The division is directed to give written notice in its publications, public notices, and calendar of any submission for classification as a champion or candidate champion tree, and must give written notice to the colleges and universities in the state, university research facilities conducting research in agriculture or natural resources, agricultural or botanical organizations or societies, the landowner on whose property the proposed candidate tree is located, and any other person who has made a request to be placed on a notice list.

The division is further directed to classify each subject tree, study and evaluate each submission for one year, conduct meetings, and give written notice of these meetings. During any study, evaluation, or decision period, the proposed tree is to be protected as if it were on the registry.

The bill prohibits the taking of champion or candidate champion trees unless it is necessary to prevent a threat to the safety of a person or damage to property, or a permit has been issued by the division. Permits may be issued to protect the safety and well-being of persons and property, or if it is shown that the tree is diseased and dying. Trimming and pruning of champion or candidate champion trees is prohibited, with exceptions.

A person selling, transferring, leasing, or licensing any land on which a champion tree or candidate champion tree is located, shall give notice to the purchaser, etc., of the existence and location of the tree.

The division is authorized to manage or cooperate in the management of projects related to champion trees, conduct, contract, or arrange for research and investigations, establish programs, enter into cooperative agreements, and establish rules to implement the provisions of the act.

The division may impose a civil fine of up to \$2,500 for each violation of this act. Circuit courts may provide injunctions, and any person who is aggrieved or injured by violations of the act may bring action and recover damages sustained. Violators commit a first degree misdemeanor.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Section 1(6)(c) of the bill authorizes the division to establish rules to implement the provisions of the act.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The Division of Forestry is required to develop and maintain a registry of champion and candidate champion trees that describes the family, genus, species, measurements of parameters of the tree, as well as the section, town and range of its location.

The division is directed to give written notice in its publications, public notices, and calendar of any submission for classification as a champion or candidate champion tree, and must give written notice to the colleges and universities in the state, university research facilities conducting research in agriculture or natural resources, agricultural or botanical organizations or societies, the landowner on whose property the proposed candidate tree is located, and any other person who has made a request to be placed on a notice list.

The division is further directed to classify each subject tree, study and evaluate the submission of each proposed candidate champion tree for one year, conduct meetings, and give written notice of these meetings.

The division is authorized to manage or cooperate in the management of projects related to champion trees, conduct, contract, or arrange for research and investigations, establish programs, enter into cooperative agreements, and establish rules to implement the provisions of the act.

In addition, the division is authorized to grant permits to take champion trees when certain conditions are met, and to issue civil fines of up to \$2,500 for each violation of this act.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced: **Not applicable.**

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes: **Not applicable.**

- a. Does the bill increase anyone's taxes?
- b. Does the bill require or authorize an increase in any fees?
- c. Does the bill reduce total taxes, both rates and revenues?
- d. Does the bill reduce total fees, both rates and revenues?
- e. Does the bill authorize any fee or tax increase by any local government?

3. Personal Responsibility: **Not applicable.**

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Under the bill, it is unlawful to take a tree that is placed on the champion tree registry or is being studied as a submission to the registry. In addition, there are restrictions on trimming or pruning trees that are on the registry or that are being studied or evaluated as a submission to the registry.

5. Family Empowerment: **Not applicable.**

- a. If the bill purports to provide services to families or children:
 - (1) Who evaluates the family's needs?
 - (2) Who makes the decisions?
 - (3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Placement in the Florida Statutes has not been determined at this time.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides definitions of the following terms: candidate champion tree, champion tree, champion tree habitat, division, registry, person, soil, state forester, take, and tree; provides legislative intent that the protection, management, sustainability, and restoration of Florida's trees and forests are of paramount concern to the state; requires the division to develop and maintain a registry of champion trees and lists requirements and data that must be included in the registry; requires the division to give written notice of any submission for classification as a champion or candidate champion tree; provides prohibitions and exceptions; authorizes the division to conduct, contract, or arrange for research and investigations in the habitat, health, conditions, or other biological or management data required to maintain or enhance the health, protection, propagation, or reforestation of any champion or candidate champion tree; provides for civil fines and penalties.

Section 2: Provides that this act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. <u>Non-recurring Effects:</u>	<u>FY 99-00</u>	<u>FY 00-01</u>	<u>FY 01-02</u>
OCO			
Professional pkg. - 1 FTE @ \$3,302	\$3,302		
One-time expense			
1 vehicle for statewide travel	\$22,000		
Total non-recurring costs (General Revenue)	\$25,302		

2. Recurring Effects:

Positions (located in Tallahassee)

1 FTE - Forester	\$39,092	\$40,265	\$41,473
OPS	\$5,000	\$5,000	\$5,000
Expenses			
Professional pkg. @ \$8,611	\$8,611	\$8,611	\$8,611
Travel (per diem and gas)	\$5,000	\$5,000	\$5,000

Total recurring costs (General Revenue) \$57,703 \$58,876 \$60,084

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Grand total of expenditures \$83,005 \$58,876 \$60,084

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Private property owners may be restricted in managing their property due to added regulations.

2. Direct Private Sector Benefits:

Public recognition and protection of champion trees.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

A number of visits would have to be made to the tree sites, which would require additional staffing, clerical assistance, and equipment. Regulatory and cooperative efforts with other agencies would also demand considerable time.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The 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:

The Department of Agriculture and Consumer Services states that promoting the **current** Florida Champion Tree Program and encouraging the protection and conservation of Champion Trees is a great educational tool for Florida urban and rural residents and for visitors to the state.

The Florida Farm Bureau Federation and the Florida Forestry Association note that the bill would "add numerous regulatory functions, controls, civil penalties and additional red tape to a currently smooth-operating voluntary recognition program," and believe that there is no need for this new legislation.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A "strike everything after the enacting clause" amendment was adopted at the April 8, 1999, Committee on Agriculture meeting. This amendment replaced the term "candidate champion tree" with "co-champion tree;" removed regulatory responsibilities of the division; provided an exemption for silviculture; and removed prohibitions, fines, and penalties. The bill as amended was voted unfavorably by the committee.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Staff Director:

Shari Z. Whittier

Susan D. Reese