

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Environmental Preservation

BILL: CS/CS/SB 858

SPONSOR: Environmental Preservation Committee, Agriculture Committee and Senator Smith

SUBJECT: Agriculture

DATE: April 6, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>GA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute addresses the following issues related to agriculture and the powers and duties of the Department of Agriculture and Consumer Services (department):

- \$ Clarifies the department's jurisdiction over bison raised on farm operations and the Fish and Wildlife Conservation Commission's jurisdiction regarding the exhibition or display of bison;
- \$ Amends the definition of "material safety data sheet" to allow dissemination of information through electronic means;
- \$ Removes or changes outdated references;
- \$ Establishes an environmental stewardship program which agricultural producers could voluntarily join;
- \$ Requires special permits for persons wishing to engage in biomass plantings;
- \$ Revises provisions regarding civil liability for prescribed burns; and
- \$ Provides for obsolete agricultural equipment to be assessed at its value as salvage.
- \$ Defines the term "invasive plant."

This committee substitute amends sections 372.921, 372.922, 487.2031, 502.014, 502.091, 503.011, 531.39, 531.47, 531.49, 570.9135, 581.011, 581.083, 585.002, and 590.125 of the Florida Statutes.

This committee substitute repeals section 450.211 of the Florida Statutes.

This committee substitute creates sections 450.175 and 570.076 of the Florida Statutes.

II. Present Situation:

Bison

Current statute is somewhat unclear regarding which state agency has jurisdictional authority for bison. The Fish and Wildlife Commission (FWC) rules define bison as a “game mammal,” with ss. 372.921-922, F.S., providing statutory jurisdiction. At the same time, s. 570.36, F.S., states that the Department of Agriculture and Consumer Services (department) has jurisdiction over livestock, with livestock being defined in s. 585.01, F.S., as “grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas, which are raised for private use or commercial purposes.” Consequently, some bison owners are subject to conflicting rules and regulations regarding the care and maintenance of their herd.

This committee substitute resolves this issue by charging the FWC with jurisdictional authority over bison located on hunting preserves or game farms or at places of exhibition which charge a fee. The department has jurisdictional authority over bison that are domesticated and confined for commercial farming purposes.

Farm Labor Safety

During the 2004 Session, the Legislature passed the Farm Labor Safety Act. Since that time, some oversights have been identified. This legislation names Part II of Chapter 450, F.S., as the “Alfredo Bahena Act.” Mr. Bahena, a long-time organizer with the Farmworker Association of Florida, was killed in a car accident in May 2004.

In addition, the bill abolishes the advisory committee to the Legislative Commission on Migrant Labor. This provision was inadvertently left out of the 2004 legislation.

Environmental Stewardship Certification

Agricultural producers have been the subject of debate and, in some cases, criticism by the public concerning farm practices that some perceive to be insufficient to protect natural resources. While many public and private programs have been developed to assist farmers with these issues, no statutory program currently exists. This committee substitute establishes a voluntary environmental stewardship program and authorizes the department to work with the Institute of Food and Agricultural Sciences of the University of Florida to develop a curriculum.

Cultivation of Non-Native Plants

There is a growing interest in cultivating large crops of plants to be used as biomass for alternative energy sources for electric power generation. Concerns have been raised that if this enterprise is not profitable, large plantings of potentially invasive plants would be abandoned and the state could potentially be left with the responsibility of disposing of them. This committee substitute addresses this concern by requiring persons wishing to grow biomass crops to obtain a special permit from the department and to provide proof of financial responsibility.

Civil Liability for Prescribed Burns

Current sections of chapter 590, F.S., regarding forest protection, are in conflict with one another. Section 590.125(3)(c), F.S., provides a haven from liability regarding controlled burns

unless gross negligence is proven. At the same time, s. 590.13, F.S., attaches a civil liability for any violation of chapter 590, F.S., whether or not there is criminal prosecution and conviction. This committee substitute addresses this conflict by providing an exemption from civil liability for burns conducted in accordance with s. 590.125(3)(c), F.S.

Obsolete Agricultural Equipment

For ad valorem tax purposes, taxpayers owning agricultural equipment must file an annual return to report equipment owned as of January 1st of each year. The county property appraiser is required to assess the value of property at a just valuation which has been held to mean 100 percent of fair market value. The Florida Department of Revenue adheres to life expectancy guidelines that establish a 10-year life for agriculture, machinery and equipment, which results in agricultural equipment being assessed at salvage value after it is 10 years old. Agricultural equipment that is less than 10 years old, but is not commonly used by the taxpayer for a variety of reasons, is being assessed at fair market value rather than at salvage value. This committee substitute characterizes agricultural equipment that is no longer commonly used by the taxpayer in agricultural production as obsolete and provides that such equipment will be assessed at salvage value for ad valorem tax purposes.

III. Effect of Proposed Changes:

Section 1. Amends s. 372.921, F.S., to include bison in the exemption regarding exhibition or sale of wildlife.

Section 2. Amends s. 372.922, F.S., to include bison in the exemption regarding personal possession, control, care and maintenance of wildlife.

Section 3. Creates s. 450.175, F.S., to name Part II of chapter 450, F.S., the “Alfredo Bahena Act.”

Section 4. Repeals s. 450.211, F.S., authorizing the Legislative Commission on Migrant Labor to establish an advisory committee.

Section 5. Amends s. 487.2031, F.S., to amend the definition of the term “material safety data sheet” (MSDS) to include electronic as well as written or printed material. Many manufacturers and distributors provide a website address where the MSDS may be downloaded and printed.

Section 6. Amends s. 502.014, F.S., to delete a duty of the department relating to issuance of a temporary marketing permit for milk and milk products.

Section 7. Amends s. 502.091, F.S., to delete a reference to “certified pasteurized milk” which is no longer produced.

Section 8. Amends s. 503.011, F.S., to update a date referenced in the definition of frozen desserts.

Section 9. Amends s. 531.39, F.S., to delete an outdated reference regarding state standards.

Section 10. Amends s. 531.47, F.S., to revise provisions regarding information required on packaging.

Section 11. Amends s. 531.49, F.S., to revise provisions regarding advertisements of packaged commodities.

Section 12. Creates s. 570.076, F.S., to authorize the department to create the Environmental Stewardship Certification Program (program) that must:

- \$ Be integrated, to the extent possible, with other public and private programs;
- \$ Be designed to recognize and promote practices, whether agricultural or homeowner, that demonstrate exemplary resource management that is related to environmental stewardship;
- \$ Include a process to periodically review certifications to ensure compliance with the program requirements; and,
- \$ Require periodic continuing education to maintain certification.

Provides criteria for the department to use in providing an agricultural certification under the program. Authorizes the Soil and Water Conservation Council to develop and recommend additional criteria for the department to use for obtaining agricultural certification. Provides for the department and the Institute of Food and Agricultural Sciences at the University of Florida to work together, as needed, to develop a curriculum that provides instruction concerning environmental issues pertinent to agricultural certification. Authorizes the department to use third-party providers to administer or implement any, or all, of the program. Gives the department rule-making authority to establish the certification program, providing that any rules adopted are developed in consultation with state universities, agricultural organizations, and other interested parties.

Section 13. Amends s. 570.9135, F.S., to correct a reference.

Section 14. Amends s. 581.011, F.S., to define “invasive plant.”

Section 15. Amends s. 581.083, F.S., to prohibit the cultivation of nonnative plants for purposes of fuel production or purposes other than agriculture, in plantings larger than two contiguous acres, except under a special permit issued by the department. Requires the permit applicant to pay a fee and to maintain a bond or certificate of deposit in an amount not less than 150 percent of the estimated cost of removing or destroying the plants. Specifies information that must be on the application for a special permit.

Requires the permitholder to annually cultivate and maintain the nonnative plants. If the permitholder ceases to do so, the plants must be removed and destroyed. Requires the permitholder to notify the department of such removal and destruction within 10 days. Authorizes the department to order that the plants be destroyed if there is a danger to public health, safety, welfare, and the environment or if the applicant exceeds the conditions of the special permit. Authorizes the department to issue an immediate final order under specified circumstances. Requires a permitholder to provide reimbursement if it is necessary for the department to remove and destroy plants subject to a special permit. Provides for an administrative hearing process for the permitholder if objections arise.

Provides requirements for maintenance of a bond or certificate of deposit by a permit holder. Provides requirements relating to assignment and cancellation of a bond or certificate of deposit. Authorizes the department to require an annual bond or certificate of deposit and to increase or decrease the amount of security required. Authorizes the department to review cultivation records during normal business hours to determine compliance with the act. Provides for suspension or revocation of a special permit.

Section 16. Amends s. 585.002, F.S., to provide the department with regulatory authority over the possession, control, care, and maintenance of bison.

Section 17. Amends s. 590.125, F.S., to revise provisions regarding civil liability for burning of land in accordance with s. 590.125(3)(c), F.S.

Section 18. Characterizes certain agricultural equipment as obsolete. For purposes of assessment for ad valorem property taxes, obsolete agricultural equipment shall be deemed to have a market value no greater than its value for salvage. As used in this section, defines “agricultural equipment” to mean any equipment that qualifies for the sales tax exemption provided in s. 212.08(3), F.S., where purchased. Provides a procedure for a taxpayer to claim the right of assessment. Authorizes the property appraiser to require information establishing a taxpayer’s right to the classification.

Section 19. Provides that this act shall take effect July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 4, Article VII of the Florida Constitution states that “By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation,.....” The Florida Supreme Court has consistently held that all property is subject to ad valorem taxation unless it is constitutionally exempted, and that “just valuation” of property for ad valorem tax purposes is synonymous with 100 % of “fair market value.” Section 17, as written, may have constitutionality implications.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The Revenue Estimating Conference projects that the reduced assessment for obsolete agricultural equipment would result in a loss of General Revenue on an annualized basis of \$.9 million for FY 2005-06 and \$.9 million on a cash basis for FY 2006-07.

B. Private Sector Impact:

The cost of the special permit issued for bio-mass plantings in section 14 would be approximately \$50 per permit plus \$100 for two onsite inspections to ensure compliance of conditions specified in the permit. There would also be the costs for obtaining a surety bond or a certificate of deposit, which will vary depending on the size of the planting.

C. Government Sector Impact:**Plant Industry Trust Fund Revenues:**

Special Permit @ \$50 per permit – It is unknown how many permits would be issued. However, the Division of Plant Industry anticipates that no more than two or three will be issued per year for bio-mass plantings.

On-Site Inspection Fees @ \$100 for two inspections – The inspections will ensure compliance with the special permit. These fees are contingent on the number of special permits issued for bio-mass plantings. This fee is set by Rule 5B-2, F.A.C., of the department and is \$50 per special inspection visit.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
