

CHAPTER 388

MOSQUITO CONTROL

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388.0101 Declaration of legislative intent.—It is declared to be the public policy of this state to achieve and maintain such levels of arthropod control as will protect human health and safety and foster the quality of life of the people, promote the economic development of the state, and facilitate the enjoyment of its natural attractions by reducing the number of pestiferous and disease-carrying arthropods. It is further declared to be the policy of the state to conduct arthropod control in a manner consistent with protection of the environmental and ecological integrity of all lands and waters throughout the state.

History.—s. 1, ch. 86-203.

388.011 Definitions.—As used in this chapter:

(1) "Arthropod" means those insects of public health or nuisance importance, including all mosquitoes, midges, sand flies, dog flies, yellow flies, and house flies.

(2) "Board of commissioners" means the governing body of any mosquito control district, and may include boards of county commissioners when context so indicates.

(3) "County" means a political subdivision of the state administered by a board of county commissioners.

(4) "Department" means the Department of Agriculture and Consumer Services.

(5) "District" means any mosquito control district established in this state by law for the express purpose of controlling arthropods within boundaries of said districts.

(6) "Integrated arthropod control" means the implementation of arthropod control measures, including, but not limited to, the use of pesticides and biological control agents and source reduction, to control arthropods without an unreasonable adverse effect on the environment.

(7) "Land management agency" means the agency charged with managing publicly owned lands.

(8) "Local arthropod control agency" means the county, city, or district charged with arthropod control over publicly owned lands.

(9) "Nuisance" means a condition in which pestiferous arthropods occur in such numbers as to be annoying, obnoxious, or inimical to human comfort.

(10) "Source reduction" means the physical land or water management of arthropod breeding areas to reduce the area's suitability for arthropod breeding.

(11) "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, with due consideration of the economic, social, and environmental costs and benefits of the use of any arthropod control measure.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 146, ch. 71-377; s. 156, ch. 77-147; s. 2, ch. 86-203; s. 2, ch. 92-203; s. 689, ch. 95-148.

388.021 Creation of mosquito control districts.—

(1) The abatement or suppression of arthropods, whether disease-bearing or merely pestiferous, within any or all counties of this state is advisable and necessary for the maintenance and betterment of the comfort, health, and welfare of the people thereof and is found and declared to be for public purposes. Areas where arthropods incubate, hatch, or occur in significant numbers so as to constitute a public health, welfare, or nuisance problem may be controlled or abated as provided in this chapter or the rules promulgated hereunder. Therefore, any city, town, or county, or any portion or portions thereof, whether such portion or portions include incorporated territory or portions of two or more counties in the state, may be created into a special taxing district for the control of arthropods under the provisions of this chapter.

(2) It is the legislative intent that those mosquito control districts established prior to July 1, 1980, pursuant to the petition process formerly contained in 's. 388.031, may continue to operate as outlined in this chapter. However, on and after that date, no mosquito control districts may be created except pursuant to s. 125.01.

History.—s. 2, ch. 59-195; s. 9, ch. 80-281; s. 3, ch. 86-203; s. 1, ch. 90-90; s. 12, ch. 91-308.

Note.—Repealed by s. 12, ch. 80-281.

388.101 District boards of commissioners; term of office.—

(1) Following the creation of the district, and in the general election each 4 years thereafter, the district board of commissioners shall be elected on a nonpartisan basis by the electors of the district. The three persons receiving the highest number of votes cast in the general election shall serve 4 years and shall take office at the same time as do other county officers, on the first Tuesday after the first Monday in January next after their election, and serve on the same cycle as do other constitutional county officers.

(2) The district board of commissioners may, by resolution, elect to increase the membership of the board to five commissioners to be elected on a nonpartisan basis in the manner specified by subsection (1) to terms of 4 years each.

(3) The district board of commissioners may, by resolution, elect to stagger the terms of office of the members of the board. If the board of commissioners is composed of three members, at the first general election following the resolution the electors of the district shall elect three commissioners, one to a term of office of 2 years and the other two to terms of office of 4 years. If the board of commissioners is composed of five members, the electors of the district shall, at the first general election following the resolution, elect five commissioners, two to terms of office of 2 years and three to terms of office of 4 years. The board of commissioners shall, in their resolution, designate the term of office of each seat on the board for the purposes of the initial election following the resolution. Each commissioner shall hold his or her office until a successor is elected and qualified. Thereafter, each commissioner shall be elected to a 4-year term of office.

(4) The district board of commissioners, if it resolves to increase the membership of the board or stagger the terms of office of the members of the board, must do so at least 1 month prior to the opening of the qualifying period for the next general election. Resolutions to increase board membership and stagger terms of office may be effective at the same general election.

(5) The board of county commissioners shall call and provide for said election. Members of the district board of commissioners shall be resident registered electors.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; s. 10, ch. 80-281; s. 4, ch. 86-203; s. 690, ch. 95-148.

388.111 District boards of commissioners; vacancies.—In the event of a vacancy due to any cause in any board of commissioners, the same shall be filled by appointment by the Commissioner of Agriculture for the unexpired term.

History.—s. 2, ch. 59-195; s. 3, ch. 92-203.

388.121 District boards of commissioners; organization.—As soon as practicable after such commissioners have been elected and qualified, they shall meet and organize by the election from among their number of a chair, a secretary and a treasurer. Two members of the board shall constitute a quorum. The vote of two members shall be necessary to transact business.

History.—s. 2, ch. 59-195; s. 691, ch. 95-148.

388.131 Commissioners; surety bond.—Each commissioner, before he or she assumes office, shall be required to give the Commissioner of Agriculture a good and sufficient surety bond in the sum of \$2,000, the cost thereof being borne by the district, conditioned on the faithful performance of the duties of his or her office, said bond to be approved and filed in the same manner as is that of the board of county commissioners. The failure of any person to make and file this bond within 10 days after his or her election shall create a vacancy on said board.

History.—s. 2, ch. 59-195; s. 4, ch. 92-203; s. 692, ch. 95-148.

388.141 Commissioners; compensation.—

(1) Members of the board of commissioners of independent special tax districts may each be paid a salary to be determined by unanimous vote of the board which shall not exceed \$4,800 for each commissioner during any one year; however, this section shall not be construed to limit compensation of district commissioners where higher amounts have otherwise been authorized by special act or general act of local application. Said members may be reimbursed for expenses incurred in the performance of their duties as provided in s. 112.061.

(2) No board member of a mosquito control district shall receive compensation except for per diem and travel expenses authorized pursuant to s. 112.061, for serving on more than one special district board in this state. All special districts, regardless of the existence of other specific provisions of law, shall comply with this subsection.

History.—s. 2, ch. 59-195; s. 13, ch. 63-400; s. 5, ch. 86-203; s. 13, ch. 91-308.

388.151 District boards of commissioners; meetings.—All boards of commissioners shall hold regular

monthly meetings, and special meetings as needed, in the courthouse or in the offices of the district. The time and place of said regular meetings shall be on file in the office of the district board of commissioners.

History.—s. 2, ch. 59-195; ss. 19, 35, ch. 69-106; s. 157, ch. 77-147; s. 5, ch. 92-203.

388.161 District boards of commissioners; powers and duties.—

(1) The board of commissioners may do any and all things necessary for the control and elimination of all species of mosquitoes and other arthropods of public health importance and the board of commissioners is specifically authorized to provide for the construction and maintenance of canals, ditches, drains, dikes, fills, and other necessary works and to install and maintain pumps, excavators, and other machinery and equipment, to use oil, larvicide paris green, or any other chemicals approved by the department but only in such quantities as may be necessary to control mosquito breeding and not be detrimental to fish life.

(2) The board of commissioners shall have all the powers of a body corporate, including the power to sue and be sued as a corporation in said name in any court; to contract, to adopt and use a common seal and alter same at pleasure, to purchase, hold, lease, and convey such real estate and personal property as said board may deem proper to carry out the purpose of this chapter; to acquire by gift real estate, personal property, and moneys and to employ a field director and such trained personnel, legal, clerical or otherwise, and laborers as may be required. The board of commissioners shall adopt such rules not inconsistent with the provisions of this chapter or with other legislation which in its judgment may be necessary for the proper enforcement of this chapter provided such rules are approved by the department.

History.—s. 2, ch. 59-195; ss. 19, 35, ch. 69-106; s. 158, ch. 77-147; s. 6, ch. 92-203.

388.162 Direction of the program.—The program shall be administered for the board of commissioners by a qualified person. The department shall establish minimum qualifications for employment of a director in accordance with the responsibilities attached to the position.

History.—s. 2, ch. 63-236; ss. 19, 35, ch. 69-106; s. 159, ch. 77-147; s. 7, ch. 92-203.

388.171 Power to perform work.—The board of commissioners may have any and all work performed by contract with or without advertisement, or without contract, by machinery, equipment, and labor employed directly by the board of commissioners.

History.—s. 2, ch. 59-195.

388.181 Power to do all things necessary.—The respective districts of the state are hereby fully authorized to do and perform all things necessary to carry out the intent and purposes of this law.

History.—s. 2, ch. 59-195.

388.191 Power of eminent domain.—The board of commissioners may hold, control, and acquire by gift or purchase for the use of the district, any real or personal property, and may condemn any land or easements

needed for the purposes of said district. Said board may exercise the right of eminent domain and institute and maintain condemnation proceedings as provided in chapter 73.

History.—s. 2, ch. 59-195.

388.201 District budgets; hearing.—

(1) The fiscal year of districts operating under the provisions of this chapter shall be the 12-month period extending from October 1 of one year through September 30 of the following year. The governing board of the district shall before July 15 of each year complete the preparation of a tentative detailed work plan budget covering its proposed operations and requirements for arthropod control measures during the ensuing fiscal year and, for the purpose of determining eligibility for state aid, shall submit copies as may be required to the department for review and approval. The tentative detailed work plan budget shall set forth, classified by account number, title and program items, and by fund from which to be paid, the proposed expenditures of the district for construction, for acquisition of land, and other purposes, for the operation and maintenance of the district's works, the conduct of the district generally, to which may be added an amount to be held as a reserve.

(2) The tentative detailed work plan budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year and the estimated amount to be raised by district taxes and from any and all other sources for meeting the district's requirements.

(3) The budget and maintenance tax levy shall be adopted in accordance with the provisions of s. 200.065.

(4) The governing board:

(a) Shall give consideration to objections filed against adoption of the tentative detailed work plan budget and in its discretion may amend, modify, or change such budget; and

(b) Shall by September 15 following adopt and execute on a form furnished by the department a certified budget for the district which shall be the operating and fiscal guide for the district. Certified copies of this budget shall be submitted by September 15 to the department for approval.

(5) County commissioners' mosquito and arthropod control budgets shall be made and adopted as prescribed by subsections (1) and (2); summary figures shall be incorporated into the county budgets as prescribed by the Department of Banking and Finance.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 12, 19, 35, ch. 69-106; s. 160, ch. 77-147; s. 6, ch. 86-203; s. 56, ch. 91-221.

388.211 Change in district boundaries.—

(1) The board of commissioners of any district formed prior to July 1, 1980, may, for and on behalf of the district or the qualified electors within or without the district, request that the board of county commissioners in each county having land within the district approve a change in the boundaries of the district.

(2) If the board of county commissioners approves such change, an amendment shall be made to the order

creating the district to conform with the boundary change.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; s. 3, ch. 71-323; s. 11, ch. 80-281.

388.221 Tax levy.—

(1) The board of commissioners of such district may levy upon all of the real and personal taxable property in said district a special tax not exceeding 10 mills on the dollar during each year as maintenance tax to be used solely for the purposes authorized and prescribed by this chapter. Said board shall by resolution certify to the property appraiser of the county in which the property is situate, timely for the preparation of the tax roll, the tax rate to be applied in determining the amount of the district's annual maintenance tax. Certified copies of such resolution executed in the name of said board by its chair and secretary and under its corporate seal shall be made and delivered to the property appraiser and the board of county commissioners of the county in which such district is located, and to the Department of Revenue not later than September 30 of such year. The property appraiser of said county shall assess and the tax collector of said county shall collect the amount of taxes so assessed and levied by said board of commissioners of said district upon all of the taxable real and personal property in said district at the rate of taxation adopted by said board for said year and included in said resolution, and said levy shall be included in the warrants of the property appraiser and attached to the assessment roll of taxes for said county each year. The tax collector shall collect such taxes so levied by said board in the same manner as other taxes are collected and shall pay the same within the time and in the manner prescribed by law to the treasurer of said board. The Department of Revenue shall assess and levy on all the railroad lines and railroad property and telegraph and telephone lines and telegraph and telephone property situated in said district in the amount of each such levy as in case of other state and county taxes and shall collect said taxes thereon in the same manner as it is required by law to assess and collect taxes for state and county purposes and remit the same to the treasurer of said board. All such taxes shall be held by said treasurer for the credit of said board and paid out by him or her as ordered by said board.

(2) The tax officers of the county are hereby authorized and directed to perform the duties devolving upon them under this chapter and to receive compensation therefor at such rates or charges as are provided by law with respect to similar services or charges.

History.—s. 2, ch. 59-195; ss. 21, 35, ch. 69-106; s. 1, ch. 77-102; s. 7, ch. 86-203; s. 693, ch. 95-148.

388.231 Restrictions on use, loan, or rental of equipment; charges.—

(1) Equipment purchased for use in control of mosquitoes and other arthropods and paid for with funds budgeted for arthropod control shall not be used for any private purpose. No county or district shall lend or rent equipment so purchased to any other department within the county, or to another county, district or any public agency or political subdivision of the state without the prior written approval of the department; nor shall it be so lent or rented without making a use or rental charge

for the use thereof. The department is authorized to establish a fair use or rental charge on equipment so purchased and may require the maintenance of reasonable and proper records in connection with the loan or rental of such equipment.

(2) Any district, county, municipality or public agency using said equipment on a use or rental basis shall send a warrant made payable to the county or district, or to such control fund of the county owning the equipment, for the full payment of such use or rent at the end of each month. All funds received by a county or district from the renting of its equipment shall be deposited promptly by the county or district in their state fund account. Upon failure of any county or district to secure prior written approval from the department before lending or renting its equipment, or upon the failure of the county or district to collect rents due for the use of its equipment at rates established by the department, and to deposit said rents promptly under state funds, the department may immediately remove the equipment and utilize it for arthropod control purposes in any other area of the state.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 161, ch. 77-147; s. 8, ch. 92-203.

388.241 Board of county commissioners vested with powers and duties of board of commissioners in certain counties.—In those counties where there has been no formation of a separate or special board of commissioners, all the rights, powers, and duties of a board of commissioners as conferred in this chapter shall be vested in the board of county commissioners of said county.

History.—s. 2, ch. 59-195; s. 8, ch. 86-203.

388.251 Delegation of authority to county health department.—The board of county commissioners may authorize the county health department to administer and direct arthropod control in the county provided by this chapter, upon the following conditions:

(1) The county health department shall keep the books and make all reports required by this chapter.

(2) All purchases, whether by bid or otherwise, shall be made in accordance with the procedure followed by the board of county commissioners in making other purchases.

(3) The county health department shall submit to the board of county commissioners, with supporting vouchers and invoices, monthly itemized statements of expenses incurred in carrying out the control program in the county.

History.—s. 2, ch. 59-195.

388.261 State aid to counties and districts for arthropod control; distribution priorities and limitations.—

(1) Every county or district budgeting local funds, derived either by special tax levy or funds appropriated or otherwise made available for the control of mosquitoes and other arthropods under a plan submitted by the county or district and upon approval by the department, shall be eligible to receive state funds, supplies, services, and equipment on a dollar-for-dollar matching basis up to but not exceeding \$30,000 for any one

county for any one year. A county or district may, without contributing matching funds, receive state funds, supplies, services, or equipment in an amount of no more than \$30,000 per year for up to 3 years for any new or expanded program which serves an area not previously served by the county or district. These funds may be expended for any and all types of control measures approved by the department.

(2) In addition, every county or district budgeting local funds to be used exclusively for the control of mosquitoes and other arthropods under a plan submitted by the county or district and approved by the department, shall be eligible to receive state funds and supplies, services, and equipment for control measures up to but not exceeding 50 percent of the amount of local funds budgeted for such control. Should state funds appropriated by the Legislature be insufficient to grant each county or district 50 percent of the amount budgeted in local funds, the department shall prorate said state funds based on the amount of matchable local funds budgeted for expenditure by each county or district.

(3) Every county shall be limited to receive a total of \$100,000 of state funds, exclusive of state funds brought forward, during any one year, however, a county or district that receives funds under subsection (1) for service to an area not previously served may receive up to \$130,000 during any one year.

(4) Up to 20 percent of the annual funds appropriated to local governments for arthropod control may be used for arthropod control research or demonstration projects as approved by the department.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 162, ch. 77-147; s. 2, ch. 90-90; s. 9, ch. 92-203.

388.271 Prerequisites to participation.—

(1) When state funds are involved, it is the duty of the department to guide, review, approve, and coordinate the activities of all county governments and special districts receiving state funds in furtherance of the goal of integrated arthropod control. Each county or district eligible to participate hereunder may begin participation on October 1 of any year by filing with the department not later than July 15 a tentative work plan and tentative detailed work plan budget providing for the control of arthropods. Following approval of the plan and budget by the department, two copies of the county's or district's certified budget based on the approved work plan and detailed work plan budget shall be submitted to the department not later than September 15 following. State funds, supplies, and services shall be made available to such county or district by and through the department immediately upon release of funds by the Executive Office of the Governor.

(2) All purchases of supplies, materials and equipment by counties or districts shall be made in accordance with the laws governing purchases by boards of county commissioners, except that districts with special laws relative to competitive bidding shall make purchases in accordance therewith.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 2, 3, ch. 67-371; ss. 19, 31, 35, ch. 69-106; s. 163, ch. 77-147; s. 130, ch. 79-190; s. 9, ch. 86-203.

388.281 Use of state matching funds.—

(1) All funds, supplies, and services released to counties and districts hereunder shall be used in accordance with the detailed work plan and certified budget approved by both the department and the county or district. The plan and budget may be amended at any time upon prior approval of the department.

(2) All funds, supplies, and services released on the 50-percent matching basis shall be used exclusively for source reduction measures, public education, personnel training and certification, arthropod population surveillance, research and demonstration projects, larvicides, equipment, and epidemic alerts as approved by the department. Source reduction measures may include measures to improve management and enhance the ecological integrity of source reduction areas. If source reduction measures require permits, approvals, or agreement by federal, state, regional, or local agencies, such permits, approvals, or agreement shall be obtained prior to commencement of the source reduction project. These measures include sanitary landfills, drainage, diking, filling of arthropod breeding areas, and the purchase, maintenance, and operation of all types of equipment including trucks, dredges, draglines, bulldozers, or any other type of machinery and materials utilized in ditching, ditch lining, ditch construction, diking, filling, hiring personnel, rental of equipment, and payment for contract work awarded to the lowest responsible bidder.

(3) In any county or district where the arthropod problem has been eliminated, or reduced to such an extent that it does not constitute a health, comfort, or economic problem as determined by the department, the maximum amount of state funds available under this chapter shall be reduced to the amount necessary to meet actual need.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 164, ch. 77-147; s. 10, ch. 86-203; s. 3, ch. 90-90; s. 10, ch. 92-203.

388.291 Source reduction measures; supervision by department.—

(1) Any county or district may perform source reduction measures in conformity with good engineering practices in any area, provided that the department cooperating with the county or district has approved the operating or construction plan and it has been determined by criteria contained in rule that the area or areas to be controlled would produce arthropods in significant numbers to constitute a health or nuisance problem.

(2) The county or district shall manage the detailed business affairs and supervise said work, and the department shall advise the districts as to the best and most effective measures to be used in bringing about better temporary control and the permanent elimination of breeding conditions. The department may at its discretion discontinue any state aid provided hereunder in the event it finds the jointly agreed upon program is not being followed or is not efficiently and effectively administered.

(3) Property owners in a developed residential area are required to maintain their property in such a manner so as not to create or maintain any standing freshwater condition capable of breeding mosquitoes or other

arthropods in significant numbers so as to constitute a public health, welfare, or nuisance problem. Nothing in this subsection shall permit the alteration of permitted stormwater management systems or prohibit maintained fish ponds, xeriscaping, or other maintained systems of landscaping or vegetation. If such a condition is found to exist, the local arthropod control agency shall serve notice on the property owner to treat, remove, or abate the condition. Such notice shall serve as prima facie evidence of maintaining a nuisance, and upon failure of the property owner to treat, remove, or abate the condition, the local arthropod control agency or any affected citizen may proceed pursuant to s. 60.05 to enjoin the nuisance and may recover costs and attorney's fees if they prevail in the action.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 165, ch. 77-147; s. 11, ch. 86-203; s. 4, ch. 90-90.

388.301 Payment of state funds; supplies and services.—State funds shall be payable quarterly, in accordance with the rules of the department, upon requisition by the department to the Comptroller. The department is authorized to furnish insecticides, chemicals, materials, equipment, vehicles, and personnel in lieu of state funds where mass purchasing may save funds for the state, or where it would be more practical and economical to use equipment, supplies, and services between two or more counties or districts.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 166, ch. 77-147; s. 11, ch. 92-203.

388.311 Carry over of state funds and local funds. State and local funds budgeted for the control of mosquitoes and other arthropods shall be carried over at the end of the county or district's fiscal year, and rebudgeted for such control measures the following fiscal year.

History.—s. 2, ch. 59-195.

388.321 Equipment to become property of the county or district.—All equipment purchased under this chapter with state funds made available directly to the county or district shall become the property of the county or district unless otherwise provided, and may be traded in on other equipment, or sold, when no longer needed by the county or district.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236.

388.322 Record and inventory of certain property. A record and inventory of certain property owned by the district shall be maintained in accordance with s. 274.02.

History.—s. 2, ch. 63-236.

388.323 Disposal of surplus property.—Surplus property shall be disposed of according to the provisions set forth in s. 274.05 with the following exceptions:

(1) Serviceable equipment no longer needed by a county or district shall first be offered to any or all other counties or districts engaged in arthropod control at a price established by the board of commissioners owning the equipment. If no acceptable offer is received within a reasonable time, the equipment shall be offered to such other governmental units or private nonprofit agencies as provided in s. 274.05.

(2) The alternative procedure for disposal of surplus property, as prescribed in s. 274.06, shall be followed if it has been determined no other county, district, governmental unit, or private nonprofit agency has need for the equipment.

(3) All proceeds from the sale of any real or tangible personal property owned by the county or district shall be deposited in the county's or district's state fund account unless otherwise specifically designated by the department.

History.—s. 2, ch. 63-236; ss. 19, 35, ch. 69-106; s. 167, ch. 77-147; s. 12, ch. 92-203; s. 23, ch. 94-226.

388.331 Audit.—All counties and districts carrying out programs for the control of mosquitoes and other arthropods involving the expenditure of state funds shall set up and maintain books and records under a method approved by the Auditor General and be subject to audit by same.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; s. 8, ch. 69-82.

388.341 Reports of expenditures and accomplishments.—Each county and district participating under the provisions of this chapter shall within 30 days after the end of each month submit to the department a monthly report for the preceding month of expenditures from all funds for arthropod control, and such reports of activities and accomplishments as may be required by the department.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 168, ch. 77-147; s. 13, ch. 92-203.

388.351 Transfer of equipment, personnel, and supplies during an emergency.—The department, upon notifying a county or district and obtaining its approval, is authorized to transfer equipment, materials, and personnel from one district to another in the event of an emergency brought about by an arthropod-borne epidemic or other disaster requiring emergency control.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 169, ch. 77-147; s. 14, ch. 92-203.

388.361 Rules; administration.—

(1) This chapter and all rules adopted and promulgated hereunder shall be administered and enforced by the department.

(2) The department shall adopt rules to implement the provisions of this chapter. Such rules shall provide for:

(a) Criteria by which a demonstrable increase or other indicator of arthropod population levels is determined to constitute a public health or nuisance problem.

(b) Criteria regarding aerial spraying on private lands of pesticides, petroleum products, or other substances for control of adult arthropods which minimize the deposition onto and the potential for substantial adverse effects to environmentally sensitive and biologically highly productive public lands caused by such airborne substances. In the promulgation of such rules, the department shall consider the recommendations of the Florida Coordinating Council on Mosquito Control.

(c) Requirements that all arthropod control pesticides, including adulticides and larvicides, be used only in accordance with the registered label and labeling or be otherwise accepted by the United States Environmental Protection Agency or the department.

(d) Protection of the health, safety, and welfare of arthropod control employees, the general public, and the natural resources of this state in conformity with the provisions of this chapter.

(3) The department is authorized to adopt rules which are more detailed or stringent than, but not otherwise inconsistent with, the label requirements of the United States Environmental Protection Agency.

(4) The department shall adopt rules which establish criteria for the licensure or certification of all private and public arthropod control applicators and program directors and require recordkeeping and reporting of applicator activities in furtherance of the goal of integrated arthropod control. No licensure or certification shall be required of private applicators controlling arthropods upon their own individual residential or agricultural property.

(5) In order to carry out the provisions of this chapter, the department's duly authorized arthropod control operation inspectors may enter upon any licensee's premises or any location where the licensee keeps or stores records or equipment, at reasonable times, in order to have access for the purpose of inspecting records or any equipment, to inspect lands actually or reported to be exposed to arthropod control pesticides applied by the licensee, to inspect licensee storage or disposal areas, to inspect or investigate complaints against licensees of injury to humans or land resulting from arthropod control pesticides applied by the licensee, or to sample arthropod control pesticides being applied or to be applied by the licensee.

(6) The department shall have the authority to cooperate with federal and state agencies and to enter into such cooperative agreements or commitments as the department may determine necessary to carry out and enforce the provisions of this chapter.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 170, ch. 77-147; s. 12, ch. 86-203; s. 15, ch. 92-203.

388.3711 Enforcement.—

(1) The department is empowered to enforce this chapter or its rules by commencing and maintaining all proper and necessary actions and proceedings, including, but not limited to, application for injunction to the proper circuit court to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this chapter or from failing or refusing to comply with the requirements of this chapter or the rules promulgated thereunder.

(2) The department may deny, suspend, or revoke any license or certification, or the disbursal of state aid, in accordance with the provisions of chapter 120, upon any one or more of the following grounds as may be applicable:

(a) Violation of any rule of the department or provision of this chapter.

(b) Violation of FIFRA or any relevant EPA rule or regulation pertaining to the use of arthropod control pesticides by the licensee.

(c) Failure to give the department, or any authorized representative thereof, true information upon request regarding methods and materials used, work performed, or other information essential to the administration of this chapter.

(3) The department may, if it finds a violation is of such nature or circumstances that denial, revocation, or suspension of a certification or license or disbursal of state aid would be detrimental to the public or be unnecessarily harsh under the circumstances, in its discretion, place the offending party on probation for a period of not more than 2 years. If the department determines that the terms of such probation have been violated, it may reinstitute license or certification or state aid denial, suspension, or revocation proceedings.

(4) The department, pursuant to chapter 120, in addition to or in lieu of any other remedy provided by state or local law, may impose an administrative fine not exceeding \$500, or less than \$25, for each violation of any of the provisions of this chapter. Each day that a violation continues shall constitute a separate violation. All amounts collected pursuant to this section shall be deposited in the department's Aid to Local Governments Arthropod Control Program to be used for arthropod control research.

(5) In determining the amount of any penalty authorized by this section, the following factors shall be considered:

(a) The severity of the violation, including the probability that death or serious harm to the health or safety of any person or the environment will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of this chapter were violated.

(b) Actions taken by the licensee or certified operator in charge to correct the violation or to mitigate actual or potential harm.

(c) Any previous violations of this chapter.

(6) The department shall publish quarterly a list of disciplinary actions taken pursuant to this chapter and shall provide such a list to each licensee.

History.—s. 13, ch. 86-203; s. 16, ch. 92-203.

388.381 Cooperation by counties and district.—

Any county or district carrying on an arthropod control program may cooperate with another county, district, or municipality in carrying out a program for the control of mosquitoes and other arthropods, by agreement as to the program and reimbursement thereof, when approved by the department.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; ss. 19, 35, ch. 69-106; s. 171, ch. 77-147; s. 17, ch. 92-203.

388.391 Control measures in municipalities and portions of counties located outside boundaries of districts.—

Any district whose operation is limited to a portion of the county in which it is located may perform any control measures authorized by this chapter in any municipality located in the same county or in any portions of the same county, where there is no established district, when requested to do so by the municipality or county, pursuant to s. 388.381.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236.

388.401 Penalty for damage to property or operations.—Whoever shall willfully damage any of the property of any county or district created under this or other chapters, or any works constructed, maintained, or controlled by such county or district, or who shall obstruct

or cause to be obstructed any of the operations of such county or district, or who shall knowingly or willfully violate any provisions of this chapter or any rule or regulation promulgated by any board of commissioners of any county or district shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 59-195; s. 1, ch. 63-236; s. 341, ch. 71-136.

388.4111 Public lands; arthropod control.—

(1) It is declared to be in the best interests of the state that certain environmentally sensitive and biologically highly productive public lands owned by the state or any political subdivision thereof where arthropods incubate, hatch, or occur so as to constitute a public health or nuisance problem may be subject to arthropod control measures. Such measures shall be approved by the department and performed by the local arthropod control agency consistent with a public lands control plan as described in subsection (2). The methods employed shall be the minimum necessary and economically feasible to abate a public health or nuisance problem and impose the least hazard to fish, wildlife, and other natural resources protected or managed in such areas.

(2)(a) The department shall adopt rules to specify procedures for development and promulgation of a public lands control plan. Such rules shall require that all land management agencies identify environmentally sensitive and biologically highly productive public lands under their control which shall be subject to a public lands control plan. Such public lands shall be identified to the department and the local arthropod control agency along with a description of the purpose for which the lands are managed. All public lands not identified by a land management agency as environmentally sensitive or biologically highly productive shall be subject to the local arthropod control agency's general work plan.

(b) The local arthropod control agency shall propose a public lands control plan to the land management agency and the department which shall become effective upon mutual agreement of the land management agency and the arthropod control agency.

(c) If the land management agency and the local arthropod control agency are unable to agree on a public lands control plan, the Florida Coordinating Council on Mosquito Control may recommend a control plan to the department, which shall propose a recommended public lands control plan. If the land management agency and the local arthropod control agency fail to agree to such recommended public lands control plan within 30 days of the rendering of such plan, either agency may petition the Land and Water Adjudicatory Commission to determine whether the proposed control plan employs methods which are the minimum necessary and economically feasible to abate a public health or nuisance problem and which impose the least hazard to fish, wildlife, and other natural resources protected or managed in such areas. Unless both parties waive their right to a hearing, the Land and Water Adjudicatory Commission shall direct a hearing officer to hold a hearing within the jurisdiction of the local arthropod control agency pursuant to the provisions of s. 120.57 and sub-

mit a recommended order. The commission shall, within 60 days of receipt of the recommended order, issue a final order adopting a public lands control plan. Consistent with s. 120.57(1)(b)10., the commission may adopt or modify the proposed control plan. The commission shall adopt rules on the conduct of appeals before the commission.

(d) If the adopted public lands control plan provides that the local arthropod control agency shall perform no arthropod control on designated parcels of publicly owned property within the local arthropod control agency's jurisdiction, the local arthropod control agency shall be deemed to be relieved of responsibility for arthropod control on that parcel for the effective period of the adopted public lands control plan.

(e) Until a public lands control plan pertaining to lands identified by the Board of Trustees of the Internal Improvement Trust Fund as environmentally sensitive and biologically highly productive is adopted, arthropod control activities shall be conducted on such lands only with the consent of the Board of Trustees of the Internal Improvement Trust Fund.

History.—s. 14, ch. 86-203; s. 57, ch. 91-221; s. 18, ch. 92-203.

388.42 John A. Mulrennan, Sr., Arthropod Research Laboratory.—

(1) The John A. Mulrennan, Sr., Arthropod Research Laboratory located in Panama City shall be a research laboratory under the administration of Florida Agricultural and Mechanical University. The laboratory shall perform basic and applied research to develop and test formulations, application techniques, and procedures of pesticides and biological control agents for the control of arthropods and, in particular, biting arthropods of public health or nuisance importance. Special attention shall be given to the needs of arthropod control districts, counties, and municipalities of the state by providing information, assistance, and recommendations for the safe and effective control of arthropods which create a health or nuisance problem. The laboratory shall also conduct environmental impact studies to determine the effects of arthropod control pesticides, with a special emphasis on integrated arthropod control. Each quarter, the laboratory shall provide the department with such information as the department requires to assist it in the performance of its duties with respect to arthropod control under this chapter. The laboratory shall also serve as a center for the training of students and state and local government personnel in the safe and effective control of biting arthropods that create a public health or nuisance problem.

(2) Any funds which may become available from the Federal Government, from any district or county, from funds appropriated to local arthropod control agencies by the state, or from any other sources may be used according to law in constructing, equipping, and operating the laboratory.

History.—ss. 1, 2, ch. 63-443; ss. 19, 35, ch. 69-106; s. 173, ch. 77-173; s. 15, ch. 86-203; s. 5, ch. 90-90; s. 19, ch. 92-203.

388.43 Florida Medical Entomology Laboratory.—

(1) The Florida Medical Entomology Laboratory, located in Vero Beach, shall be a research and training center for the state under the supervision of the Board

of Regents. The laboratory shall be an operational unit of the University of Florida and an integral part of the Institute of Food and Agricultural Sciences.

(2) The Florida Medical Entomology Laboratory shall perform basic and applied research in the biology and control of biting insects and other arthropods of importance as transmitters of disease or as pest annoyances, with special attention to the needs of the various mosquito control organizations, districts, counties, and municipalities of the state. Each quarter, the laboratory shall provide the department with such information as the department shall require to assist it in the performance of its duties with respect to mosquito control under this chapter. The laboratory shall also serve as a center for the training of students and personnel in the entomological aspects of public health, veterinary science, sanitation, mosquito control, drainage and irrigation design, wetlands management, and other areas of service requiring knowledge of medical entomology. Research and training may extend to international programs of the university under appropriate contract and grant arrangements with international, foreign, and federal agencies.

History.—s. 1, ch. 79-283; s. 242, ch. 81-259; s. 20, ch. 92-203.

388.45 Threat to public health; emergency declarations.

—The State Health Officer has the authority to declare that a threat to public health exists when the Department of Health and Rehabilitative Services discovers in the human or surrogate population the occurrence of an infectious disease that can be transmitted from arthropods to humans. The State Health Officer must immediately notify the Commissioner of Agriculture of the declaration of this threat to public health. The Commissioner of Agriculture is authorized to issue an emergency declaration based on the State Health Officer's declaration of a threat to the public health or based on other threats to animal health. Each declaration must contain the geographical boundaries and the duration of the declaration. The State Health Officer shall order such human medical preventive treatment and the Commissioner of Agriculture shall order such ameliorative arthropod control measures as are necessary to prevent the spread of disease, notwithstanding contrary provisions of this chapter or the rules adopted under this chapter. Within 24 hours after a declaration of a threat to the public health, the State Health Officer must also notify the agency heads of the Department of Environmental Protection and the Game and Fresh Water Fish Commission of the declaration. Within 24 hours after an emergency declaration based on the public health declaration or based on other threats to animal health, the Commissioner of Agriculture must notify the agency heads of the Department of Environmental Protection and the Game and Fresh Water Fish Commission of the declaration. Within 24 hours after an emergency declaration based on other threats to animal health, the Commissioner of Agriculture must also notify the agency head of the Department of Health and Rehabilitative Services of the declaration.

History.—s. 16, ch. 86-203; s. 21, ch. 92-203; s. 354, ch. 94-356.

388.46 Florida Coordinating Council on Mosquito Control; establishment; membership; organization; responsibilities.

(1) **ESTABLISHMENT OF COUNCIL; LEGISLATIVE INTENT.**—It is declared to be in the best interest of the state that public agencies responsible for and involved in arthropod control activities work together to reduce duplication of effort, foster maximum efficient use of existing resources, advise and assist the agencies involved in arthropod control in implementing best management practices and best available technology in controlling arthropods, develop outside funding sources and establish priorities for research into the environmental effects of arthropod control, and enhance communication between all interests involved in arthropod control activities. It is therefore the intent of the Legislature to establish the Florida Coordinating Council on Mosquito Control within the department. The Florida Coordinating Council on Mosquito Control shall be an advisory body, as defined in 's. 11.611(3)(a).

(2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.

(a) **Membership.**—The Florida Coordinating Council on Mosquito Control shall be comprised of the following representatives or their authorized designees:

1. The Secretary of Environmental Protection and the Secretary of Health and Rehabilitative Services;
2. The executive director of the Game and Fresh Water Fish Commission;
3. The state epidemiologist;
4. The Commissioner of Agriculture; and
5. Representatives from:
 - a. The University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomological Research Laboratory;
 - b. Florida Agricultural and Mechanical University;
 - c. The United States Environmental Protection Agency;
 - d. The United States Department of Agriculture, Insects Affecting Man Laboratory;
 - e. The United States Fish and Wildlife Service;
 - f. Two mosquito control directors to be nominated by the Florida Mosquito Control Association, two representatives of Florida environmental groups, and two private citizens who are property owners whose lands are regularly subject to mosquito control operations, to be appointed to 4-year terms by the Commissioner of Agriculture; and
 - g. The Board of Trustees of the Internal Improvement Trust Fund.

(b) **Organization.**—The council shall be chaired by the Commissioner of Agriculture or the commissioner's authorized designee. A majority of the membership of the council shall constitute a quorum for the conduct of business. The chair shall be responsible for recording and distributing to the members a summary of the proceedings of all council meetings. The council shall meet at least three times each year, or as needed. The council may designate subcommittees from time to time to assist in carrying out its responsibilities, provided that the Subcommittee on Managed Marshes shall be the first subcommittee appointed by the council. The subcommittee shall continue to provide technical assistance and guidance on mosquito impoundment management plans and develop and review research proposals for mosquito source reduction techniques.

(c) *Responsibilities.*—The council shall:

1. Develop and implement guidelines to assist the department in resolving disputes arising over the control of arthropods on publicly owned lands.
2. Identify and recommend to Florida Agricultural and Mechanical University research priorities for arthropod control practices and technologies.
3. Develop and recommend to the department a request for proposal process for arthropod control research.
4. Identify potential funding sources for research or

implementation projects and evaluate and prioritize proposals upon request by the funding source.

5. Prepare and present reports, as needed, on arthropod control activities in the state to the Pesticide Review Council, the Florida Coastal Management Program Interagency Management Committee, and other governmental organizations, as appropriate.

History.—ss. 17, 18, ch. 86-203; s. 6, ch. 90-90; s. 5, ch. 91-429; s. 22, ch. 92-203; s. 12, ch. 94-356; s. 1038, ch. 95-148.

Note.—Repealed by s. 5, ch. 91-429.