

## **BILL ANALYSIS**

Senate Research Center

S.B. 372  
By: Armbrister  
Natural Resources  
4-8-97  
As Filed

### **DIGEST**

During the 74th Legislature, S.B. 372 was passed to implement the Sunset Commission's recommendations for the Texas Department of Agriculture. After reviewing the amended Agriculture Code, the Department of Agriculture and the agricultural industry have determined that additional changes would clarify the legislative intent of certain provisions of S.B. 372, 74th Legislature, and create consistency among existing provisions and provide technical corrections to the Agriculture Code.

### **PURPOSE**

As proposed, S.B. 372 makes multiple changes to the Agriculture Code regarding certain appointments, organic certification, pest-infested citrus trees, pests and diseases, and the grading of rose plants, and repeals several statutory requirements.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Department of Agriculture under SECTION 9 (Section 73.004, Agriculture Code), of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 14.201(1), Agriculture Code, to redefine "public warehouseman."

SECTION 2. Amends Section 14.203(a), Agriculture Code, to authorize, rather than require, the Department of Agriculture (department) to appoint warehouse examiners to examine warehouses. Deletes text including corporations chartered under Subchapter B of this chapter, and text prohibiting the department from appointing more than one examiner for every 50 warehouses and corporations.

SECTION 3. Amends Section 18.003(c), Agriculture Code, to require an organic certification to be for a period described by the department, rather than providing that an organic certification expires on August 31 of each year.

SECTION 4. Amends Section 71.0091(c), Agriculture Code, to set forth provisions applicable if the owner of a citrus plant, citrus plant product, or citrus substance seized under Subsection (a) of this section is unknown to the department.

SECTION 5. Amends Section 71.010(a), Agriculture Code, to require, in order to appeal, a person to give written notice of appeal to the department not later than the 10th day following the date of the order or proclamation.

SECTION 6. Amends Section 71.103(a), Agriculture Code, to set forth provisions applicable if the department determines following field inspection that the vegetable plants inspected are apparently free of injurious pests and of the diseases and insects listed in Sections 71.104-71.109 of this code.

SECTION 7. Amends Section 71.110(a), Agriculture Code, to set forth provisions applicable if, at the time of field inspection, the department finds an injurious pest or disease or insect listed in Sections 71.104-71.109. Makes conforming changes.

SECTION 8. Amends Section 71.114(b), Agriculture Code, to require the department to charge an inspection fee, as provided by rule of the department, for each acre to be inspected, rather than for each acre over five acres to be inspected.

SECTION 9. Amends Section 73.004, Agriculture Code, as follows:

Sec. 73.004. New heading: INJURIOUS DISEASES AND PESTS. Requires the department, in accordance with Chapter 71A of this code, to establish quarantines against pests and diseases determined by department rule to be injurious, rather than requiring the department to establish quarantines against certain pests and plant diseases which are not widely distributed in this state and are public nuisances. Deletes a list of pest and plant diseases.

SECTION 10. Amends the heading of Chapter 74A, Agriculture Code, as follows:

SUBCHAPTER A. New heading: COTTON PEST CONTROL

SECTION 11. Amends Section 121.004, Agriculture Code, as follows:

Sec. 121.004. CERTIFICATE OF AUTHORITY. Requires the department to issue a numbered certificate of authority to each person who determines or influences the grade of rose plants, rather than to each person who grades, sells, or offers for sale rose plants. Requires each person who determines or influences the grade of rose plants to pay an annual fee for a certificate of authority based on the actual amount of work done by or under the direction of the department in administering this chapter, rather than requiring each grower, dealer, wholesaler, and processor to pay an annual fee for a certificate of authority. Requires the department to set, rather than fix, a fee as provided by department rule, according to the number of rose plants graded, rather than according to the number of rose plants handled, sold, or offered for sale during the calendar year. Deletes Subsection (d) regarding graded stock.

SECTION 12. Amends Section 121.007, Agriculture Code, to authorize the department to adopt rules necessary to carry out this chapter. Deletes text authorizing the department to adopt rules following notice and public hearing. Deletes Subsection (b) regarding publishing rules.

SECTION 13. Repealer: Section 12.005; Section 14.107(c); Section 14.118(c); Section 16.002(c); Chapter 17; Chapter 19; and Section 74.090, Agriculture Code (Subsoiling, Drainage, and Irrigation; Certificate of Qualification for Officer or Employee; Examination of a Corporation's Affairs; Registration of Antifreeze; Alcohol Fuels and Fuel Alcohol Equipment; Citrus Budwood Certification Program; Escrow Fee).

SECTION 14. Emergency clause.  
Effective date: upon passage.