

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1848

SPONSOR: Senator Kirkpatrick

SUBJECT: Florida Right to Farm Act

DATE: March 16, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill amends the Florida Right To Farm Act. It prohibits local governments from restricting the practice of agriculture through the use of local development ordinances.

This bill amends section 823.14, Florida Statutes.

II. Present Situation:

Florida’s growing urban population continues to encroach upon traditional agricultural areas, which has resulted in nuisance complaints from residents of subdivisions regarding odors, noise, dust, flies, light, vibration or smoke emanating from farming operations. In the late 1970s and early 1980s, many states passed laws in response to pressures from suburban sprawl. The laws are aimed at protecting farms by offering them a qualified defense to nuisance lawsuits by neighbors who object to the normal incidents of farming operations.

In 1979, the Florida Right To Farm Act was enacted by the Legislature to prevent burdensome lawsuits against farmers which were intended to cease or curtail farm operations and which discouraged investments in farm improvements. Section 823.14(4)(a), F.S., states that, with certain exceptions, “No farm operation which as been in operation for one year or more since its established date of operation and which was not a nuisance at the time of its established date of operation shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices.”

In response to nuisance complaints that an agricultural operation is infringing upon a neighboring property owner’s enjoyment of his or her property, some local governments are developing local ordinances that they believe preempt state law. Further, some local governments have sought to regulate agriculture by changing land use and zoning on existing farms and then applying local zoning ordinances to the farms’ agricultural practices. Even when there are no neighbors and there has been no disturbance of any kind, these ordinances are used to enforce such local policies

as landscaping, environmental requirements for numbers and sizes of trees, etc. There is no existing statutory language that clarifies the preemption issue between state and local governments regarding the practice of agriculture.

Local governments are given statutory authority to regulate development under chapter 163, F.S. Section 380.04, F.S., defines the term “development,” states the activities or uses that are defined as “development,” and very specifically exempts certain operations from the definition of “development.” “The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes” is an operation or use that does not involve “development” as defined in s. 380.04, F.S.

III. Effect of Proposed Changes:

Section 1. Amends s. 823.14, F.S., pertaining to the Florida Right to Farm Act. Prohibits a local government to prohibit, restrict, regulate, or otherwise limit the continuing use of any land for the purpose of growing or harvesting plants, crops, trees, or other agricultural or forestry products, raising livestock, or any other agricultural purposes. This clarifies the preemption issue between state and local governments regarding agriculture.

Section 2. Provides that this act shall take effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill prohibits local governments from restricting the practice of agriculture through the use of local development ordinances.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services has indicated that no costs will be incurred or revenue generated as a result of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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