



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

HB 1075 prohibits counties from adopting any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm or farm operation on land that is an integral part of a farm operation or that is classified as agricultural, if such activity is regulated through best-management practices or by an existing state, regional, or federal regulatory program.

In addition, a county is prohibited from changing the land classification or zoning designation of land that is classified as agricultural unless the landowner is compensated, by the county, for the loss of value.

The Florida Farm Bureau Federation cites the following instances as the impetus for the proposed legislation:

- Gilchrist County proposed duplicative and more restrictive regulations for dairy farms, essentially eliminating future expansion of the dairy industry in the county. Currently, the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS) and the water management districts regulate dairy operations in Florida through an extensive permitting process for both water quality, quantity and land use. For over a year, the County imposed a moratorium on development of new dairy operations or expansion. For one individual converting from a beef cattle operation to a dairy operation, the moratorium resulted in thousands of dollars in costs for loss of production.
- In Martin County, a proposed storm water drainage ordinance would have treated the agriculture industry as “development”, which is prohibited by Chapters 163 and 380, F.S. Refusing to acknowledge the exemption included in the ordinance would have required each existing agricultural operation to be permitted by the county in addition to paying an annual stormwater fee. Currently, both DEP and the water management districts regulate agriculture stormwater discharge. After significant protest, opposition and the threat of litigation, the County exempted existing agricultural operations from the ordinance. If the county had adopted the regulations, Martin County’s agricultural industry would have been financially devastated.
- Alachua County recently proposed adopting forestry best management practices that would have eliminated use of existing standards, severely limiting harvesting of timber on agricultural lands. In addition, the adopted wetland buffers far exceeded DEP and water management district criteria. The County also adopted provisions designating large tracts of agricultural lands as primary conservation areas, including uplands, that significantly affected intensities of agricultural uses and lowering property values. The agricultural land owners have filed an administrative challenge to the rules and, as of March 18, 2003, have spent over \$200,000 in legal fees and hearing costs.

C. SECTION DIRECTORY:

**Section 1:** Creates s. 163.3162, F.S.; providing a name for the Act; providing legislative findings and purpose; providing definitions for “farm”, “farm operation”, and “farm product”; prohibiting a county from adopting any ordinance, resolution, regulation, rule, or policy to prohibit or otherwise limit a bona fide farm or farm operation on certain land that is an integral part of a farm operation or that is classified as agricultural land; and, prohibiting a county from changing the land use classification or zoning designation of such agricultural land unless the affected landowner is compensated for the loss of value.

**Section 2:** Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

Please see “Fiscal Comments.”

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

This bill does not appear to have a fiscal impact on local or state budgets however, paragraph (5) of s. 163.3162, F.S., potentially provides for an unfunded mandate on counties.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This legislation has the potential to impose an unfunded mandate on counties.

2. Other:

**Impact on Local Government:**

Paragraph (5) of s. 163.3162, F.S., potentially limits and restricts the police power and rulemaking authority of counties.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

This legislation is opposed by the Florida Association of Counties and the Sierra Club. The Department of Agriculture and Consumer Services has taken no stand on this legislation.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 27, 2003, the Committee on Agriculture adopted four amendments to HB 1075. Amendments 1 and 2 exempt municipalities from the legislation. Amendment 3 requires counties to compensate affected property owners for loss of value when an existing agricultural land use classification, zoning or residential density designation is changed. And, amendment 4 removes the word "preservation" from the legislative findings section of the bill. This analysis reflects the changes made by these amendments.

On April 11, 2003, the Subcommittee on Agriculture and Environment adopted one amendment to HB 1075. The amendment replaces the remedy for property owners affected by loss of value when an existing agricultural land use classification, zoning or residential density designation from county compensation to the "cause of action" remedy as provided for in the Bert J. Harris, Jr. Private Property Rights Protection Act (s.70.001, F.S.). It reduces the notice requirements in the Act from 180 days to 90 days. The amendment also removes the paragraph relating to limitation on duplication of government regulation from s. 823.14, F.S., and places it in Chapter 163, F.S., where similar references to duplication of government regulation are located.