

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.)

BILL: CS/ SB 1712

SPONSOR: Agriculture Committee, Senators Argenziano, Jones, Smith, and others

SUBJECT: Agricultural Economic Development

DATE: March 4, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	_____	_____	<u>NR</u>	_____
3.	_____	_____	<u>RI</u>	_____
4.	_____	_____	<u>AGG</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

This bill gives the agricultural landowner, whose land has been rezoned or the residential density lowered resulting in an inordinate burden, an immediate cause of action under s. 70.001, F.S. (the Bert J. Harris Private Property Rights Protection Act, hereafter referred to as the Bert Harris Act) with the time period between the filing of a claim and the filing of an action being reduced to 60 days from 180 days. It establishes an “agricultural enclave” designation and provides that owners of such land may apply to amend the local government comprehensive plan and such application will be deemed to be “in compliance” with the requirements set forth for adoption of a comprehensive plan in s. 163.3184, F.S., if it includes uses consistent with the surrounding industrial, commercial, and residential uses. The bill requires that the lease on land subject to an agricultural lease be continued for the term of the lease up to one year if that land is purchased by a state entity for conservation or recreation purposes. It also requires that reasonable efforts be made to continue the lands in agriculture production and that the acquiring agency consider any agriculture lease in the development of its management plan. The bill requires regional water supply plans to consider limitations on alternative sources of water to self-suppliers. It requires a Water Management District (WMD) to inform an applicant for renewal of a permit for agricultural water use about the availability of 20-year permits. The bill requires the Department of Agriculture and Consumer Services (DACS) and a WMD to enter into a Memorandum of Agreement regarding the processing of exemptions for agriculture water usage.

This bill substantially amends the following sections of the Florida Statutes 163.2514, 163.2517, 373.0361, and 373.236; and it creates the following sections of the Florida Statutes: 70.005, 259.047, and 373.407.

II. Present Situation:

Section 70.001, F.S., sets forth the Bert Harris Act which provides relief to property owners in instances where a specific action of a governmental entity has inordinately burdened the use of real property under circumstances that do not amount to a taking but result in the owner being permanently unable to attain the reasonable, investment-backed expectation for the property. A 180 day time period is required between the filing of a claim and the filing of an action to allow the government to make a written settlement offer. There is no special treatment for agricultural land which has been rezoned or subjected to a designation which lowers residential density.

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985, ("Act") ss. 163.3161-163.3244, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan that includes certain required elements, such as: a future land use plan; capital improvements; and an intergovernmental coordination element. The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Section 163.3184, F.S., sets forth certain requirements that must be met in the adoption of a comprehensive plan or plan amendment. The Act contains a special designation and specific provisions relating to an urban infill and redevelopment area but there is no designation of property as an "agricultural enclave" nor any special provisions pertaining to such an area.

Chapters 259 and 375, Florida Statutes, authorize the acquisition of land for preservation, conservation, or recreation purposes but imposes no requirement that the use of the land subject to an agricultural lease be continued for the remainder of the lease up to one year or considered in the development of the acquiring agency's management plan.

Water use permits can be issued to non-government individuals or entities for a period up to 20 years but some applicants are not aware that they may request a 20-year permit for renewals as well as the initial permit. Section 373.406 (2), F.S., contains an exemption from the requirements for managing and storing surface waters which permits agriculture users to alter the topography of their land. Presently, there is no requirement that this exemption be the subject of an agreement between DACS and the respective WMD.

III. Effect of Proposed Changes:

Section 1. Creates F.S. 70.005 which provides an immediate cause of action to the landowner whose agricultural land has suffered an inordinate burden due to a change in classification or zoning or the lowering of the residential density designation. Reduces from 180 days to 60 days the notice period required by F.S. 70.001 before filing an action.

Section 2. Amends F.S. 163.2514 pertaining to definitions under the Growth Policy Act to add a definition for "agricultural enclave." It is defined as an undeveloped area utilized for agricultural purposes and surrounded on at least 80 percent of its perimeter by existing or approved industrial, commercial, or residential development with available public services.

Section 3. Amends F.S. 163.2517 to include “agricultural enclave” as a designation under the Growth Policy Act in addition to “urban infill and redevelopment area.”

Provides that the owners of land defined as an agricultural enclave may apply for an amendment to the local government comprehensive plan which may include uses and intensities consistent with the surrounding industrial, commercial, or residential area. And further provides that such amendment shall be deemed to prevent urban sprawl and meet the “compliance” requirement contained in F.S. 163.3184 even if it is inconsistent with other local, state, or regional planning ordinances, or the Florida Administrative Code.

Section 4. Creates F.S. 259.047 which requires a purchasing state entity that acquires land for conservation or recreation purposes to allow any existing agricultural lease to remain in force for the term up the lease up to one year. Directs the purchasing entity to make reasonable effort to keep lands in agricultural production and to consider any existing agriculture lease in the development of the agency’s management plan.

Section 5. Amends F.S. 373.0361 to add a requirement that limitations on alternative sources of water available to self-suppliers be recognized in the development of regional water supply plans.

Section 6. Amends F.S. 373.236 to require water management districts to inform applicants concerning the availability of 20-year water use permits.

Section 7. Creates F.S. 373.407 which requires that the Department of Agriculture and Consumer Services (DACS) and each water management district (WMD) enter into a Memorandum of Agreement (Memorandum) by July 1, 2005 for each proposed activity for which DACS will assist a WMD in a determination that an activity qualifies for an agricultural related exemption set forth in F.S. 373.406(2). The Memorandum shall include:

- a process where DACS, upon request, shall conduct a nonbinding review.
- processes and procedures to be followed by DACS in its review and issuance of a determination.

Section 8. Provides that this act shall take effect on July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

None.

C. Government Sector Impact:

In order to meet its duties under Section 6 of the bill, DACS estimates that it will incur costs for five FTE's, support, and equipment expense as follows:

FY 04-05	FY 05-06	FY 06-07
\$512,680	\$441,880	\$448,816

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.
