

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1190

INTRODUCER: Appropriations Committee and Senator Brandes

SUBJECT: Agricultural Lands

DATE: April 25, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Halley	AG	<b>Favorable</b>
2.	Hinton	Uchino	EP	<b>Favorable</b>
3.	Babin	Diez-Arguelles	AFT	<b>Favorable</b>
4.	Babin	Hansen	AP	<b>Fav/CS</b>
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 1190 amends section 163.3162(3), Florida Statutes, to prohibit all governmental entities, except water management districts and water control districts, from enforcing regulations on certain bona fide farming operations when the activity is already regulated by the state or federal government. In addition, the bill prohibits governmental entities from charging fees on bona fide agricultural activities of bona fide farm operations if the agricultural activities are regulated by the state or federal government.

The bill limits an exemption from the Florida Building Code for nonresidential farm buildings, farm fences and farm signs to those located on land used for bona fide agricultural purposes.

The Revenue Estimating Conference determined that section 1 of this bill will reduce local revenue by an insignificant amount. Staff estimates that section 2 of this bill will increase local revenue by an indeterminate amount.

This bill substantially amends sections 163.3162 and 604.50, Florida Statutes.

## II. Present Situation:

### *Local Regulations and Fees.*

In 2003 the Legislature created s. 163.3162, F.S., which sets forth legislative findings that emphasize the importance of agriculture to the health, safety, and welfare of the people of the state.<sup>1</sup> The intent of the act is to protect reasonable agricultural activities conducted on farm lands from duplicative regulation.<sup>2</sup> Prior to the passage of this legislation, some counties enacted regulations that duplicated –and in some cases were more restrictive than–regulations already implemented through best management practices or an existing governmental regulatory program.

Until 2011, s. 163.3162, F.S., only prohibited new county regulations. In 2011, the Legislature amended s. 163.3162, F.S., to also prohibit enforcement of existing county measures.<sup>3</sup>

Currently, the prohibition on duplicative regulations applies only to counties. However, some agricultural associations have reported that municipalities are now starting to adopt ordinances and regulations that duplicate existing regulatory requirements.<sup>4</sup>

### *The Florida Building Code*

The Florida Building Code contains laws and rules that govern the design, construction, repair and demolition of buildings and structures in Florida.<sup>5</sup>

Florida exempts nonresidential farm buildings, farm fences, and farm signs from the requirements of the Florida Building Code, as well as any county or municipal code or fee.<sup>6</sup>

## III. Effect of Proposed Changes:

**Section 1** amends s. 163.3162, F.S., to amend the definition of “governmental entity” to exclude water management districts (WMDs).<sup>7</sup>

The bill prohibits any “governmental entity,” from adopting or enforcing a regulation limiting an activity of a bona fide farm operation on land classified as agricultural, if such activity is regulated by:

- The Florida Department of Environmental Protection (DEP);
- The Florida Department of Agriculture and Consumer Services (DACS);
- A WMD as part of a statewide or regional program; or

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<sup>1</sup> Section 163.3162(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Chapter 2011-7, Laws of Florida. This legislation began as CS/HB 7103(2010), which was vetoed by the Governor in 2010. In 2011, the veto was overridden by the Legislature.

<sup>4</sup> Conversation between staff with the Committee on Environmental Preservation and Conservation and Cindy Littlejohn, Chair of the Florida Agricultural Association (Apr. 1, 2013).

<sup>5</sup> Section 553.73(1)(a), F.S.

<sup>6</sup> Section 604.50, F.S. The exemption does not apply for provisions implementing local, state or federal floodplain management regulations.

<sup>7</sup> Section 163.3162(2)(d), F.S.

- The United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.<sup>8</sup>

The bill also prohibits governmental entities from charging a fee on bona fide agricultural activities that are regulated as described above.

**Section 2** limits the exemption from the Florida Building Code for nonresidential farm buildings, farm fences, and farm signs to only nonresidential farm buildings, farm fences, and farm signs located on lands used for bona fide agricultural purposes. “Bona fide agricultural purposes” are defined to have the same meaning as provided in s. 193.461(3)(b), F.S. Section 193.461(3)(b), F.S., defines bona fide agricultural purposes to mean good faith commercial use of the land.

**Section 3** provides that this act shall take effect July 1, 2013.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

The bill prohibits governmental entities from charging fees on certain agricultural activities occurring on agricultural lands. This could have a negative, but indeterminate, fiscal impact on local government revenues and, therefore, may implicate the mandate provision of Article VII, section 18 of the Florida Constitution. The March 1, 2013, Revenue Estimating Conference (REC) estimated that section 1 of this bill will result in a negative but insignificant impact on local governments.<sup>9</sup> Staff estimates that section 2 of this bill will have a positive but indeterminate impact on local governments. Because it is estimated to have an insignificant fiscal impact, the bill is exempted from the local mandate requirements.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

#### V. Fiscal Impact Statement:

##### A. Tax/Fee Issues:

The bill prohibits governmental entities from charging a fee on bona fide agricultural activities which are regulated by certain agencies of the state or federal government.

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<sup>8</sup> Section 163.3162(3)(a), F.S.

<sup>9</sup> Office of Economic & Demographic Research, *Revenue Estimating Conference Impact Conference: 2013 Session Conference Table*, <http://edr.state.fl.us/Content/conferences/revenueimpact/2013RevenueImpactSummary.xls> (last visited Mar. 31, 2013).

**B. Private Sector Impact:**

Certain agricultural producers would be spared the expense associated with adhering to duplicative regulations or paying certain fees imposed by governmental entities in the state.

Owners of nonresidential farm buildings, farm fences and farm signs on noncommercial property will be subject to the Florida Building Code and county and municipal codes and fees.

**C. Government Sector Impact:**

The bill prohibits governmental entities from charging fees on certain agricultural activities occurring on agricultural lands.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Appropriations April 23, 2013:**

The committee substitute limits the exemption from the Florida Building Code and local codes and fees for nonresidential farm buildings, farm fences and farm signs to those located on land used for bona fide agricultural purposes.

**B. Amendments:**

None.