

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 Environmental Preservation and Conservation

BILL: SB 1190

INTRODUCER: Senator Brandes

SUBJECT: Agricultural Lands

DATE: April 1, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Halley</u>	<u>AG</u>	Favorable
2.	<u>Hinton</u>	<u>Uchino</u>	<u>EP</u>	Favorable
3.	_____	_____	<u>AFT</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1190 amends the Agricultural Lands and Practices Act (act), which prohibits counties from adopting any duplicative ordinance, resolution, regulation, rule, or policy that limits activity of a bona fide farm or farm operation on agricultural land if such activity is already regulated by a state or federal agency. The bill expands the prohibition to include not just counties, but any “governmental entity,” as defined in law, from adopting or enforcing any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate or otherwise limit an activity of a bona fide farm operation on land classified as agricultural, if the activity is already regulated by certain state or federal agencies.

SB 1190 also provides that a governmental entity may not charge a fee upon bona fide farm operations on agricultural land.

This bill amends s. 163.3162 of the Florida Statutes.

II. Present Situation:

In 2003 the Legislature created the Agricultural Lands and Practices Act which sets forth legislative findings that emphasize the importance of agriculture to the health, safety, and welfare of the people of the state. The intent of the act is to protect reasonable agricultural activities conducted on farm lands from duplicative regulation. Prior to the passage of this legislation, some counties enacted measures to regulate various agricultural operations in the state that were duplicative and in some cases more restrictive than those already implemented through best management practices or an existing governmental regulatory program.

In 2010, s. 163.3162, F.S., was further amended because while the act banned the adoption of future county restrictive measures, it did not explicitly prohibit the enforcement of existing county measures. Therefore, legislation was passed to prohibit the enforcement of existing county measures.¹

Currently, this prohibition applies only to counties. However, some agricultural associations have reported that municipalities are now starting to adopt ordinances and regulations that are duplicative in nature to existing regulatory requirements.²

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).³ It prohibits any “governmental entity,” instead of only counties, from adopting or enforcing any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit any activity of a bona fide farm operation on land classified as agricultural, if such activity is regulated through implemented best management practices, interim measures, or regulations adopted as rules under ch. 120, F.S., by:

- The Florida Department of Environmental Protection (DEP);
- The Florida Department of Agriculture and Consumer Services (DACCS);
- A WMD as part of a statewide or regional program; or
- The United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.⁴

The bill also prohibits governmental entities from charging a fee on bona fide agricultural activities that are regulated through the implementation of best management practices; interim measures; rules adopted by the DEP, DACCS, or a WMD as part of a statewide or regional program; or if the agricultural activity is expressly regulated by the U.S. Department of Agriculture, the U.S. Army Corps of Engineers, or the U.S. Environmental Protection Agency.

Section 2 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 the provisions of this bill would

¹ CS/HB 7103, ch. 2011-7, Laws of Fla. (CS/HB 7103 was vetoed by the Governor but the veto was overridden during the 2011 Legislative Session).

² Conversation with Cindy Littlejohn, Chair of the Florida Agricultural Association (Apr. 1, 2013).

³ Section 163.3162(2)(d), F.S.

⁴ Section 163.3162(3)(a), F.S.

result in a negative but insignificant impact on local governments.⁵ Because it is estimated to have an insignificant fiscal impact, though, it 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.

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.

C. Government Sector Impact:

The bill prohibits governmental entities from charging fees on certain agricultural activities occurring on agricultural lands, which appears to have an insignificant negative impact on local government revenues.

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.)

None.

⁵ 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. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
