

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 Agriculture

BILL: SB 1190

INTRODUCER: Senator Brandes

SUBJECT: Agricultural Lands

DATE: March 5, 2013

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|-------------|----------------|-----------|--------------------|
| 1. Akhavein | Halley | AG | Pre-meeting |
| 2. | | EP | |
| 3. | | AFT | |
| 4. | | AP | |
| 5. | | | |
| 6. | | | |

I. Summary:

SB 1190 amends the Agricultural Lands and Practices 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 a state or federal agency.

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

This bill amends section 163.3162 of the Florida Statutes.

II. Present Situation:

The 2003 Legislature created the “Agricultural Lands and Practices Act” which set 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 passed¹ to prohibit the enforcement of existing county measures.

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.

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.² 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 chapter 120, F.S., by:

- The Florida Department of Environmental Protection (DEP);
- The Florida Department of Agriculture and Consumer Services (DACS);
- A water management district as part of a statewide or regional program (WMD); or
- The United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.³

The bill also prohibits governmental entities from charging a fee on bona fide agricultural activities regulated through the implementation of best management practices, interim measures or rules adopted by DEP, DACS, a WMD as part of a statewide or regional program or the federal government.

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 result in a negative but insignificant impact on local governments.

¹ CS/HB 7103, ch. 2011-7, L.O.F... (CS/HB 7103 was vetoed by the Governor; overridden during the 2011 Legislative Session; and became law, the Governor's veto notwithstanding.)

² S. 163.3162(2)(d), F.S.

³ S. 163.3162(3)(a), F.S.

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 the state or federal governments.

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 indeterminate 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.

B. Amendments:

None.