

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 Appropriations Subcommittee on Finance and Tax

BILL: CS/CS/SB 312

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Community Affairs Committee; and Senator Simpson and others

SUBJECT: Agriculture

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Fav/CS
4.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 312 allows property appraisers to approve late-filed applications for agricultural classification when extenuating circumstances exist.

The bill expands the definition of “livestock” to include aquacultural species certified pursuant to chapter 597. It also allows agricultural land to retain an agricultural classification when the land owner participates in a water retention program sponsored by a water management district or the Florida Department of Environmental Protection, and requires that these lands be assessed as nonproductive agricultural lands.

The bill also expands the sales tax exemption for certain farm equipment to include:

- Power farm equipment used in the storage of raw products on the farm;
- Irrigation equipment, including replacement parts and accessories;
- Repairs of power farm equipment and irrigation equipment; and
- The portion of the sales price below \$20,000 of trailers that weigh 12,000 pounds or less, used in agricultural production and transportation of farm products.

The Revenue Estimating Conference has determined the provisions of this bill will reduce General Revenue Fund receipts by \$13.6 million in Fiscal Year 2014-2015, with a recurring

impact of \$15 million, and the bill will reduce local property taxes by \$100,000 in Fiscal Year 2015-2016 and future years.

II. Present Situation:

Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value (fair market value) for ad valorem tax purposes. However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications, and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.

Agricultural Property Classification

Section 193.461, F.S., provides that each county's property appraiser shall, for assessment purposes on an annual basis, classify all lands within a county as agricultural or nonagricultural. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes." Agricultural purposes include, but are not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture, including algaculture; sod farming; and all forms of farm products and farm production.

Property appraisers are required to reclassify lands as nonagricultural when they are diverted from an agricultural to a nonagricultural use or no longer utilized for agricultural purposes.

In response to the spread of citrus canker, the 2000 Legislature authorized lands to retain agricultural classification and be assessed at a de minimis value of no more than \$50 per acre if the owner took the land out of production due to a state or federal eradication or quarantine program. These lands retain the agricultural classification and de minimis assessment as long as they are not used to produce income or used for a nonagricultural use.

Property owners must submit applications for agricultural classification by March 1 of each year.¹ If a property owner submits an application after March 1, the property owner must petition the value adjustment board and show extenuating circumstances that warrant granting the classification; the property appraiser is not authorized to review late applications.²

Water Retention Programs

The Legislature has encouraged and supported development of creative public-private partnerships and programs that facilitate or further the restoration of the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed. Since 2005, the South Florida Water Management District has been working with agencies, environmental organizations, land owners, and researchers to enhance opportunities for

¹ Section 193.461(3)(a), F.S.

² *Id.*

storing excess surface water on private and public lands. Over the years, these efforts have made thousands of acre-feet of water retention and storage available.

Water retention systems serve to control storm water volume before it is discharged to surface waters or floods urban areas. The systems also act to minimize point source and non-point source pollution prior to its entry into streams, natural wetlands, and other receiving waters. These systems vary widely in their pollutant removal capabilities, but can effectively remove a number of contaminants with removal rates as high as 95 and 99 percent for some non-dissolved nutrients and pesticides, respectively.

Eight Florida ranchers participated in a \$6 million pilot program run by the South Florida Water Management District called the “Florida Ranchlands Environmental Services Project.” The program, which ran from 2006 to 2011, paid ranchers to construct water retention areas on their properties that acted as natural phosphorous filters. In addition to construction costs, the program paid ranchers for annual maintenance and a participation fee for three years. The district also created a \$3 million water farming pilot project that paid citrus growers to build systems to store excess water on fallow citrus land before it can flow into estuaries.

When an agricultural landowner enters into an agreement with a water management district or the Department of Environmental Protection for water storage or water quality improvements on private land, the extent of existing wetlands and other surface waters must be established in the agreement.³This “baseline determination” is later needed so that any increase in wetlands or surface water as a result of the project does not subject the landowner to increased regulatory requirements.

As part of Florida’s pollution control requirements, Florida establishes the amount of a pollutant that a water body may receive without exceeding water quality standards.⁴ The Department of Agriculture and Consumer Services is authorized to establish best management practices to reduce agricultural pollutants.⁵

Sales and Use Tax

Florida provides the following sales tax exemptions relating to livestock:

- The gross proceeds from the sale of livestock directly from the farm;⁶
- The use of livestock or livestock products by the farmer;⁷
- Disinfectants, insecticides and pesticides used in dairy barns or on poultry farms for the purpose of protecting livestock;⁸ and
- The sale of feed for livestock.⁹

³ Section 373.4591, F.S.

⁴ See Section 403.067(6)(a)2., F.S. (describing the total maximum daily load calculation)

⁵ Section 403.067(7)(c), F.S.

⁶ Section 212.07(5), F.S.

⁷ *Id.*

⁸ Section 212.08(5)(a), F.S.

⁹ Section 212.08(7)(d), F.S.

“Livestock” is defined as “all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals raised for commercial purposes[,] . . . [and] fish raised for commercial purposes.”¹⁰

Florida provides a sales tax exemption for certain farm equipment. In order to qualify, the equipment must be “power farm equipment” used exclusively on a farm or in a forest for the agricultural production of crops or for fire prevention and suppression work with respect to such crops. The exemption applies to the “sale, rental, lease, use, consumption or storage for use in this state of power farm equipment”; the provision does not exempt the repair of power farm equipment.

“Power farm equipment” is limited to moving or stationary equipment that contains within itself the means for its own propulsion or depends upon an external power source to perform its functions. Sales of component parts of power farm equipment are not exempt unless the component part is, by itself, power farm equipment. For example, the sale of a complete irrigation supply system would be exempt as the sale of power farm equipment; however, the sale of a pipe that will be used to update an existing system is not exempt.

Agricultural production is limited to practices necessary to accomplish the production of plants and animals through the harvest phase. Power farm equipment used in activities that occur after harvesting, such as processing, is not exempt.

III. Effect of Proposed Changes:

Section 1 allows property appraisers to review late applications for agricultural classification and approve the application if the property owner demonstrates that he or she was unable to apply timely or otherwise demonstrates extenuating circumstances for not having filed in a timely manner.

The bill also allows agricultural lands to be used in water retention programs sponsored by the Department of Environmental Protection or a water management district without losing their agricultural classification. These lands will be assessed as nonproductive agricultural lands. If these lands are diverted to a nonagricultural use, they will be subject to normal assessment procedures.

Section 2 amends the definition of “livestock” to include all aquaculture species that are certified under chapter 597 and raised for commercial purposes.

The bill also amends the definition of “agricultural production” to include the storage of raw products on the farm, thereby expanding the exemption for power farm equipment to include certain equipment used in the storage of agricultural products.

Section 3 amends the exemption for farm equipment to include:

- Irrigation equipment;
- The repair of power farm equipment and irrigation equipment;

¹⁰ Section 212.02(29), F.S.

- Replacement parts and accessories for power farm equipment or irrigation equipment; and
- The portion of a sales price below \$20,000 for trailers weighing 12,000 pounds or less that are purchased by a farmer and used by the farmer to transport farm products from his or her farm to the first point of sale.

The bill also exempts stakes used by a farmer to support plants during agricultural production.

Section 4 allows a landowner that enters into an agreement to implement best management practices with the Department of Agriculture and Consumer Services to establish a baseline of wetlands and other surface waters, at the landowner's expense, and document the baseline in the best management practices implementation agreement. The determination will serve as the baseline for future agricultural pollutant analysis.

Section 5 provides that the bill will take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The bill provides property tax and sales tax exemptions that will reduce municipalities' and counties' property tax and sales tax collections, thereby reducing their revenue-raising authority. However, an exemption from the mandates provision may apply because the reduction in local governments' revenue-raising authority may result in an insignificant fiscal impact.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that the provisions of CS/CS/SB 312 will reduce General Revenue receipts by \$13.6 million in Fiscal Year 2014-2015, with a recurring impact of \$15 million, and the bill will reduce local property taxes by \$100,000 in Fiscal Year 2015-2016 and future years.

B. Private Sector Impact:

Under the conditions described in the bill, participants in water retention programs may have reduced ad valorem tax liability for flooded lands. The legislation allows agricultural producers to benefit from reduced tax liability for purchases of specified agricultural items, such as parts and repairs for irrigation equipment.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.461, 212.02, 212.08, and 373.4591.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on April 2, 2014:

The CS/CS:

- Allows property appraisers to approve late-filed applications for agricultural classification under certain circumstances;
- Provides that agricultural land used in a dispersed water storage program will be assessed as nonproductive agricultural land, and will be subject to statutory assessment procedures if it is diverted to a nonagricultural use;
- Expands the definition of “livestock” to include all aquaculture certified under chapter 597;
- Limits new the sales tax exemption for power farm equipment used for storage to equipment used to store raw products on the farm;
- Limits the new sales tax exemption for trailers use for agricultural purposes to the portion of sales prices below \$20,000 for trailers weighing 12,000 pounds or less;
- Creates a sales tax exemption for stakes used by a farmer to support plants during agricultural production; and
- Expands the ability of a landowner that participates in water storage programs to use a baseline determination of wetlands and other surface waters for future regulatory

requirements to also allow a baseline to be used for best management practices implementation agreements regarding agricultural pollutants.

CS by Community Affairs on January 8, 2014:

The CS classifies flooded lands as agricultural lands for property tax valuation purposes, instead of classifying the use of such lands as nonincome-producing. Flooded lands in recognized water storage programs, or successor programs, would be assessed at a de minimis value, on a single year methodology, and this provision would not expire.

The CS removes provisions that would have defined “qualified agricultural producer,” and authorized the Department of Revenue to issue certificates for agricultural sales and use tax exemptions.

B. Amendments:

None.