

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 59 Agritourism

SPONSOR(S): State Affairs Committee, Local Government Affairs Subcommittee, Combee and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 304

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	11 Y, 0 N	Gregory	Harrington
2) Local Government Affairs Subcommittee	11 Y, 0 N, As CS	Darden	Miller
3) State Affairs Committee	18 Y, 0 N, As CS	Gregory	Camechis

SUMMARY ANALYSIS

An “agritourism activity” is any agricultural related activity consistent with a bona fide farm or ranch or in a working forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions. Agritourism is one of the many methods farmers use to diversify and increase their income.

In 2013, the Florida Legislature passed SB 1106, which prohibited local governments from adopting any ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land under Florida’s greenbelt law. However, some local governments continue to enforce such ordinances, etc., that were adopted prior to the passage of SB 1106.

The bill:

- Declares the intent of the Legislature is to promote agritourism as a way to support bona fide agricultural production;
- Prohibits local governments from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under Florida’s greenbelt law;
- Provides that local governments may exercise their powers and duties to address substantial off-site impacts of agritourism activities;
- Adds “civic” and “ceremonial” activities to the definition of “agritourism activity;” and
- Clarifies that using agricultural land for agritourism does not limit the land’s greenbelt status as long as the land remains used primarily for bona fide agricultural purposes.

The bill may have an insignificant negative fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

An “agritourism activity” is any agricultural related activity consistent with a bona fide farm or ranch or in a working forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions.¹ In order to continue farming, operators of small and medium-sized farms find ways to diversify and expand their incomes, either through new enterprises on the farm or off-farm employment.² Agritourism is one of the many methods farmers use to diversify and expand their income.

Agritourism has an extensive history in the United States. Farm-related recreation and tourism can be traced back to the late 1800s, when families visited farming relatives in an attempt to escape from the city’s summer heat. Visiting the country became even more popular with the widespread use of the automobile in the 1920s. Rural recreation gained interest again in the 1930s and 1940s by people seeking an escape from the stresses of the Great Depression and World War II. These demands for rural recreation led to widespread interest in horseback riding, farm petting zoos, and farm nostalgia during the 1960s and 1970s. Farm vacations, bed and breakfasts, and commercial farm tours were popularized in the 1980s and 1990s.³

Today, agritourism may include farm tours or farm stays, fishing, hunting, festivals, historical recreations, workshops or educational activities, wildlife study, horseback riding, cannery tours, cooking classes, wine tastings, barn dances, and harvest-your-own activities. The use of these resources can have a positive effect on both the agricultural enterprise and the surrounding community. Not only does this tourism have the potential to add value to the operations themselves, but it also creates awareness about the importance of agriculture.

Twenty-eight states, including Florida, have adopted legislation to promote agritourism.⁴ In 2007, the Florida Legislature passed HB 1427, authorizing the Department of Agriculture and Consumer Services to provide marketing advice, technical expertise, promotional support, and product development related to agritourism to assist the following entities in their agritourism initiatives:

- Enterprise Florida, Inc.;
- Convention and visitor bureaus;
- Tourist development councils;
- Economic development organizations; and
- Local governments.⁵

In addition, HB 1427 provided that conducting agritourism activities on a bona fide farm or on lands classified as agricultural pursuant to s. 193.461, F.S., would not result in the property owner having his or her agricultural land classification limited, restricted, or divested.⁶ Section 193.461, F.S., also known as Florida’s “greenbelt law,” allows properties classified as a bona fide agricultural operation to be taxed according to the “use” value of the agricultural operation, rather than the development value. Generally, tax assessments for qualifying lands are lower than tax assessments for other uses.

¹ Section 570.86(1), F.S.

² Wendy Francesconi and Taylor Stein, *Expanding Florida's Farming Business to Incorporate Tourism*, University of Florida Institute of Food and Agricultural Sciences available at: <http://edis.ifas.ufl.edu/fr242> (last visited September 15, 2015).

³ Considering an Agritainment Enterprise in Tennessee (Agricultural Extension Service, The University of Tennessee, PB 1648) available at: http://trace.tennessee.edu/utk_agexmkt/12/ (last visited September 15, 2015).

⁴ A compilation of agritourism statutes can be found at: National AgLaw Center Research Publication, *State Agritourism Statutes*, <http://nationalaglawcenter.org/state-compilations/agritourism/> (last visited October 14, 2015).

⁵ Chapter 2007-244, Laws of Fla., codified as s. 570.85, F.S.

⁶ Section 570.87(1), F.S.

In 2013, the Florida Legislature passed SB 1106, codified in part as s. 570.85, F.S.⁷ The statute prohibits a local government from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land under Florida's greenbelt law.⁸ The statute also provides limited liability protection for landowners conducting agritourism activities on their property.⁹

While local governments may not adopt ordinances, regulations, rules, or policies that limit agritourism activities on land classified as agricultural land under Florida's greenbelt law, some local governments continue to enforce such ordinances, etc., that were adopted prior to the passage of SB 1106 in 2013.

Effect of Proposed Changes

The bill amends s. 570.85, F.S., to:

- Declare that it is the Legislature's intent to promote agritourism as a way to support for bona fide agricultural production by providing a secondary stream of revenue and by educating the public about the agricultural industry;
- Prohibit local governments from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under Florida's greenbelt law; and
- Provide that local governments may exercise their powers and duties to address substantial off-site impacts of agritourism activities;

The bill amends s. 570.86, F.S., to add "civic" and "ceremonial" activities and attractions to the definition of agritourism activity. Thus, events such as weddings and charitable fundraisers held on a farm may be considered agritourism activities.

Lastly, the bill amends s. 570.87, F.S., to clarify that the use of agricultural land for agritourism does not change the land's classification under the greenbelt law, as long as the primary use of the land remains used for bona fide agricultural purposes.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 570.85, F.S., relating to regulation of agritourism activities.
- Section 2.** Amends s. 570.86, F.S., relating to definitions pertaining to agritourism.
- Section 3.** Amends s. 570.87, F.S., relating to agritourism participation impact on land classification.
- Section 4.** Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

⁷ Chapter 2013-179, Laws of Fla.

⁸ Section 570.85, F.S.

⁹ Chapter 2013-179, Laws of Fla.; codified as s. 570.88, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Committee met on December 4, 2015, and estimated that the bill may have an insignificant negative fiscal impact on local governments by prohibiting them from enforcing local ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land classified as agricultural under Florida's greenbelt law.¹⁰ Thus, counties and municipalities may be unable to collect certain fees or fines pertaining to the enforcement of such regulations. However, an increase in agritourism may also create a positive fiscal impact on local governments by increasing tourism.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill encourages agritourism by lessening the regulations on agricultural land owners who engage in agritourism activities.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the authority of counties and municipalities to raise revenues by prohibiting them from enforcing ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land classified as agricultural under Florida's greenbelt law. However, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. The Revenue Estimating Committee met on December 4, 2015, and estimated that the bill may have an insignificant negative fiscal impact on local governments.¹¹

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 4, 2015, the Local Government Affairs Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment adds "civic" and "ceremonial" activities to the definition of agritourism, provides intent language, and clarifies the status under the greenbelt law of agricultural land used for agritourism activities.

¹⁰ Revenue Estimating Conference, 12/04/15 Revenue Impact Results, p. 228, available at <http://edr.state.fl.us/content/conferences/revenueimpact/index.cfm> (last visited December 8, 2015).

¹¹ Id.

On January 13, 2016, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment provides that local governments may exercise their powers and duties to address substantial off-site impacts of agritourism activities.

This analysis is drawn to the committee substitute reported favorably by the State Affairs Committee.