

**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 Transportation

BILL: CS/SB 1608

INTRODUCER: Transportation Committee and Senator Grimsley

SUBJECT: Agricultural Recovery

DATE: February 7, 2018      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	<b>Fav/CS</b>
2.			ATD	
3.			AP	

**I. Summary:**

CS/SB 1608 addresses a number of provisions related to the agriculture industry. Specifically, the bill

- Provides an additional set of circumstances under which an existing agricultural classification of lands may be extended or continued.
- Adds certain screened enclosed horticultural structures to a list of structures currently deemed to have no separately assessable value for purposes of the income methodology approach to ad valorem assessment of agricultural property.
- Exempts certain materials and labor costs related to agriculture and aquaculture from sales, use, and transaction taxation under Chapter 212, F.S., and provides for retroactive application and a process for claiming a refund.
- Codifies the State Agricultural Response Team within the Department of Agriculture & Consumer Services (DACS) and assigns it certain duties.
- Revises provisions relating to emergency transportation of perishable food, revising applicability of those provisions to crops grown and livestock raised in the state, as well as revising related authority and duties of the Florida Department of Transportation (FDOT) with respect to truck weight restrictions.
- Requires the FDOT to create a program to provide directional signs at certain locations on major public highways for commercial agricultural facilities that promote tourism by providing tours and onsite sales or samples of Florida agricultural products to tourists. The bill also provides eligibility criteria; requires the FDOT to adopt rules; and requires the FDOT to coordinate with the DACS in administering the program.

The bill has an indeterminate fiscal impact on state and local revenues. The private sector may benefit from the bill’s provisions. See the “Fiscal Impact Statement” heading below for details.

## II. Present Situation:

The present situation for each section of the bill is discussed below in conjunction with the Effect of Proposed Changes.

## III. Effect of Proposed Changes:

### Classification and Assessment of Agricultural Lands

#### *Present Situation:*

Under Florida's Greenbelt Law, properties that are bona fide<sup>1</sup> agricultural operations are taxed according to the "use" value of those operations, rather than according to the property's value.<sup>2</sup> Section 193.461(1), F.S., requires the property appraiser of each county to annually classify for assessment purposes all lands within the county as either agricultural or nonagricultural in order to obtain the bona fide status. This is known as the land's "Greenbelt" assessment.

Property appraisers may take a number of factors into consideration in determining whether the use of the land for agricultural purposes is bona fide, such as the length of time the land has been used for its current purpose, whether that use has been continuous, the price paid for the land, the size of the land in relation to its specific agricultural use, the effort made to care sufficiently and adequately for the land, whether the land is leased, and if so, the terms of the lease, and finally, any other factors that may become applicable.<sup>3</sup>

Property appraisers are required to reclassify as nonagricultural land diverted from an agricultural to a nonagricultural use and land no longer being utilized for agricultural purposes.<sup>4</sup>

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<sup>1</sup> The term "bona fide agricultural purposes" means "good faith commercial agricultural use of the land. Section 193.461(3)(b), F.S. "Agricultural purposes" includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture, including algaculture; sod farming; and all forms of farm products as defined in s. 823.14(3), F.S., and farm production. Section 193.461(5), F.S.

<sup>2</sup> Counties are authorized in Article VII, s. 9 of the Florida Constitution to levy ad valorem taxes, based on the value of the property being assessed, rather than its "use." In arriving at the constitutionally required just valuation for purposes of ad valorem taxation, s. 193.011, F.S., provides factors that property appraisers must take into consideration, including, generally, the present cash value of the property, the highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, the property's location, the quantity or size of the property, its cost and the present replacement value of any improvements; the income from the property; and the net proceeds of the sale of the property after certain deductions. The county property appraiser is responsible for determining the fair market value, the assessed value, and the values of applicable exemptions to arrive at the taxable value of all property within the county; and with collecting the ad valorem taxes. See the *2017 Local Government Financial Information Handbook*, at p. 6, available at: <http://edr.state.fl.us/Content/local-government/reports/lghih17.pdf>. (Last visited February 7, 2017.)

<sup>3</sup> Section 193.461(3)(b), F.S.

<sup>4</sup> Section 193.461(4), F.S.

Under certain circumstances, however, an existing agricultural classification may be extended or continued, as follows:

- Agricultural lands taken out of production by a state or federal eradication or quarantine program may continue to be so classified for five years after the date of execution of a compliance agreement.<sup>5</sup>
- Agricultural lands that participate in a dispersed water storage program pursuant to a contract with the Department of Environmental Protection or a water management district that requires flooding of the land continue to be classified as agricultural for the duration of the inclusion of the lands in such program.<sup>6</sup>

In assessing bona fide agricultural lands, based solely on its agricultural use, a property appraiser must consider the following use factors only:

- The quantity, size, and condition of the property;
- The present market value of the property as agricultural land;
- The income produced by the property;
- The productivity of the land in its present use;
- The economic merchantability of the agricultural product; and
- Such other agricultural factors that may become applicable, which are reflective of the standard present practices of agricultural use and production.<sup>7</sup>

Currently, for purposes of the income methodology approach to assessment of property used for agricultural purposes, certain structures that are attached physically to the land are considered to be a part of the average yields per acre and have no separately assessable contributory (taxable) value. These structures include:

- Irrigation systems, including pumps and motors;
- Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms; and
- Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the DACS.<sup>8</sup>

***Effect of Proposed Changes:***

Section 2 of the bill amends s. 193.461(7), F.S., to provide an additional set of circumstances under which an existing agricultural classification may be extended or continued. The bill provides that agricultural lands incurring damage as a result of a natural disaster for which a state

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<sup>5</sup> Section 193.461(7)(a), F.S. If such lands are converted to fallow or otherwise non-income-producing uses, the lands must be assessed at a de minimis value of up to \$50 per acre, per year during the five-year term, while fallow or used otherwise; if replanted in citrus, the same de minimis assessment of up to \$50 per acre, per year during the five-year agreement term; if converted to other income-producing permissible agricultural uses under the eradication or quarantine program, assessment based on use as provided in s. 193.461, F.S.; and lands under a mandated eradication or quarantine program diverted from an agricultural to a nonagricultural use, assessment under s. 193.011, F.S., which provides factors for deriving just valuation as required under s. 4, Art. VII of the State Constitution.

<sup>6</sup> Section 193.461(7)(b), F.S. These lands are assessed as nonproductive agricultural lands. If diverted from an agricultural to a nonagricultural use, assessment is again under s. 193.011, F.S.

<sup>7</sup> Section 193.461(6)(a), F.S.

<sup>8</sup> Section 193.461(6)(c), F.S.

of emergency is declared,<sup>9</sup> and which results in the halting or reduction of agricultural production, must continue to be so classified for five years following termination of the emergency declaration. However, if such lands are diverted from agricultural use to nonagricultural use during or after the five-year recovery period, such lands must be assessed using the factors for deriving just valuation in s. 193.011, F.S.

This section of the bill also amends s. 193.461(6)(c), F.S., to add additional structures which are deemed to have no separately assessable value for purposes of the income methodology approach to assessment of agricultural property. The bill provides that screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements are considered a part of the average yields per acre and have no separately assessable value.

### **Exemption from Taxation**

#### ***Present Situation:***

Chapter 212, F.S., governs taxes on sales, use, and other transactions and provides for imposition of a wide variety of taxes, as well as processes for claiming certain tax credits or refunds.<sup>10</sup> Section 212.08, F.S., provides a long list of exemptions from taxation for the sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of various items, uses, and transactions, in a variety of instances.

Certain building materials are specifically exempt from taxation, under the specified conditions, as provided in s. 212.08, F.S.; e.g., building materials used in rehabilitation of real property located in an enterprise zone<sup>11</sup> or in a rural area of economic opportunity.<sup>12</sup>

#### ***Effect of Proposed Changes:***

Section 3 of the bill amends s. 212.08, F.S., adding new exemptions from the sales, rental, use, consumption, distribution, and storage tax, entitled “Exemptions; Materials and Labor Costs Relating to Agriculture and Aquaculture.” The bill exempts the following from taxation under Chapter 212, F.S., for:

- Building materials used in the construction of a nonresidential farm building;<sup>13</sup>
- Poles, nets, and other materials used for aquaculture leases;

<sup>9</sup> Section 252.36(2), F.S., provides for declaration of a state of emergency by executive order or proclamation of the Governor, if he or she finds an emergency or the threat of an emergency has occurred or is about to occur. The law provides that the state of emergency “shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.

<sup>10</sup> These are state-imposed and collected taxes, portions of which are distributed to or shared with eligible county or municipal governments. See the *2017 Local Government Financial Information Handbook*, at pp. 33, 37, 39, 55, and 79, available at: <http://edr.state.fl.us/Content/local-government/reports/lgfih17.pdf>. (Last visited February 7, 2017.)

<sup>11</sup> Section 212.08(5)(g), F.S.

<sup>12</sup> Section 212.08(5)(r), F.S.

<sup>13</sup> Defined in s. 604.50(2)(d), F.S., as “any temporary or permanent building or support structure classified as a nonresidential farm building on a farm [which is exempt from the Florida building code] or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential building.” The term includes, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

- Building materials used in the construction of farm fences on land classified as agricultural; and
- The cost of labor associated with the construction or installation of the specified items.

The bill provides that these exemptions apply retroactively to September 1, 2017. This means that any taxes previously assessed and paid on the identified items on or after that date may be subject to refund.

To claim a refund on taxes paid for the specified materials and labor costs, the bill requires the purchaser of such materials and labor costs to submit a signed certificate stating that the materials and labor are to be used exclusively as required under the new provisions. The submission must also include the name and address of the person claiming the refund, the address and assessment roll parcel number of the property where the improvement is made, and a description of the improvement. Applications for refunds must be submitted to the Department of Revenue (DOR) within six months after the transaction or the effective date of the bill, whichever occurs later.

Additionally, the bill provides that possession by a seller, lessor, or other dealer of a written certification by the purchaser certifying the purchaser's entitlement to the exemption relieves the seller from the responsibility of collecting the tax on the nontaxable amounts. DOR must look solely to the purchaser for recovery of such tax if it determines the purchaser was not entitled to the exemption.

### **State Agricultural Response Team**

#### ***Present Situation:***

Section 252.35, F.S., requires the Division of Emergency Management (DEM) to prepare a state comprehensive emergency management plan (CEMP). The DEM must work closely with local governments, agencies, and organizations with emergency management responsibilities in preparing and maintaining the plan. The CEMP, among other functions, expresses that it:

- Is the master operations document in responding to all emergencies, and all catastrophic, major, and minor disasters;
- Defines the responsibilities of all levels of government, private, volunteer and non-governmental organizations that make up the State Emergency Response Team (SERT); and
- Ensures that all levels of government are able to mobilize as a unified emergency organization to safeguard the well-being of Florida's residents and visitors.<sup>14</sup>

The SERT is comprised of agency-appointed emergency coordination officers and staff from state agencies, volunteer, and non-governmental organizations, and is sorted into 18 emergency support functions (ESFs) that carry out coordination and completion of response and recovery activities in the State Emergency Operations Center. The ESFs are grouped by function, rather

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<sup>14</sup> See the current CEMP at p. 5, available at: <https://floridadisaster.org/globalassets/importedpdfs/2016-state-cemp-complete-final-draft.pdf>. (Last visited February 7, 2018.) Section 252.35(2)(a), F.S., requires submission of the CEMP to the Senate President, House Speaker, and Governor on February 1 of every even-numbered year.

than agency, with each DSF headed by a primary state agency and supported by additional agencies. Under the CEMP, the DACS is assigned to ESF 17 for animal and agricultural issues.<sup>15</sup>

To meet its responsibilities as lead to ESF 17, DACS facilitated the development of the State Agricultural Response Team (SART), along with other partners, with the mission to “support an effective and coordinated incident response for the animal and agricultural sectors in the State of Florida.”<sup>16</sup> The SART’s strategic imperatives are to:

- Support an ESF 17 multi-agency coordination group for state-level response activities for animal and agriculture issues.
- Develop and support an ESF 17 Incident Management Team with equipment and training.
- Develop and support ESF 17 response resources such as the Mobile Animal Response Equipment Units, College of Veterinary Medicine Veterinary Emergency Treatment Service, and Florida Veterinary Corps with funding and or training.
- Develop and support county and regional outreach, training and information coordination in order to enhance local and regional ESF 17 response capabilities.<sup>17</sup>

Currently, the SART is not expressly statutorily identified or addressed.

***Effect of Proposed Changes:***

Section 4 of the bill creates s. 252.3569, F.S., requiring the Florida CEMP to allow the DACS, working from DACS offices or in the Emergency Operations Center, to create the SART. If created, the bill provides that the duties and responsibilities of the SART include, but are not limited, to:

- The development, training, and support of county agricultural response teams;
- Asset acquisition; and
- Colocation of a team member at activated local emergency operations centers.

Based on a review of the existing CEMP, SERT, and SART information, section 4 of the bill appears to codify existing practice.

**Emergency Transportation/Weight Loads**

***Present Situation:***

Section 316.565, F.S., currently authorizes the Governor to declare an emergency when a breakdown occurs in the normal public transportation facilities necessary in moving *perishable food* crops grown in this state. The FDOT may establish (increase or eliminate) weight loads during such emergency for hauling perishable foods over the highways from the fields or packinghouses to the nearest available public transportation facility as circumstances demand. The FDOT is required to designate special highway routes, *excluding* the interstate highway system, to facilitate the trucking and render any other assistance needed to expedite moving the perishables.

<sup>15</sup> CEMP at pp. 18-19.

<sup>16</sup> See the *FloridaSART* website available at: <http://flsart.org/about/>. (Last visited February 7, 2018.)

<sup>17</sup> *Id.*

That section of law currently expresses the Legislative intent in Chapter 316, F.S., to supersede any existing laws when necessary to protect and save any perishable food crops grown in the state and to give authority for agencies to provide necessary temporary assistance requested during any such emergency.

***Effect of Proposed Changes:***

Section 5 of the bill amends s. 316.565, F.S., replacing *perishable food crops* with *crops grown and livestock raised in the state*. Thus, the Governor may declare an emergency to exist when a breakdown occurs in the normal public transportation facilities necessary in moving crops grown and livestock raised in the state.

The FDOT, rather than establishing weight loads, may *waive* during a declared emergency any weight load restrictions and permit verifications for hauling from the fields or packinghouses to the nearest public transportation facility. The bill authorizes the FDOT to extend such waivers beyond the end of a declared emergency to provide for protracted harvesting and disaster recovery efforts. (See the “Related Issues” heading below for further information.) The bill also authorizes the FDOT to issue or accept electronic verification of permits during such emergency and protracted periods. The bill eliminates the exclusion of the interstate highway system from the FDOT’s duty to designate special highway routes; thus, the FDOT is charged with designating such routes on all highways including the interstate highway system, to expedite moving agricultural products.

The currently expressed Legislative intent is also revised to supersede any existing laws when necessary to protect and save crops grown and livestock raised in the state, rather than to protect and save any perishable food crops grown in the state.

**Agritourism Signage**

***Present Situation:***

Federal Law: Since the passage of the Highway Beautification Act (HBA) in 1965,<sup>18</sup> the Federal Highway Administration has established controls for outdoor advertising along Federal-Aid Primary, Interstate, and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings. The HBA mandates state compliance and the development of standards for certain signs, as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state’s annual federal-aid highway apportionment.<sup>19</sup>

Under the provisions of a 1972 agreement<sup>20</sup> between the State of Florida and the United States Department of Transportation incorporating the HBA’s required controls, the Florida

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<sup>18</sup> 23 U.S.C. 131.

<sup>19</sup> 23 U.S.C. 131(b).

<sup>20</sup> A copy of the agreement is available at: <http://www.fdot.gov/rightofway/documents/AGREEMENT.pdf>. (Last visited February 1, 2018.)



Department of Transportation (FDOT) requires commercial signs to meet certain requirements when they are within 660 feet of Interstate and Federal-Aid Primary highways in urban areas or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required “effective control of the erection and maintenance of outdoor advertising signs, displays, and devices.”

State Law: Florida law currently authorizes a number of outdoor advertising signs, primarily in Chapter 479, F.S.<sup>21</sup> Pursuant to its statutory authority,<sup>22</sup> the FDOT administers a system of guide signs under Chapter 14-51, F.A.C., entitled “Florida’s Highway Guide Sign Program,” which includes guide signs,<sup>23</sup> place name signs,<sup>24</sup> community wayfinding guide signs,<sup>25</sup> and tourist-oriented directional signs.<sup>26</sup> No provision of current law or rule specifically addresses guide signage for commercial agricultural facilities.<sup>27</sup>

### ***Effect of Proposed Changes:***

Section 6 of the bill creates s. 604.71, F.S., relating to the Florida Agritourism Signage Program. The bill directs the FDOT to create and administer a program to provide and install directional signs for commercial agricultural facilities that promote tourism by providing tours and onsite sales or samples of Florida agricultural products to tourists. The signs will be located on major public highways at, or in reasonable proximity to, the nearest interchange or within one mile of roads leading to the agritourism facility. Placement of directional signage must be at intervals in a manner that provides visitors with sufficient information to locate the agricultural facility.

To qualify for participation in the program, an agricultural facility must:

- Be open for business at least four days a week for 10 months of the year;
- Have a working growing or ranching area of at least two acres that can be toured from the facility location specified in the signage;
- Offer tours of the growing and ranching area; and
- Apply to and be approved by the FDOT.

Upon application by a facility, the FDOT must assess:

<sup>21</sup> As examples of signs authorized other than in Chapter 479, F.S., see s. 599.004, F.S., relating to signs on the rights-of-way of the limited access highway system for the Florida Farm Winery Program; s. 565.03, F.S., relating to signage for licensed craft distilleries; and s. 563.13, F.S., relating to Florida brewery directional signs. Chapter 14-51, F.A.C., addresses these signs respectively in Chapter 14-51.020(3)(h), (i), and (j); and in Chapter 14-51.030(3)(j), (k), and (l), F.A.C., available at: <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=14-51>. (Last visited February 1, 2018.)

<sup>22</sup> Section 479.02(7), F.S.

<sup>23</sup> “Guide sign” is defined to mean a sign that shows route designations, destinations, directions, distances, services, points of interest, or other geographical, recreational, or cultural information. Chapter 14-51.011(7), F.A.C.

<sup>24</sup> “Place name sign” is defined to mean a sign identifying the geographic boundary of a municipality or county, lying on or along a road on the state highway system. Chapter 14-51.011(15), F.A.C.

<sup>25</sup> “Community wayfinding guide sign” is defined to mean a directional guide sign that is part of a coordinated and continuous system of signs directing tourists

<sup>26</sup> “Tourist oriented directional signs” or “TODS” means guide sign assemblies with individual panels displaying the identity and directional information for a business, service, or activity facilities. Per s.479.262, F.S., this program is authorized only when approved and permitted by county or local governmental entities within their respective jurisdictional areas.

<sup>27</sup> However, the subject legislation appears to be modeled in a fashion similar, but not identical, to the Florida Farm Winery Program contained in Chapter 599, entitled “Viticulture,” which is the production and utilization of grapes. Section 599.001(1), F.S.



- The facility as to its suitability for the program; and
- The reasonable costs of creating and installing directional signs.

Because the bill’s language only authorizes FDOT to “*assess*” the suitability and costs of the signage, but does not specifically provide for who will pay for reimbursement of these costs, it is unclear whether these costs are to be borne by the applicant or by the FDOT.<sup>28</sup>

The bill directs the FDOT to adopt rules to administer the new section of law, including, but not limited to, an application and approval process for applicants.

Lastly, the FDOT is required to coordinate with the Department of Agriculture and Consumer Services in administering the new section of law.

### **Other Provisions**

Section 1 of the bill cites the act as the “Farmers and Ranchers Matter Act.”

Section 7 directs the Division of Law Revision and Information to replace the phrase “effective date of this act” wherever it occurs in the act with the date the act becomes a law.

Section 8 provides that the bill takes effect July 1, 2018.

## **IV. Constitutional Issues:**

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

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues. Subsection (b) of s. 18, Art. VII, 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. However, the mandates requirements do not apply to laws having an insignificant impact,<sup>29</sup> which for Fiscal Year 2017-2018, is \$2.1 million or less.<sup>30</sup>

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<sup>28</sup> Section 599.004(2)(c), F.S., specifically requires each certified Florida Farm Winery requesting an authorized sign to be responsible for all costs for placing each sign. The cost for placement is limited to a maximum of \$250, and the annual permit fee is limited to \$50. Section 563.13, F.S., specifically requires a brewery licensed in this state and requesting a directional sign through the FDOT’s permit process to pay all associated costs; and s. 565.03(6), F.S., specifically requires the same for a licensed craft distillery requesting a directional sign.

<sup>29</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>. (Last visited February 7, 2018.)

<sup>30</sup> Based on the Demographic Estimating Conference’s population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf>. (Last visited February 7, 2018).

The Revenue Estimating Conference estimates that similar, but not identical, language in CS/SB 740 relating to ad valorem assessment of the specified enclosed screened horticultural structures will reduce the authority that counties have to raise revenue from the local ad valorem tax by \$100,000. This provision will likely have an insignificant fiscal impact on local governments.

The bill requires extension or continuation of an agricultural classification of lands for five years under the specified conditions related to the lands incurring damage as a result of a natural disaster during a state of emergency. Counties may collect reduced ad valorem taxes in indeterminate amounts resulting from this change until the lands are diverted from agricultural or nonagricultural use. This provision will likely have an insignificant fiscal impact on local governments.

The bill provides an exemption from the sales, use, and transactions taxes under Chapter 212, F.S., for the specified agriculture and aquaculture related materials and labor costs. The Revenue Estimating Conference has not analyzed the fiscal impact of this portion of the bill. To the extent that taxes were, on or after September 2, 2017, assessed against such materials and labor costs, the payers of such taxes may be entitled to a refund from the DOR. Going forward, such taxes would no longer be collected by the state by virtue of the new exemption. In both cases, the result may be a reduction in the amount of such taxes distributed or shared with eligible county or municipal governments in indeterminate amounts.<sup>31</sup>

The aggregate fiscal impact on local governments resulting from the bill's tax related provisions may be insignificant and may not be a mandate requiring a two-thirds vote of the membership.

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

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The bill requires the specified screened enclosed horticultural structures to be assessed by the income methodology approach, generally producing a lower ad valorem tax assessment for these structures at the county level.

The bill requires extension or continuation of an agricultural classification of lands for five years under the specified conditions related to the lands incurring damage as a result of a natural disaster during a state of emergency, generally producing a lower ad valorem

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<sup>31</sup> *Supra* note 10.

tax assessment at the county level, until the lands are diverted from agricultural or nonagricultural use.

The bill provides new exemptions from the sales, use, and transactions taxes under Chapter 212, F.S., for the specified agricultural and aquaculture related materials and labor, as well as for refunds of any taxes previously paid on or after September 1, 2017, generally reducing state collection of such taxes, as well as distributions or share amounts to municipalities and counties from such taxes, in indeterminate amounts.

The bill authorizes the FDOT to waive during a declared emergency weight load restrictions for transportation of crops grown and livestock raised, and to extend such waivers beyond the end of such emergency. To the extent of any waiver, overweight permit fees and penalties will be reduced in an indeterminate amount.

**B. Private Sector Impact:**

Owners of the specified screened enclosed horticultural structures may benefit from reduced county ad valorem tax assessments in indeterminate amounts.

Those who are able to extend or continue agricultural classification of their lands damaged by a natural disaster may benefit from reduced county ad valorem tax assessments in indeterminate amounts.

Those who are able to claim the new exemptions from the sales, use, and transactions taxes under Chapter 212, F.S., for the specified agriculture and aquaculture related materials and labor, and for the authorized refunds, will benefit from payment of any refunds and by a reduction in taxes paid, in indeterminate amounts.

To the extent that the FDOT waives any permit fees for transportation of crops grown or livestock raised during or after a declared emergency, those who would otherwise be required to obtain an overweight permit or be subject to overweight penalties will benefit in an indeterminate amount as a result of reduced permit fees and potential penalties, in indeterminate amounts.

Whether the reasonable costs of creating and installing the agritourism signage are to be borne by the applicant or by the FDOT is unclear (see discussion below under the "Related Issues" heading). If the applicant is responsible, the applicant will incur expenses in an amount representing the reasonable costs of creating and installing the directional signs, as determined by the FDOT.

**C. Government Sector Impact:**

The state will collect reduced sales and use taxes under Chapter 212, F.S., in indeterminate amounts resulting from the new exemptions for the specified materials and labor, and for the authorized refunds.

To the extent the FDOT waives any permit fees for transportation of crops grown or livestock raised during or after a declared emergency, the FDOT will collect reduced permit fees in an indeterminate amount.

The FDOT will incur indeterminate administrative expenses associated with the required rulemaking for, and administration of, the agritourism signage program, as well as for coordinating with the DACS in administering the program. Whether the reasonable costs of creating and installing the directional signage are to be borne by the applicant or by the FDOT is unclear (see discussion below under the “Related Issues” heading). If the FDOT is responsible, the FDOT will also incur these costs in an indeterminate amount, depending on the number of applicants and signs installed. The FDOT has indicated it has no concerns regarding federal law.<sup>32</sup>

Counties may collect reduced ad valorem taxes in indeterminate, but likely insignificant, amounts as a result of the requirement to assess the specified screened enclosed horticultural structures based on the income methodology approach.

Counties may also collect reduced ad valorem taxes in indeterminate amounts resulting from the requirement to extend or continue an agricultural classification of lands damaged by a natural disaster for five years under the specified conditions, until the lands are diverted from agricultural or nonagricultural use.

Municipalities and counties may receive reduced distributions or share amounts from the state-imposed and collected sales, use, and transactions taxes resulting from the new exemptions for the specified agriculture and aquaculture related materials and labor, and from the authorized refunds, in indeterminate amounts.

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

The bill would allow waiver of weight load restrictions and permit verifications during periods of time when no emergency is declared. According to the FDOT, extension of a waiver of weight load restrictions and permit verifications beyond the end of a declared emergency is “inconsistent with a declared emergency.” Further, “If an emergency still exists, the declared emergency would be extended or a separate declared emergency would be issued.”

Additionally, 49 C.F.R. 390.23 provides for exemption from certain provisions of federal law on the interstate highway system, if an emergency has been declared by the President of the United States, the Governor of a state, or their authorized representative having authority to declare emergencies. The federal regulation does not expressly include weight exemption, but a

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<sup>32</sup> Telephone conversation with FDOT staff January 11, 2018. A conflict with federal law could impact the state’s annual federal-aid highway apportionment.

Governor's declaration of emergency may add exemptions for weight.<sup>33</sup> If the FDOT waives federally required weight load restrictions<sup>34</sup> on the interstate system during a period of time in which no declared emergency exists, such waiver may conflict with federal law. However, the bill provides FDOT with permissive waiver authority, rather than making the waiver mandatory.

With respect to the agritourism signage program, because the bill's language only authorizes FDOT to "assess" the suitability and costs of the signage, but does not specifically provide for who will pay for reimbursement of these costs, it is unclear whether the reasonable costs of creating and installing the directional signage are to be borne by the applicant or by the FDOT.<sup>35</sup> The FDOT has requested clarification that the signs will be installed by permit at the agricultural facility's expense.<sup>36</sup>

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.461, 212.08, and 316.565.

This bill creates the following sections of the Florida Statutes: 252.3569 and 604.71.

## IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

### **CS by Transportation on February 6, 2018:**

The committee substitute:

- Provides an additional set of circumstances under which an existing agricultural classification of lands may be extended or continued.
- Adds certain screened enclosed horticultural structures to a list of structures currently deemed to have no separately assessable value for purposes of the income methodology approach to ad valorem assessment of agricultural property.
- Exempts certain agriculture and aquaculture related materials and labor costs from sales, use, and transaction taxation under Chapter 212, F.S., and provides a process for claiming a refund.
- Codifies the SART within the DACS and assigns it certain emergency management related duties.
- Revises provisions relating to emergency transportation of perishable food, revising applicability of those provisions to crops grown and livestock raised in the state, as well as revising related authority and duties of the FDOT related to truck weight restriction waivers.

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<sup>33</sup> See the Federal Motor Carrier Safety Administration website available at: <https://www.fmcsa.dot.gov/emergency>. (Last visited February 7, 2018.)

<sup>34</sup> Generally, 80,000 pounds on the Interstate Highway System See the FHWA website available at: <https://ops.fhwa.dot.gov/Freight/sw/overview/index.htm>. (Last visited February 7, 2018.)

<sup>35</sup> See *supra* note 28, for various signage programs with specific statutory provisions for the payment of costs.

<sup>36</sup> See the FDOT email dated February 6, 2018. (On file in the Senate Transportation Committee.)

B. Amendments:

None.

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

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