

**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: SB 1186

INTRODUCER: Senator Albritton

SUBJECT: Agritourism

DATE: January 19, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Becker	Becker	AG	<b>Favorable</b>
2.			FT	
3.			AP	

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**I. Summary:**

SB 1186 revises legislative intent regarding agritourism to remove the requirement that agritourism be a secondary stream of revenue for a bona fide agricultural operation. Additionally, it clarifies that an agricultural land classification may not be denied or revoked solely due to the conduct of agritourism on a bona fide farm or due to the construction, alteration, or maintenance of a nonresidential farm building, structure, or facility on a bona fide farm which is used to conduct agritourism activities.

The bill does not affect state revenue.

The bill takes effect July 1, 2022.

**II. Present Situation:**

**Agritourism Activity**

Current law provides legislative intent that agritourism is a way to support agricultural production by providing a secondary stream of revenue and by educating the general public about the agricultural industry.<sup>1</sup> “Agritourism activity” is defined under “Agricultural Development” in chapter 570, F.S., the Department of Agriculture and Consumer Services chapter. It includes any agricultural related activity that is consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows the general public to view or enjoy its activities for recreational, entertainment, or educational purposes. These activities include farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. An agritourism activity does not include the building of new or additional structures or facilities that are intended primarily to house, shelter, transport,

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<sup>1</sup> Section 570.85(1), F.S.

or otherwise accommodate the general public. An activity is deemed to be an agritourism activity regardless of whether the participant paid to participate in the activity.<sup>2</sup>

In order to promote and perpetuate agriculture throughout the state, farm operations are encouraged to engage in agritourism. Conducting agritourism activities on a bona fide farm or on agricultural lands does not limit, restrict, or divest the land of that classification as long as such lands remain used primarily for bona fide agricultural purposes.<sup>3</sup>

### **Assessment of Agricultural Lands**

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>4</sup> The property appraiser annually determines the “just value”<sup>5</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>6</sup>

The Florida Constitution limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>7</sup> The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>8</sup> however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Agricultural land is one example of property that is assessed based on its current use rather than its fair market value.<sup>9</sup>

Dwellings and nonresidential farm buildings situated on agricultural lands do not inherently disqualify the land from being assessed as agricultural land so long as the improvements are an integral part of the entire agricultural operation. When there are improvements made to the land, the improvement’s value is assessed at just value and added to the agriculturally assessed value.<sup>10</sup>

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<sup>2</sup> Section 570.86(1), F.S.

<sup>3</sup> Section 570.87, F.S.

<sup>4</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>5</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>6</sup> *See* s. 192.001(2) and (16), F.S.

<sup>7</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>8</sup> Section 193.011(2), F.S.

<sup>9</sup> FLA. CONST. art. VII, s. 4(a).

<sup>10</sup> Rule 12D-5.003, F.A.C.

### III. Effect of Proposed Changes:

SB 1186 revises the legislative intent regarding agritourism in s. 570.85(1), F.S., to remove the requirement that agritourism be a secondary stream of revenue for a bona fide agricultural operation. It also prohibits an agricultural land classification from being denied or revoked due to the construction, alteration, or maintenance of nonresidential farm building, structure, or facility on a bona fide farm which is used to conduct agritourism activities. It further states that as long as the building, structure, or facility is an integral part of the agricultural operation then the land it occupies shall be considered agricultural in nature. The buildings, structures, and facilities and all other improvements on the land must be assessed at their just value and added to the agriculturally assessed value of the land.

### IV. Constitutional Issues:

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

Article VII, s. 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a 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>11, 12</sup> which is \$2.3 million or less for Fiscal Year 2022-2023.<sup>13</sup>

The Revenue Estimating Conference's analysis of this bill resulted in an estimate that may either be positive or negative to local property tax revenue, which is due to the uncertainty of the various property appraisers' assessment practices. However, it was apparent that the increase or decrease to local property tax revenue would be insignificant. Therefore, this bill may not be a mandate subject to the requirements of Art. VII, s. 18(b) of the Florida Constitution.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>11</sup> FLA. CONST. art. VII, s. 18(d).

<sup>12</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$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 Jan. 15, 2022).

<sup>13</sup> Based on the Demographic Estimating Conference's estimated population adopted on March 3, 2021. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/archives/210303demographic.pdf> (last visited Jan. 15, 2022).

**D. State Tax or Fee Increases:**

This bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates that the bill may either increase or decrease local property taxes by an insignificant amount.

**B. Private Sector Impact:**

Agricultural operations whose agritourism revenue exceeds the revenue from its bona fide farming operation would be able to keep their agricultural property exemption. Additionally, such operations would not risk losing such exemption due to the construction, alteration, or maintenance of a nonresidential farm building, structure, or facility.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 570.85 and 570.87 of the Florida Statutes

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

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

None.

**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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