

**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 Appropriations

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BILL: SB 1186

INTRODUCER: Senator Albritton

SUBJECT: Agritourism

DATE: February 23, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	<b>Favorable</b>
3.	<u>Gross</u>	<u>Sadberry</u>	<u>AP</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 1186 revises the Legislature’s intent regarding agritourism and how associated activity affects the assessment of property classified as agricultural.

The bill removes a 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. However, the buildings, structures, or facilities must be an integral part of the agricultural operation.

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> Local governments may not adopt or enforce a local ordinance, regulation, rule, or policy that limits or prohibits an agritourism activity on agricultural land.<sup>2</sup>

An “agritourism activity” is defined to mean any agricultural related activity that is consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows the

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

<sup>2</sup> *Id.*

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, 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>3</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>4</sup>

### **Property Taxes and the 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>5</sup> The property appraiser annually determines the “just value”<sup>6</sup> of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine a property’s “taxable value.”<sup>7</sup>

The Florida Constitution limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>8</sup> The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>9</sup> however, land used primarily for a bona fide agricultural purpose will be assessed based on its current use, rather than the “highest and best use” of the property, which often results in a lower assessment.<sup>10</sup> The term “bona fide agricultural purpose” means good faith commercial agricultural use of the land,<sup>11</sup> and property appraisers must reclassify such land if it is diverted from its agricultural use.<sup>12</sup>

Dwellings and nonresidential farm buildings situated on agricultural lands do not automatically disqualify the land from being assessed as agricultural land so long as the improvements are an

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<sup>3</sup> Section 570.86(1), F.S.

<sup>4</sup> Section 570.87, F.S.

<sup>5</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>6</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>7</sup> *See* s. 192.001(2) and (16), F.S.

<sup>8</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>9</sup> Section 193.011(2), F.S.

<sup>10</sup> Section 193.461, F.S.

<sup>11</sup> Section 193.461(3)(b), F.S.

<sup>12</sup> Section 193.461(4), F.S.

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>13</sup>

### III. Effect of Proposed Changes:

This bill revises the Legislature's intent regarding agritourism to remove the requirement that agritourism be a secondary stream of revenue for a bona fide agricultural operation.

The bill also prohibits an agricultural land classification from being denied or revoked 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 land it occupies shall be considered agricultural in nature as long as the building, structure, or facility is an integral part of the agricultural operation. 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>14, 15</sup> which is \$2.3 million or less for Fiscal Year 2022-2023.<sup>16</sup>

The Revenue Estimating Conference determined that the bill has an insignificant impact. Therefore, this bill is not a mandate subject to the requirements of Art. VII, s. 18(b) of the Florida Constitution.

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

None.

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<sup>13</sup> Rule 12D-5.003, F.A.C.

<sup>14</sup> FLA. CONST. art. VII, s. 18(d).

<sup>15</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>16</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).

C. Trust Funds Restrictions:

None.

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 identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill has an insignificant fiscal impact, which may slightly increase or decrease local property tax revenue, depending on property appraiser assessment practices.

B. Private Sector Impact:

The bill will prevent a property appraiser from disqualifying agricultural land due to improvements also used for agritourism activities.

C. Government Sector Impact:

Local governments may experience an insignificant change in property tax revenue.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

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

**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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