

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 149 Aquaculture Land Valuation

SPONSOR(S): Ways & Means Committee, Tuck

TIED BILLS: IDEN./SIM. BILLS: SB 404

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|----------------------------|------------------|---------|---------------------------------------|
| 1) Ways & Means Committee | 13 Y, 1 N, As CS | Davis | Aldridge |
| 2) State Affairs Committee | | | |

SUMMARY ANALYSIS

Section 193.461, Florida Statutes, allows for properties used for bona fide agricultural purposes to be taxed based on the properties’ agricultural use.¹ “Agricultural purposes” includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, pisciculture, aquaculture,² algaculture, sod farming, and all forms of farm products as defined in s. 823.14(3), F.S., and farm production.³ Generally, ad valorem tax assessments for properties classified as agricultural are lower than those for nonagricultural properties. When assessing property used for bona fide agricultural purposes, the property appraiser must consider the use factors specified in s. 193.461(6)(a)1.-7., F.S., which include the income produced by the property.

This bill creates section 193.4613, F.S., which provides that land used in the production of aquaculture products shall be assessed based solely on its agricultural use, consistent with s. 193.461(6)(a)1.-7., F.S., and that for purposes of the income methodology approach to assessment, structures and equipment on the property and used for producing aquaculture products be considered a part of the average yield per acre and carry no separately contributory (taxable) value. When utilizing the income methodology approach under this section, the property appraiser shall rely on 5-year moving average data, notwithstanding any provision relating to annual assessment found in s. 192.042, F.S.

This bill further provides that once a request for assessment under s. 193.4613, F.S., is approved, the property must be assessed as provided in s. 193.4613, F.S., for 10 years unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited financial statements, but may not require an annual application. The property shall be assessed pursuant to s. 193.011 if a proper application for agricultural assessment is not made.

The Revenue Estimating Conference has not estimated the potential revenue impacts of the bill. Staff estimates that for FY 2022-23, the bill would have zero cash and a -\$7.5 million recurring impact on local government revenues (-\$2.7 million school taxes; -\$4.7 million non-school taxes).

The bill has an effective date of January 1, 2023.

¹ S. 193.461(6)(a), F.S.

² As defined in s. 597.0015, F.S. (“Aquaculture’ means the cultivation of aquatic organisms”).

³ S. 193.461(5), F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 193.461, F.S., allows properties used for bona fide agricultural purposes to be taxed according to the use value of the agricultural operation, rather than the development value.⁴ “Agricultural purposes” includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, pisciculture, aquaculture,⁵ algaculture, sod farming, and all forms of farm products as defined in s. 823.14(3), F.S., and farm production.⁶ Generally, tax assessments for qualifying lands are lower than tax assessments for other uses.

When assessing land that has been granted the agricultural classification, the property appraiser shall consider only the following use factors:

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

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

- 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;
- 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 Department of Agriculture and Consumer Services; and
- Screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements.⁸

Effect of Proposed Changes

This bill creates section 193.4613, F.S., which provides that land used in the production of aquaculture products shall be assessed based solely on its agricultural use, consistent with s. 193.461(6)(a), F.S., and that for purposes of the income methodology approach to assessment, structures and equipment on the property and used for producing aquaculture products be considered a part of the average yield per acre and carry no separately contributory (taxable) value. The bill also provides that when utilizing the income methodology approach, the property appraiser shall rely on 5-year moving average data, notwithstanding any provision relating to annual assessment found in s. 192.042, F.S.

This bill further provides that once a request for assessment under s. 193.4613, F.S. is approved, the property must be assessed as provided in s. 193.4613, F.S. for 10 years unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited

⁴ S. 193.461, F.S.

⁵ As defined in s. 597.0015, F.S. (“Aquaculture” means the cultivation of aquatic organisms”).

⁶ S. 193.461(5), F.S.

⁷ S. 193.461(6)(a), F.S.

⁸ S. 193.461(6)(c), F.S.

financial statements, but may not require an annual application. The property shall be assessed pursuant to s. 193.011 if a proper application for agricultural assessment is not made.

B. SECTION DIRECTORY:

Section 1: Creates s. 193.4613, F.S., providing for the assessment of land used in the production of aquaculture products.

Section 2: Provides that this act shall apply to assessments made on or after January 1, 2023.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the potential revenue impacts of the bill. Staff estimates that for FY 2022-23, the bill would have zero cash and a -\$7.5 million recurring impact on local government revenues (-\$2.7 million school taxes; -\$4.7 million non-school taxes).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Agricultural properties used for the production of aquaculture products will realize a lower value assessment, and therefore ad valorem taxes, than would otherwise occur.

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 may reduce local authority to raise revenue; however, an exemption may apply if the bill has an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 31, 2022, the Ways & Means Committee adopted a strike-all amendment and reported the bill favorably as amended. The amendment creates s. 193.4613, F.S., providing the methodology for the assessment of aquaculture property. The methodology is substantially the same as in the bill as filed. The amendment further provides that approval of assessment under this section is valid for 10 years unless the ownership or use of the property changes, and the property appraiser may not require an annual application, but may require the annual submission of audited financial statements.

This analysis is drafted to the bill as amended by the Ways & Means Committee.