

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1193 Taxation of Property  
**SPONSOR(S):** State Affairs Committee; Beshears and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1200

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	17 Y, 0 N	Aldridge	Langston
2) Agriculture & Natural Resources Subcommittee	12 Y, 0 N	Kaiser	Blalock
3) State Affairs Committee	17 Y, 0 N, As CS	Kaiser	Camechis

### SUMMARY ANALYSIS

Pursuant to section 4, Art. VII, of the State Constitution, agricultural land may be assessed solely on the basis of its character or use. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes"

The bill eliminates the following three specific statutory guidelines under which agricultural land can be reclassified as nonagricultural for property taxation purposes:

- Land has been zoned to a nonagricultural use at the request of the owner,
- When there is contiguous urban or metropolitan development the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community,
- Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land creates a presumption that such land is not used primarily for bona fide agricultural purposes (this presumption may be rebutted upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture).

The bill also amends several statutory provisions to remove the authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

The Revenue Estimating Conference (REC) estimated that the provisions of the bill related to value adjustment boards would have an impact on local government revenues of either zero or negative indeterminate beginning in FY 2013-14. The REC estimated that the provisions of the bill related to reclassification of lands as nonagricultural to have a recurring negative revenue impact on local governments of \$0.5 million beginning in FY 2013-14.

The bill is effective upon becoming a law and applies retroactively to January 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Agricultural Classification for Property Tax Assessments

Pursuant to section 4, Art. VII, of the State Constitution, agricultural land may be assessed solely on the basis of its character or use. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes"<sup>1</sup>

In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration by the property appraiser<sup>2</sup>:

- The length of time the land has been so used.
- Whether the use has been continuous.
- The purchase price paid.
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- Such other factors as may become applicable.

Offering property for sale does not constitute a primary use of land and may not be the basis for denying an agricultural classification if the land continues to be used primarily for bona fide agricultural purposes while it is being offered for sale<sup>3</sup>.

Once property is qualified to receive agricultural classification, the property appraiser must assess the land based solely on its agricultural use, considering the following use factors only:

- 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.<sup>4</sup>

##### Reclassification of Lands as Nonagricultural

Section 193.461(4), F.S., provides the following statutory direction for when lands should be reclassified as nonagricultural:

- The property appraiser must reclassify the following lands as nonagricultural:
  - Land diverted from an agricultural to a nonagricultural use.

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<sup>1</sup> Section 193.461(3)(b), F.S.

<sup>2</sup> Section 193.461(3)(b)1., F.S.

<sup>3</sup> Section 193.461(3)(b)2., F.S.

<sup>4</sup> Section 193.461(6), F.S.

- Land no longer being utilized for agricultural purposes.
- Land that has been zoned to a nonagricultural use at the request of the owner.
- The board of county commissioners may also reclassify lands classified as agricultural to nonagricultural when there is contiguous urban or metropolitan development and the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.
- Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land shall create a presumption that such land is not used primarily for bona fide agricultural purposes. Upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture, this presumption may be rebutted.

### Value Adjustment Board Authority to Review all Property Classified by the Property Appraiser

Each county in Florida has a value adjustment board (VAB). Section 194.032, F.S., directs the VAB to meet for the following purposes:

- Hearing petitions relating to property tax assessments.
- Hearing complaints relating to homestead exemptions.
- Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications.
- Hearing appeals concerning ad valorem tax deferrals and classifications.

VABs are made up of five members: two from the county's board of commissioners; one from the county's school board; and two citizens. Many counties use special magistrates to conduct hearings and recommend decisions to the VAB. Special magistrates are qualified to review property valuation and denials of exemptions, classifications and deferrals. The VAB makes all final decisions. There are also several statutory provisions that provide the value adjustment board the authority to review all property classified by the property appraiser upon its own motion.<sup>5</sup>

### **Proposed Changes**

#### Reclassification of Lands as Nonagricultural

The bill amends s. 193.461(4), F.S., to eliminate the following three specific statutory guidelines, described above, under which agricultural land can be reclassified as nonagricultural for property taxation purposes:

- Land has been zoned to a nonagricultural use at the request of the owner,
- When there is contiguous urban or metropolitan development the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community,
- Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land creates a presumption that such land is not used primarily for bona fide agricultural purposes (this presumption may be rebutted upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture).

Under the bill, only the property appraiser has the power to reclassify agricultural lands as nonagricultural for property taxation purposes and is still required to reclassify the following lands as nonagricultural:

- Land diverted from an agricultural to a nonagricultural use.
- Land no longer being utilized for agricultural purposes.

<sup>5</sup> See s. 193.461(2), F.S., s. 193.503(7), F.S., s. 193.625(2), F.S., s. 196.194(1), F.S.

Value Adjustment Board Authority to Review all Property Classified by the Property Appraiser

The bill amends the cited statutory provisions to remove the authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

B. SECTION DIRECTORY:

**Section 1:** Amends s. 193.461, F.S., removing authority of the value adjustment board to review all property classified by the property appraiser upon its own motion, and amending provisions related to reclassification of lands as nonagricultural.

**Section 2:** Amends s. 193.503(7), F.S., removing authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

**Section 3:** Amends s. 193.625(2), F.S., removing authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

**Section 4:** Amends s. 196.194(1), F.S., removing authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

**Section 5:** Provides an effective date of upon becoming law and applies retroactive to January 1, 2013.

**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 (REC) estimated that the provisions of the bill related to value adjustment boards would have an impact on local government revenues of either zero or negative indeterminate beginning in FY 2013-14. The REC estimated that the provisions of the bill related to reclassification of lands as nonagricultural to have a recurring negative revenue impact on local governments of \$0.5 million beginning in FY 2013-14.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown

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 the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989; however, an exemption may apply because 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 April 3, 2013, the State Affairs Committee adopted one amendment to HB 1193. The amendment changed from January 1, 2012 to January 1, 2013, the date to which the bill applies retroactively.