

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Poppell offered the following:

2  
3 **Substitute Amendment for Amendment (863443) (with title**  
4 **amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (4) of section 163.3162, Florida  
7 Statutes, is amended to read:

8 163.3162 Agricultural Lands and Practices Act.--

9 (4) DUPLICATION OF REGULATION.--Except as otherwise  
10 provided in this section and s. 487.051(2), and notwithstanding  
11 any other law, including any provision of chapter 125 or this  
12 chapter, a county may not exercise any of its powers to adopt or  
13 enforce any ordinance, resolution, regulation, rule, or policy  
14 to prohibit, restrict, regulate, or otherwise limit an activity  
15 of a bona fide farm operation on land classified as agricultural  
16 land pursuant to s. 193.461, if such activity is regulated

323007

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Amendment No.

17 through implemented best management practices, interim measures,  
18 or regulations adopted as rules under chapter 120 ~~developed by~~  
19 the Department of Environmental Protection, the Department of  
20 Agriculture and Consumer Services, or a water management  
21 district ~~and adopted under chapter 120~~ as part of a statewide or  
22 regional program; or if such activity is expressly regulated by  
23 the United States Department of Agriculture, the United States  
24 Army Corps of Engineers, or the United States Environmental  
25 Protection Agency. A county may not charge an assessment or fee  
26 for stormwater management on a bona fide farm operation on land  
27 classified as agricultural land pursuant to s. 193.461, if the  
28 farm operation has a National Pollutant Discharge Elimination  
29 System permit, environmental resource permit, or works-of-the-  
30 district permit or implements best management practices adopted  
31 as rules under chapter 120 by the Department of Environmental  
32 Protection, the Department of Agriculture and Consumer Services,  
33 or a water management district as part of a statewide or  
34 regional program. However, this subsection does not prohibit a  
35 county from charging an assessment or fee for stormwater  
36 management on a bona fide farm operation that does not have a  
37 National Pollutant Discharge Elimination System permit,  
38 environmental resource permit, or works-of-the-district permit,  
39 or has not implemented water quality and quantity best-  
40 management practices as described in this subsection. For those  
41 counties that, before March 1, 2009, adopted a stormwater  
42 utility ordinance, resolution, or municipal services benefit  
43 unit or, before March 1, 2009, adopted a resolution stating its  
44 intent to use the uniform method of collection pursuant to s.

323007

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Amendment No.

45 197.3632 for such stormwater ordinances, the county may continue  
46 to charge an assessment or fee for stormwater management on a  
47 bona fide farm operation on land classified as agricultural  
48 pursuant to s. 193.461 if the ordinance provides credits against  
49 the assessment or fee on a bona fide farm operation for the  
50 implementation of best-management practices adopted as rules  
51 under chapter 120 by the Department of Environmental Protection,  
52 the Department of Agriculture and Consumer Services, or a water  
53 management district as part of a statewide or regional program,  
54 or stormwater quality and quantity measures required as part of  
55 a National Pollutant Discharge Elimination System permit,  
56 environmental resource permit, or works-of-the-district permit  
57 or implementation of best-management practices or alternative  
58 measures which the landowner demonstrates to the county to be of  
59 equivalent or greater stormwater benefit than those provided by  
60 implementation of best-management practices adopted as rules  
61 under chapter 120 by the Department of Environmental Protection,  
62 the Department of Agriculture and Consumer Services, or a water  
63 management district as part of a statewide or regional program,  
64 or stormwater quality and quantity measures required as part of  
65 a National Pollutant Discharge Elimination System permit,  
66 environmental resource permit, or works-of-the-district permit.

67 (a) When an activity of a farm operation takes place  
68 within a wellfield protection area as defined in any wellfield  
69 protection ordinance adopted by a county, and the implemented  
70 best management practice, regulation, or interim measure does  
71 not specifically address wellfield protection, a county may  
72 regulate that activity pursuant to such ordinance. This

323007

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Amendment No.

73 subsection does not limit the powers and duties provided for in  
74 s. 373.4592 or limit the powers and duties of any county to  
75 address an emergency as provided for in chapter 252.

76 (b) This subsection may not be construed to permit an  
77 existing farm operation to change to a more excessive farm  
78 operation with regard to traffic, noise, odor, dust, or fumes  
79 where the existing farm operation is adjacent to an established  
80 homestead or business on March 15, 1982.

81 (c) This subsection does not limit the powers of a  
82 predominantly urbanized county with a population greater than  
83 1,500,000 and more than 25 municipalities, not operating under a  
84 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.  
85 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.  
86 VIII of the Constitution of 1968, which has a delegated  
87 pollution control program under s. 403.182 and includes drainage  
88 basins that are part of the Everglades Stormwater Program, to  
89 enact ordinances, regulations, or other measures to comply with  
90 the provisions of s. 373.4592, or which are necessary to  
91 carrying out a county's duties pursuant to the terms and  
92 conditions of any environmental program delegated to the county  
93 by agreement with a state agency.

94 (d) For purposes of this subsection, a county ordinance  
95 that regulates the transportation or land application of  
96 domestic wastewater residuals or other forms of sewage sludge  
97 shall not be deemed to be duplication of regulation.

98 (e) This subsection does not limit a county's powers to:

99 1. Enforce its wetlands and springs protection ordinances,  
100 regulations, or rules adopted before January 1, 2009.

323007

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Amendment No.

101 2. Implement the requirements of parts II and III of  
102 chapter 369 pertaining to the Wekiva River Protection Area.

103 3. Enforce ordinances, regulations, or rules as provided  
104 by law or implemented consistent with the requirements of a  
105 program operated under a delegation agreement from a state  
106 agency or water management district.

107  
108 As used in this paragraph, the term "wetlands" has the same  
109 meaning as defined in s. 373.019.

110 Section 2. Section 163.3163, Florida Statutes, is created  
111 to read:

112 163.3163 Applications for development permits; disclosure  
113 and acknowledgement of neighboring agricultural land.--

114 (1) This section may be cited as the "Agricultural Land  
115 Acknowledgement Act."

116 (2) The Legislature finds that nonagricultural land which  
117 neighbors agricultural land may adversely affect agricultural  
118 production and farm operations on the agricultural land and may  
119 lead to the agricultural land's conversion to urban, suburban,  
120 or other nonagricultural uses. The Legislature intends to  
121 preserve and encourage agricultural land use and to reduce the  
122 occurrence of conflicts between agricultural and nonagricultural  
123 land uses. The purpose of this section is to ensure that  
124 generally accepted agricultural practices will not be subject to  
125 interference by residential use of land contiguous to  
126 agricultural land.

127 (3) As used in this section, the term:

323007

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Amendment No.

128 (a) "Agricultural land" means land classified as  
129 agricultural land pursuant to s. 193.461.

130 (b) "Contiguous" means touching, bordering, or adjoining  
131 along a boundary. For purposes of this section, properties that  
132 would be contiguous if not separated by a roadway, railroad, or  
133 other public easement are considered contiguous.

134 (c) "Farm operation" has the same meaning as defined in s.  
135 823.14.

136 (4) (a) Before a political subdivision issues a local land  
137 use permit, building permit, or certificate of occupancy for  
138 nonagricultural land contiguous to agricultural land, the  
139 political subdivision shall require that, as a condition of  
140 issuing the permit or certificate, the applicant for the permit  
141 or certificate sign and submit to the political subdivision, in  
142 a format that is recordable in the official records of the  
143 county in which the political subdivision is located, a written  
144 acknowledgement of contiguous agricultural land in the following  
145 form:

146  
147 ACKNOWLEDGEMENT OF CONTIGUOUS AGRICULTURAL LAND

148  
149 I, ...(name of applicant)..., understand that my property  
150 located at ...(address of nonagricultural land)..., as  
151 further described in the attached legal description, is  
152 contiguous to agricultural land located at ...(address of  
153 agricultural land)..., as further described in the  
154 attached legal description.

323007

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Amendment No.

155           I acknowledge and understand that the farm operation  
156           on the contiguous agricultural land identified herein will  
157           be conducted according to generally accepted agricultural  
158           practices as provided in the Florida Right to Farm Act, s.  
159           823.14, Florida Statutes.

160                           Signature: ... (signature of applicant)....

161   Date: ... (date)....

162  
163           (b) An acknowledgement submitted to a political  
164           subdivision under paragraph (a) shall be recorded in the  
165           official records of the county in which the political  
166           subdivision is located.

167           Section 3. Section 604.50, Florida Statutes, is amended to  
168           read:

169           604.50 Nonresidential farm buildings and farm  
170           fences.--Notwithstanding any other law to the contrary, any  
171           nonresidential farm building or farm fence is exempt from the  
172           Florida Building Code and any county or municipal ~~building~~ code  
173           or fee, except for code provisions implementing local, state, or  
174           federal floodplain management regulations. For purposes of this  
175           section, the term "nonresidential farm building" means any  
176           building or support structure that is used for agricultural  
177           purposes, is located on a farm that is not used as a residential  
178           dwelling, and is located on land that is an integral part of a  
179           farm operation or is classified as agricultural land under s.  
180           193.461. The term "farm" is as defined in s. 823.14.

181           Section 4. This act shall take effect July 1, 2009.

182  
323007

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Amendment No.

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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

A bill to be entitled

An act relating to agriculture; amending s. 163.3162, F.S.; prohibiting a county from enforcing certain limits on the activity of a bona fide farm operation on agricultural land under certain circumstances; prohibiting a county from charging agricultural lands for stormwater management assessments and fees under certain circumstances; allowing an assessment to be collected if credits against the assessment are provided for implementation of best-management practices; providing exemptions from certain restrictions on a county's powers over the activity on agricultural land; providing a definition; creating s. 163.3163, F.S.; creating the "Agricultural Land Acknowledgement Act"; providing legislative findings and intent; providing definitions; requiring an applicant for certain development permits to sign and submit an acknowledgement of contiguous agricultural land as a condition of the political subdivision issuing the permits; specifying information to be included in the acknowledgement; requiring that the acknowledgement be recorded in the official county records; amending s. 604.50, F.S.; exempting farm fences from the Florida Building Code; exempting nonresidential farm buildings and farm fences from county and municipal codes and fees; specifying that the exemptions do not

323007

Approved For Filing: 4/23/2009 9:15:33 PM



Amendment No.

211        apply to code provisions implementing certain floodplain  
212        regulations; providing an effective date.

323007

Approved For Filing: 4/23/2009 9:15:33 PM

Page 9 of 9