

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Poppell offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 235-432 and insert:

5 Section 9. Subsection (4) of section 163.3162, Florida
6 Statutes, is amended to read:

7 163.3162 Agricultural Lands and Practices Act.--

8 (4) DUPLICATION OF REGULATION.--Except as otherwise
9 provided in this section and s. 487.051(2), and notwithstanding
10 any other law, including any provision of chapter 125 or this
11 chapter, a county may not exercise any of its powers to adopt or
12 enforce any ordinance, resolution, regulation, rule, or policy
13 to prohibit, restrict, regulate, or otherwise limit an activity
14 of a bona fide farm operation on land classified as agricultural
15 land pursuant to s. 193.461, if such activity is regulated
16 through implemented best management practices, interim measures,
903377

Approved For Filing: 4/24/2009 9:34:09 AM

Amendment No.

17 | or regulations adopted as rules under chapter 120 ~~developed~~ by
18 | the Department of Environmental Protection, the Department of
19 | Agriculture and Consumer Services, or a water management
20 | district ~~and adopted under chapter 120~~ as part of a statewide or
21 | regional program; or if such activity is expressly regulated by
22 | the United States Department of Agriculture, the United States
23 | Army Corps of Engineers, or the United States Environmental
24 | Protection Agency. A county may not charge an assessment or fee
25 | for stormwater management on a bona fide farm operation on land
26 | classified as agricultural land pursuant to s. 193.461, if the
27 | farm operation has a National Pollutant Discharge Elimination
28 | System permit, environmental resource permit, or works-of-the-
29 | district permit or implements best management practices adopted
30 | as rules under chapter 120 by the Department of Environmental
31 | Protection, the Department of Agriculture and Consumer Services,
32 | or a water management district as part of a statewide or
33 | regional program. However, this subsection does not prohibit a
34 | county from charging an assessment or fee for stormwater
35 | management on a bona fide farm operation that does not have a
36 | National Pollutant Discharge Elimination System permit,
37 | environmental resource permit, or works-of-the-district permit,
38 | or has not implemented water quality and quantity best-
39 | management practices as described in this subsection. For those
40 | counties that, before March 1, 2009, adopted a stormwater
41 | utility ordinance, resolution, or municipal services benefit
42 | unit or, before March 1, 2009, adopted a resolution stating its
43 | intent to use the uniform method of collection pursuant to s.
44 | 197.3632 for such stormwater ordinances, the county may continue

903377

Approved For Filing: 4/24/2009 9:34:09 AM

Amendment No.

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

66 (a) When an activity of a farm operation takes place
67 within a wellfield protection area as defined in any wellfield
68 protection ordinance adopted by a county, and the implemented
69 best management practice, regulation, or interim measure does
70 not specifically address wellfield protection, a county may
71 regulate that activity pursuant to such ordinance. This
72 subsection does not limit the powers and duties provided for in
903377

Approved For Filing: 4/24/2009 9:34:09 AM

Amendment No.

73 s. 373.4592 or limit the powers and duties of any county to
74 address an emergency as provided for in chapter 252.

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

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

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

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

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

903377

Approved For Filing: 4/24/2009 9:34:09 AM

Amendment No.

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

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

106
107 As used in this paragraph, the term "wetlands" has the same
108 meaning as defined in s. 373.019.

109 Section 10. Section 163.3163, Florida Statutes, is created
110 to read:

111 163.3163 Applications for development permits; disclosure
112 and acknowledgement of neighboring agricultural land.--

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

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

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

903377

Approved For Filing: 4/24/2009 9:34:09 AM

Amendment No.

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

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

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

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

145
146 ACKNOWLEDGEMENT OF CONTIGUOUS AGRICULTURAL LAND

147
148 I, ...(name of applicant)..., understand that my property
149 located at ...(address of nonagricultural land)..., as
150 further described in the attached legal description, is
151 contiguous to agricultural land located at ...(address of
152 agricultural land)..., as further described in the
153 attached legal description.

903377

Approved For Filing: 4/24/2009 9:34:09 AM

Amendment No.

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

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

160 Date: ... (date)....

161
162 (b) An acknowledgement submitted to a political
163 subdivision under paragraph (a) shall be recorded in the
164 official records of the county in which the political
165 subdivision is located.

166 Section 11. Section 604.50, Florida Statutes, is amended
167 to read:

168 604.50 Nonresidential farm buildings and farm
169 fences.--Notwithstanding any other law to the contrary, any
170 nonresidential farm building or farm fence is exempt from the
171 Florida Building Code and any county or municipal ~~building~~ code
172 or fee, except for code provisions implementing local, state, or
173 federal floodplain management regulations. For purposes of this
174 section, the term "nonresidential farm building" means any
175 building or support structure that is used for agricultural
176 purposes, is located on a farm that is not used as a residential
177 dwelling, and is located on land that is an integral part of a
178 farm operation or is classified as agricultural land under s.
179 193.461. The term "farm" is as defined in s. 823.14.

180 Section 12. This act shall take effect July 1, 2009.

181
903377

Approved For Filing: 4/24/2009 9:34:09 AM

Amendment No.

T I T L E A M E N D M E N T

Remove lines 35-67 and insert:
limitations on open burning; 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 apply to code

903377

Approved For Filing: 4/24/2009 9:34:09 AM

Amendment No.

209 provisions implementing certain floodplain regulations;
210 providing an effective date.