

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1197 Agriculture
SPONSOR(S): Horner
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Cunningham	Blalock
2) Community & Military Affairs Subcommittee	13 Y, 0 N	Duncan	Hoagland
3) Agriculture & Natural Resources Appropriations Subcommittee	12 Y, 0 N	Lolley	Massengale
4) State Affairs Committee			

SUMMARY ANALYSIS

This bill addresses several issues relating to agriculture in the state.

- Florida apiary inspectors certify movement of honey bee colonies throughout the state and nation. These colonies are monitored for diseases, honey bee pests and unwanted species. The Department of Agriculture and Consumer Services (department) has a comprehensive state program (e.g., numbers of inspectors and traps) to prevent the accidental introduction of the unwanted Africanized honey bee. Current law provides the department specific powers to oversee apiaries, honeybee operations, and honeybee products. The bill provides the department with the exclusive authority to regulate beekeeping, apiaries, and apiary locations. It also specifies that an apiary may be located on land classified as agricultural land or on land that is integral to a beekeeping operation.
- Any nonresidential farm building or farm fence is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. The bill exempts farm signs from the Florida Building Code and any county or municipal code or fee. The bill also defines "farm sign" as "a sign erected, used, or maintained on a farm by the owner or lessee of the farm which displays a message exclusively relating to farm produce, merchandise, services, or entertainment sold, produced, manufactured, or furnished on the farm."
- Under the Florida Right to Farm Act (act), the Legislature has stated that agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits based on the theory of nuisance and that these suits encourage and even force the premature removal of the farm land from agricultural use. The purpose of the act is to protect reasonable agricultural activities conducted on farm land from nuisance suits. The act also provides that a local government cannot adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land where such activity is regulated through implemented best management practices or interim measures developed by the department, the Department of Environmental Protection, or the water management districts and adopted under chapter 120, F.S., as part of a statewide or regional program. The bill amends the definition of "farm," "farm operation," and "farm product" to include land and buildings used in the production of honeybee products, the placement and operation of an apiary, and insects that are useful to humans within the purview of the act.

There is no fiscal impact on state government. The fiscal impact on local government is expected to be insignificant. See Fiscal Analysis & Economic Impact State.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Beekeeping, Apiaries, and Apiary Locations

Present Situation

Apiary inspection plays a vital role in Florida agriculture as inspectors work to prevent introduction and establishment of honey bee pests and diseases. Florida's honey industry is consistently ranked among the top five in the nation with an annual worth of \$13 million. In addition, the Florida honey bee industry benefits the state's fruit and vegetable industry by providing an estimated \$20 million in increased production numbers created by managed pollination services that are available in no other way. There are more than 100 varieties of popular fruits and vegetables that use pollination to ensure fruitful crops.

Florida apiary inspectors certify movement of honey bee colonies throughout the state and nation.¹ These colonies are monitored for diseases, honey bee pests and unwanted species. The Department of Agriculture and Consumer Services (department) has a comprehensive state program (e.g., numbers of inspectors and traps) to prevent the accidental introduction of the unwanted Africanized honey bee.

Seventeen million pounds of honey are produced in Florida each year.²

Chapter 586, F.S., regulates honey production and beekeeping in Florida. Section 586.10, F.S., specifies that the department has the powers and duties to:

- Administer and enforce the provisions of this chapter;
- Promulgate rules necessary to the enforcement of this chapter;
- Promulgate rules relating to standard grades for honey and other honeybee products;
- Enter any public or private premise during regular business hours for the purpose of inspection, quarantine, destruction, or treatment of honeybees, used beekeeping equipment, unwanted races of honeybees, or regulated articles;
- Declare a honeybee pest or unwanted race of honeybees to be a nuisance;
- Declare a quarantine;
- Enter into cooperative arrangements with any person, municipality, county, or other department of this state or any agency, officer, or authority of other states or the United States Department of Agriculture, for inspection of honeybees, honeybee pests, or unwanted races of honeybees, and contribute a share of the expenses incurred under such arrangements.
- Carry on investigations of methods of control, eradication, and prevention of dissemination of honeybee pests or unwanted races of honeybees;
- Inspect or cause to be inspected all apiaries of the state to include: name of the apiary, name of the apiary owner, mailing address of the apiary owner, number of hives of the apiary owner, pest problems associated with the apiary, and brands used by beekeepers where applicable;
- Collect or accept arthropods, nematodes, fungi, bacteria, or other organisms for identification;
- Confiscate, destroy, or make use of abandoned beehives or beekeeping equipment;
- Require the identification of ownership of apiaries;
- Enter into a compliance agreement with any person engaged in purchasing, assembling, exchanging, processing, utilizing, treating, or moving beekeeping equipment or honeybees;
- Make and issue to beekeepers certificates of registration and inspection, following proper inspection and certification of their honeybee colonies;
- Revoke or suspend a certificate of inspection or the use of any certificate or permit issued by the department if a beekeeper or honeybee product processor violates this section;

¹ Rule 5B-54.006, F.A.C.

² <http://www.freshfromflorida.com/onestop/plt/apiaryinsp.html>

- Refuse the certification of any honeybees, honeybee products, or beekeeping equipment when it is determined that an unwanted race of honeybees, honeybee products, or beekeeping equipment, or that the condition of the apiary inhibits a thorough and efficient inspection by the department;
- Conduct, supervise, or cause the fumigation, destruction, or treatment of honeybees, including unwanted races of honeybees, honeybee products, and used beekeeping equipment or other articles infested or infected by honeybee pests or unwanted races of honeybees or so exposed that infection or infestation could exist; and
- May require the removal from this state of any honeybees or beekeeping equipment brought into the state in violation of this chapter.³

Effect of Proposed Changes

The bill amends s. 586.10, F.S., to specify that the department has the exclusive authority to regulate beekeeping, apiaries, and apiary locations. The bill also specifies that an apiary can be located on land classified as agricultural land or on land that is integral to a beekeeping operation.

Farm Signs

Present Situation

Section 604.50, F.S., specifies that any nonresidential farm building or farm fence is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations.⁴ “Farm” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.⁵ “Nonresidential farm building” means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c), F.S., or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

Effect of Proposed Changes

The bill exempts farm signs from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. The bill also defines “farm sign” as a sign erected, used, or maintained on a farm by the owner or lessee of the farm which displays a message exclusively relating to farm produce, merchandise, services, or entertainment sold, produced, manufactured, or furnished on the farm.

Florida Right to Farm Act

Present Situation

The Florida Right to Farm Act⁶ states that the Legislature finds that agricultural production is a major contributor to the economy of the state and agricultural lands constitute unique and irreplaceable resources of statewide importance. The Legislature also finds that agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits based on the theory of nuisance and that these suits encourage and even force the premature removal of the farm land from agricultural use. The purpose of this act is to protect reasonable agricultural activities conducted on farm land from nuisance suits. The act, in general, states that no farm operation that has been in operation for 1 year or more since its established date of operation and which was not a nuisance at the time of its

³ Section 586.10, F.S.

⁴ Section 604.50, F.S.

⁵ Section 823.14, F.S.

⁶ Section 823.14, F.S.

established date of operation shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices.

The act also specifies that a local government may not adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land where such activity is regulated through implemented best management practices or interim measures developed by the Department of Environmental Protection, the department, or water management districts and adopted under chapter 120 as part of a statewide or regional program.

The act defines “farm” to mean the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products. “Farm operation” is defined in the act to mean all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor. “Farm product” is also defined in the act to mean any plant, as defined in s. 581.011, F.S.,⁷ or animal useful to humans and includes, but is not limited to, any product derived therefrom.

Effect of Proposed Changes

The bill revises the Right to Farm Act by amending the definition of “farm” to include production of honeybee products in addition to farm and aquaculture products. The bill also amends the definition of “farm operation” to integrate production of honeybee products, which may include the placement and operation of an apiary. The definition of “farm product” is amended to include any insect useful to humans. These definitional changes brings land and buildings used in the production of honeybee products, the placement and operation of an apiary, and insects that are useful to humans within the purview of the Right to Farm Act.

B. SECTION DIRECTORY:

Section 1: Amends s. 586.10, F.S., providing the department with the exclusive authority to regulate beekeeping, apiaries, and apiary locations. It also specifies that an apiary may be located on land classified as agricultural land or on land that is integral to a beekeeping operation

Section 2: Amends s. 604.50, F.S., to exempt farm signs from the Florida Building Code and any county or municipal code or fee; provides a definition for the term “farm sign.”

Section 3: Amends s. 823.14, F.S., to revise the definitions of farm, farm products, and farm operation to include honeybee products, the placement and operation of apiaries, and insects that are useful to humans within the purview of the Florida Right to Farm Act.

Section 4: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁷ Plant means trees, shrubs, vines, forage and cereal plants, and all other plants and plant parts, including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all products made from them, unless specifically excluded by rule.

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

By amending s. 604.50, F.S., counties and municipalities that collect fees or fines associated with farm signs, may experience a decrease in revenues. Although the fiscal impact is indeterminate, it is likely to be insignificant.

2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By amending s. 604.50, F.S., agricultural producers may be exempt from paying fees or fines assessed by certain governmental entities for farm signs.

By amending s. 823.14, F.S., the Florida Right to Farm Act, the number of lawsuits for agricultural nuisances relating to honeybee production, products, and insects may be reduced.

- D. FISCAL COMMENTS:**
None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Section 18, Article VII of the State Constitution limits the power of the Legislature to enact laws impacting certain revenues and expenditures of municipalities and counties. The mandates provision appears to apply because the bill exempts farm signs from any county or municipal code or fee; however, this provision appears to have a fiscal impact of less than \$1.9 million statewide on counties and municipalities and is deemed an insignificant fiscal impact, and thus, an exemption for the purposes of Section 18, Article VII of the Constitution appears to apply.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES