

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1200

INTRODUCER: Senator Simpson

SUBJECT: Taxation of Property

DATE: March 16, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.			AG	
3.			AFT	
4.			AP	
5.				
6.				

I. Summary:

SB 1200 eliminates a Value Adjustment Board’s authority to review and remove a land classification under its own motion. The bill also eliminates two qualifications used by property appraisers in reclassifying property from agricultural to nonagricultural. A county commission authority to reclassify property from agricultural to nonagricultural in an effort to expand urban or metropolitan development is also removed from law.

This bill amends the following sections of the Florida Statutes: 193.461, 193.503, 193.625, and 196.194.

II. Present Situation:

Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.¹ However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.² Property owners denied classifications or exemptions by the property appraiser may appeal to the value adjustment board.³

¹ Art. VII, s. 4. of the Florida Constitution.

² See s. 196.031, F.S.

³ See ss. 193.461, 193.503, and 193.625, F.S.

Assessment and Classification of Agricultural Property

Pursuant to s. 4, Art. VII of the State Constitution, all agricultural land is assessed solely on the basis of its character or use.⁴ For property to be classified as agricultural land, it must be used “primarily for bona fide agricultural purposes.”⁵ Section 193.461(5), F.S., defines “agricultural purposes” to include, but is not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; all forms of farm products and farm production.⁶

Once property is qualified to receive agricultural classification, the property appraiser shall assess the land solely on its agricultural use utilizing the criteria provided in s. 193.461(6), F.S.⁷ A property owner whose land is denied an agricultural classification can appeal to the value adjustment board.⁸

Required Property Appraiser Reclassifications

Section 193.461(4)(a), F.S., requires the property appraiser to reclassify the following lands as nonagricultural:

- land diverted from an agricultural to a nonagricultural use,
- land no longer being utilized for agricultural purposes, and
- land that has been zoned to a nonagricultural use at the request of the owner.

Permissive County Commission Authority for Reclassifications

Section 193.461(4)(b), F.S., permits a county commission to reclassify lands from agricultural to nonagricultural when there is contiguous urban or metropolitan development and the county commission finds that the continued use of the lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.

Agricultural Land Offered for Sale

Section 193.461(4)(c), F.S., also provides a land offered for sale event that requires a property appraiser to reclassify agricultural land as nonagricultural.⁹ A sale at three or more times the agricultural assessment creates a presumption that the land is not being used primarily for bona fide agricultural purposes.¹⁰ This presumption is rebuttable by a showing of special circumstances by the landowner demonstrating that the land will continue to be used in bona fide agriculture.¹¹ In addition to the purchase price paid, other factors used to determine a bona fide agricultural purpose include the length of continuous agricultural usage, land size related to specific agricultural use, and evidence of fertilizing, liming, tilling, and other accepted agricultural practices on the property.¹²

⁴ Art. VII, s. 4(a), of the Florida Constitution.

⁵ Section 193.461(3)(b), F.S.

⁶ Section 193.461(5), F.S.

⁷ See ss. 193.461(6)(a)-(c), F.S.

⁸ Section 193.461(2), F.S.

⁹ See ss. 193.461(3)(b)1.-7. and (4), F.S.

¹⁰ Section 193.461(4)(c), F.S.

¹¹ *Id.*

¹² Section 193.461(3)(b), F.S.

Assessment and Classification of Historic Property

Pursuant to s. 4, Art. VII of the State Constitution, the legislature may, by general law, allow counties and municipalities to authorize historic property be assessed solely on the basis of character or use.¹³ Such character or use assessment only applies to the jurisdiction adopting the ordinance. Section 193.503(4), F.S., outlines statutory requirements for historic property classification including a commercial or not-for-profit use, certain National Historic Registry or District designations and general public access. A property owner whose land is denied an historic property classification can appeal to the value adjustment board.¹⁴

Assessment and Classification of High Water Recharge Lands

Pursuant to s. 4, Art. VII of the State Constitution, land producing high water recharge to Florida's aquifers may be classified by general law and assessed solely on the basis of character or use.¹⁵ Section 193.625, F.S., requires a county with a high-water recharge protection tax assessment program (program) to annually classify applicable lands as agricultural, nonagricultural, or high-water recharge. Factors used to determine a bona fide high-water recharge purpose include continuous vacant land use, location within a prime groundwater recharge area, and no nearby activity with the potential to contaminate the ground water.¹⁶ A property owner whose land is denied a high-water recharge property classification can appeal to the value adjustment board.¹⁷

Value Adjustment Board Hearings

Section 194.015, F.S., states that a value adjustment board (VAB) shall be created for each county composed of two members from the county governing board, one member from the school board and two citizen members. Section 194.035, F.S., requires counties with a population of more than 75,000, and allows counties with a population less than 75,000, to appoint special magistrates to take testimony and provide recommendations to the board.

The value adjustment board meets for the following purposes:

- To hear petitions relating to assessments, pursuant to s. 194.011(3), F.S.;
- To hear complaints relating to homestead exemptions, pursuant to s. 196.151, F.S.;
- To hear appeals from tax exemptions that have been denied, or disputes pertaining to granted exemptions, filed pursuant to s. 196.011, F.S.; and
- To hear appeals concerning ad valorem tax deferrals and classifications.¹⁸

Chapter 194, F.S., provides taxpayers with the right to appeal a property appraiser's assessment, the denial of a classification, a tax exemption, or a tax deferral by filing a petition to the value adjustment board. The chapter also grants VABs the authority to review all lands classified by

¹³ Art. VII, s. 4(e), of the Florida Constitution.

¹⁴ Section 193.503(7), F.S.

¹⁵ Art. VII, s. 4(a), of the Florida Constitution.

¹⁶ Section 193.625(3)(b), F.S.

¹⁷ Section 193.625(2), F.S.

¹⁸ Section 194.032(1)(a)1.-4., F.S.

the property appraiser upon its own motion.¹⁹ Following a hearing decision by the VAB, the property appraiser submits a revised certified tax roll to each taxing authority. If the taxpayer does not agree with the VAB's final decision, he or she may appeal the decision within 60 days to the circuit court pursuant to the provisions in s. 194.171(2), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., on the classification and assessment of agricultural lands to delete certain VAB property classification authority. In addition, a property *reclassification* requirement and *reclassification* authority is no longer allowed for the property appraiser and county commission respectively. Specifically, a VAB is no longer authorized to initiate its own review of agricultural classifications made by a property appraiser. The property appraiser is no longer required to reclassify as nonagricultural land zoned to a nonagricultural use at the request of the owner. County commissioners are no longer authorized to reclassify agricultural lands as non-agricultural in an effort to expand urban or metropolitan development.

This section also deletes an evidentiary presumption related to the sale of land classified as agricultural. Currently, the sale of land which is three or more times its agricultural assessment creates a presumption that the land is not used for a bona fide agricultural purpose and triggers a reclassification. The bill removes this provision.

Section 2 amends s. 193.503, F.S., on classification and assessment of historic property to delete VAB authority to initiate its own review of historic classifications made by a property appraiser.

Section 3 amends s. 193.625, F.S., on classification and assessment of high-water recharge lands to delete VAB authority to initiate its own review of high water recharge classifications made by a property appraiser.

Section 4 amends s. 196.194, F.S., on value adjustment board hearings to delete VAB authority to initiate its own review, or a review moved by the property appraiser, of property tax exemption applications.

Section 5 provides that the bill takes effect upon becoming a law and applies retroactively to January 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution, prohibits laws requiring counties or municipalities to spend funds or that limit their ability to raise revenues. Subsection 18(d) provides an applicable exemption for laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for

¹⁹ See ss. 193.461, 193.503, and 193.625, F.S.

the applicable fiscal year times \$0.10 or \$1.9 million for FY 2012-13.²⁰ The Revenue Estimating Conference estimates a fiscal impact below this threshold for the bill so it appears that this mandate exemption applies.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

During the Revenue Estimating Conference (REC) impact review of the bill, “no evidence was found of a VAB, under its own motion, reviewing and removing a land classification.”²¹ The REC continued that “the likelihood of future VAB’s behaving similarly, however, cannot be assumed.” Because of this, the REC adopted a zero/negative indeterminate impact to local governments and schools attributable to the VAB review provisions of the bill.

The REC cited prior court cases in establishing the impact on taxable value caused by eliminating the two property appraiser agricultural reclassification options. In *Rh Resorts v. Donegan*, the property appraiser reclassified a parcel to nonagricultural partially based on the sales price of the land exceeding the appraised value by a multiple of 25.²² In *Harbor Ventures v. Hutches*, the property appraiser denied an agricultural classification because the rezoning of the land to nonagricultural was requested by the owner previously.²³

²⁰ Based on the Demographic Estimating Conference’s final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at:

<http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf>.

²¹ Office of Economic and Demographic Research, The Florida Legislature *Analysis of HB1193/SB1200: Agricultural Classification & VAB Reviews* (Mar.8, 2013), available at

<http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page144-146.pdf> (last visited Mar17, 2013).

²² *Rh Resorts v. Donegan*, 881 So.2d 1152 (Fla. 5th DCA 2004).

²³ *Harbor Ventures v. Hutches*, 278 So.2d 328 (Fla. 2nd DCA 1973).

Ultimately, the REC adopted a \$0.5 million negative recurring fiscal impact to local governments and schools attributable to the elimination of the property appraiser and county commission agricultural reclassifications provisions in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.