

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/CS/HB 203	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Local & Federal Affairs Committee; Agriculture and Natural Resources Subcommittee; Beshears and others	113 Y's	3 N's
<b>COMPANION BILLS:</b>	(CS/SB 1190)	<b>GOVERNOR'S ACTION:</b>	Approved

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**SUMMARY ANALYSIS**

CS/CS/HB 203 passed the House on April 18, 2014, and subsequently passed the Senate on April 30, 2013. In 2003, the Legislature passed the Agricultural Lands and Practices Act, which in part, prohibits counties from adopting or enforcing any duplicative policy that limits activity of a bona fide farm or farm operation on agricultural land if such activity is already regulated through or by any of the following:

- Best management practices (BMPs);
- Interim measures, or regulations adopted as rules under Ch. 120, F.S., by the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), or a water management district (WMD) as part of a statewide or regional program; or
- The United States Department of Agriculture (USDA), United States Army Corps of Engineers (ACE), or the United States Environmental Protection Agency (EPA).

The bill expands the prohibition described above to include not just counties, but any "governmental entity," which includes all local and regional governmental entities except water management districts, water control districts, or special districts created for water management purposes. The bill also prohibits any governmental entity from charging a fee on a specific agricultural activity of a bona fide farm operation on land classified as agricultural if the agricultural activity is regulated through implemented BMPs, interim measures, or regulations adopted as rules under ch. 120, F.S., by DEP, DACS, or a WMD as part of a statewide or regional program; or if such agricultural activity is expressly regulated by the USDA, ACE, or EPA.

In addition, the bill amends the definition of "governmental entity" to exclude water management districts. Lastly, the bill narrows the exemption from the Florida Building Code and other county or municipal codes or fees for non-residential farm buildings, farm fences, or farm signs to apply only to those located on lands used for bona fide agricultural purposes.

The bill does not appear to have a revenue impact on state government. In addition, the Revenue Estimating Conference estimated that there would be an insignificant negative recurring impact on local government revenues.

The bill was approved by the Governor on June 28, 2013, ch. 2013-239, L.O.F., and takes effect July 1, 2013.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

In 2003, the Legislature passed the Agricultural Lands and Practices Act (Act),<sup>1</sup> which is codified in s. 163.3162, F.S. The Act prohibits counties from adopting or enforcing any duplicative ordinance, resolution, regulation, rule, or policy that limits activity of a bona fide farm or farm operation<sup>2</sup> on agricultural land if such activity is already regulated through or by any of the following:

- Best management practices (BMPs);
- Interim measures, or regulations adopted as rules under Ch. 120, F.S., by the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACCS), or a water management district (WMD) as part of a statewide or regional program; or
- The United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

Prior to the passage of this legislation, some counties enacted measures to regulate various agricultural operations in the state that were duplicative and in some cases more restrictive than those already implemented through BMPs or an existing governmental regulatory program.

In 2010, the legislature further amended s. 163.3162, F.S., because while the Act banned the adoption of future county restrictive measures, it did not explicitly prohibit the enforcement of existing county measures. Therefore, legislation was passed<sup>3</sup> to prohibit the enforcement of existing county measures. Currently, this prohibition applies only to counties.

Section 163.3162(2)(d), F.S., provides that “governmental entity” has the same meaning as provided in s. 164.1031, F.S. The term does not include a water control district established under Ch. 298, F.S., or a special district created by a special act for water management purposes.

Section 604.50, F.S., currently provides that, notwithstanding any other provision of law, any nonresidential farm building, farm fence, or farm sign 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.

Some local governments have reported, due to the broadness of current statutory language, “weekend” farmers are claiming the exemption.

#### Effect of Proposed Changes

The bill amends the definition of “governmental entity” in s. 163.3162(2)(d), F.S. to exclude water management districts.

The bill also amends s. 163.3162(3)(a), F.S., to prohibit any “governmental entity,”<sup>4</sup> instead of just counties, from adopting or enforcing any ordinance, resolution, rule, or policy to prohibit, restrict,

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<sup>1</sup> CS/CS/SB 1660, Ch. 2003-162, L.O.F.

<sup>2</sup> Bona fide farm or farm operation is defined in s. 193.461.F.S., as good faith commercial agricultural use of the land based on the length of time the land has been so used, whether the use has been continuous, indication that an effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, and size as it relates to the specific agricultural use, among other things.

<sup>3</sup> CS/HB 7103, Ch. 2011-7, L.O.F. (CS/HB 7103 was vetoed by the Governor; overridden during the 2011 legislative session and became law, the Governor’s veto notwithstanding.)

<sup>4</sup> “Governmental entity” is defined in s. 163.3162(2)(d), F.S., as having the same meaning as provided in s. 164.1031, F.S., except that the term does not include a water control district established under chapter 298, F.S., or a special district created by a special act for

regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural, if such activity is regulated through or by any of the following:

- Implemented BMPs;
- Interim measures, or regulations adopted as rules under Ch. 120, F.S., by DEP, DACS, or a WMD as part of a statewide or regional program; or
- The United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

The bill creates a new paragraph (b) in s. 163.3162,(3), F.S., which prohibits any governmental entity from charging a fee on a specific agricultural activity of a bona fide farm operation on land classified as agricultural, if such activity is regulated through or by any of the above mentioned entities.

Lastly, the bill amends s. 604.50, F.S., to provide that the exemption from the Florida Building Code and any county or municipal code or fee applies only to nonresidential farm buildings, farm fences, or farm signs that are located on lands used for bona fide agricultural purposes. The bill also provides a definition for bona fide agricultural, which has the same meaning as provided in s. 193.461(3)(b), F.S.<sup>5</sup>

## 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 estimated that there would be an insignificant negative recurring impact on local government revenues.

#### 2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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water management purposes. Section 164.1031, F.S., defines “governmental entity” as including any local and regional governmental entities. “Local governmental entities” includes municipalities, counties, school boards, special districts, and other local entities within the jurisdiction of one county created by general or special law or local ordinance. “Regional governmental entities” includes regional planning councils, metropolitan planning organizations, water supply authorities that include more than one county, local health councils, water management districts, and other regional entities that are authorized and created by general or special law that have duties or responsibilities extending beyond the jurisdiction of a single county.

<sup>5</sup> The term “bona fide agricultural purposes” means good faith commercial agricultural use of the land. (Various factors are provided to determine whether the use of the land is bona fide.)

Certain agricultural producers may be spared the expense associated with adhering to duplicative regulations or paying certain fees or assessments imposed by governmental entities in the state.

D. FISCAL COMMENTS:

None