

**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/SB 1342

INTRODUCER: Agriculture Committee and Senator Dean

SUBJECT: Nonresidential Farm Buildings

DATE: March 17, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	<b>Fav/CS</b>
2.	_____	_____	CA	_____
3.	_____	_____	AP	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1342 exempts nonresidential farm buildings from county or municipal assessments, including assessments by a dependent special district, except those arising from floodplain management regulations.

**II. Present Situation:**

**Nonresidential Farm Building Exemptions**

Currently nonresidential<sup>1</sup> farm buildings located on lands used for bona fide agricultural purposes, as that term is defined in s. 193.461(3)(b), F.S., are exempt from any county or municipal code or fee except for code provisions implementing floodplain management regulations.<sup>2</sup> This exemption evolved from an exemption from building codes in 1998<sup>3</sup> to the inclusion of an exemption from fees except for floodplain management in 2011.<sup>4</sup> There currently is not an exemption for these buildings from assessments.

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<sup>1</sup> Section 604.50(2)(d), F.S. Examples, not all inclusive, are a barn, greenhouse, shade house, farm office, storage building, or poultry house.

<sup>2</sup> Section 604.50(1), F.S.

<sup>3</sup> Chapter 98-396, L.O. F.

<sup>4</sup> Chapter 2011-7, L.O.F.

## Special Districts

Special districts have existed in Florida for a long time. To reform and consolidate some of the laws relating to special districts, the Legislature passed the Uniform Special District Accountability Act of 1989.<sup>5</sup> Other statutes provide for the creation and operation of specific types of special districts. There are two basic types of special districts, dependent and independent. Dependent districts functionally operate as an arm of either a city, county, or state agency. Independent special districts have an independent board which establishes its own budget and collects taxes, assessments, or fees and spends its revenue without oversight of a city or county. As of 2011, there were 1006 independent special districts and 627 special districts in Florida.<sup>6</sup> The number of special districts is only slightly higher today. Special districts generate revenue by the issuance of bonds and the levy and collection of ad valorem and non-ad valorem taxes, fees, and assessments.<sup>7</sup>

## Revenue Sources Based on Home Rule Authority

The Florida Constitution provides local governments with expansive home rule powers. Given these powers, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. The validity of these fees and assessments depend on the context of requirements established in Florida case law.<sup>8</sup>

## Special Assessments

Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities. Section 125.01(1)(r), F.S., authorizes the levy of special assessments for county government. Chapter 170, F.S., authorizes the levy of special assessments for municipal governments. Section 125.271, F.S., authorizes the levy of special assessments for county emergency medical services. Special districts derive their authority to levy special assessments through general law or special act creating the district.<sup>9</sup>

As established by case law, two requirements exist for the imposition of a valid special assessment: 1) the property assessed must derive a special benefit from the improvement of service provided; and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.<sup>10</sup> The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is whether there is a “logical relationship” between the services provided and the benefit to real property.<sup>11</sup> Many assessed services and improvements have been upheld as providing the requisite special benefit. Such

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<sup>5</sup> Chapter 89-169, L.O.F.

<sup>6</sup> Website of Florida Association of Special Districts, *FASD PowerPoint about Special Districts*, <http://fasd.com>. (Last visited Feb. 5, 2014)

<sup>7</sup> Florida Special Districts Review, <http://www.flspecialdistrictreview.state.fl.us/>. (last visited Feb. 7, 2014).

<sup>8</sup> See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at 9-15 (2013).

<sup>9</sup> For example, Section 153.73, F.S. for county water and sewer districts; s. 163.514, F.S., for neighborhood improvement districts; s. 190.021, F.S., for community development districts; and s. 191.009, F.S., for independent special fire control districts.

<sup>10</sup> See *City of Boca Raton v. State of Florida*, 595 So. 2d 25 (Fla. 1992).

<sup>11</sup> See *Whisnant v. Stringfellow*, 50 So. 2d 885 (Fla. 1951).

services and improvements include: garbage disposal (*Harris v. Wilson*, 693 So. 2d 945 (Fla. 1997)); fire protection (*South Trail Fire Control District, Sarasota County v. State*, 273 So. 2d 380 (Fla. 1973)); fire and rescue services (*Lake County v. Water Oak Management Corporation*, 695 So. 2d 667 (Fla. 1997)); and stormwater management services (*Sarasota County v. Sarasota Church of Christ*, 667 So. 2d 180 (Fla. 1995)).

Once an identified service or capital facility satisfies the special benefit test, the assessed amount is required to be fairly apportioned among the benefited property in a manner consistent with the logical relationship embodied in the special benefit requirement. Generally a special assessment, whether imposed for capital projects or services, is collected on an annual ad valorem tax bill. Under statutory collection procedures, the special assessment is characterized as a “non-ad valorem assessment.”<sup>12</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 604.50, F.S., to exempt nonresidential farm buildings from county or municipal assessments, including a dependent special district assessment, in addition to the presently existing exemption from county or municipal codes or fees except those arising from floodplain management regulations. It also makes technical changes which do not change the meaning of s. 604.50, F.S.

**Section 2** provides an effective date of July 1, 2014.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

This bill reduces the authority of counties and municipalities to collect assessments on certain nonresidential agricultural buildings. Article VII, section 18(b) of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. An insignificant fiscal impact means an amount not greater than the average statewide population for the applicable fiscal year times ten cents.<sup>13</sup> A fiscal estimate is not available for this bill. If it is determined that this bill has more than an insignificant fiscal impact, the bill will require a two-thirds vote of the membership of each house of the Legislature for passage.

#### B. Public Records/Open Meetings Issues:

None.

<sup>12</sup> Section 197.3632(1)(d), F.S.

<sup>13</sup> As of April 1, 2013, the total state population is estimated to be 19,259,543. University of Florida, Bureau of Economic and Business Research, *Florida Estimates of Population 2013* (Apr. 1, 2013), at p. 21.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill reduces revenue to counties and municipalities by providing an exemption from assessments for qualified agricultural buildings. An estimate of the extent of revenue reduction will not be available until the Revenue Estimating Conference has analyzed the bill.

B. Private Sector Impact:

Owners of nonresidential farm buildings used for bona fide agricultural purposes will benefit monetarily by being exempt from county and municipal assessments in an amount unknown at this time.

C. Government Sector Impact:

The bill will eliminate the ability of counties and municipalities to collect assessments on qualified agricultural buildings which assessments will vary between assessing authorities.

**VI. Technical Deficiencies:**

The bill as drafted exempts assessments by a county or municipality on non-residential farm buildings. It is not clear if it is intended to exempt assessments based on a measurement other than the value of a non-residential farm building such as an assessment based on the front or square footage of a parcel of land. Also, it is not clear if the bill is intended to exempt assessments by special districts, dependent or independent, as authorized in Chapter 189, F.S. Even if it is intended to apply to special districts, it is not clear if it would apply to independent special districts which are not a creature of a county or municipality.

This issue was addressed in the Agriculture Committee's amendment barcode 322240.

**VII. Related Issues:**

The provisions of the bill are in direct conflict with numerous existing statutes and the home rule powers of local governments, and therefore, would likely require judicial resolution.

**VIII. Statutes Affected:**

This bill substantially amends section 604.50 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Agriculture on March 17, 2014:**

The committee substitute clarifies that the assessments being exempted includes assessments by dependent special districts and thereby excludes assessments by independent special districts.

- B. **Amendments:**

None.