

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: CS/SB 312

INTRODUCER: Community Affairs Committee and Senator Simpson

SUBJECT: Agriculture

DATE: January 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhvein</u>	<u>Halley</u>	<u>AG</u>	Favorable
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	_____	_____	<u>AFT</u>	_____
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 312 provides property assessment limitations for land owners who participate in a water retention program sponsored by a water management district or Florida Department of Environmental Protection.

The bill also expands the exemption for certain farm equipment from the sales and use tax.

II. Present Situation:

Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value (fair market 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

¹ Fla. Const. Art. VII, s. 4.

² See s. 196.031, F.S.

Agricultural Property Classification

Section 193.461, F.S., provides that each county's property appraiser shall, for assessment purposes on an annual basis, classify all lands within a county as agricultural or nonagricultural. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes."³ Agricultural purposes include, but are 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; and all forms of farm products and farm production.⁴

Property appraisers are required to reclassify lands as nonagricultural when:

- The land is diverted from an agricultural to a nonagricultural use;
- The land is no longer being utilized for agricultural purposes;
- The land has been zoned to a nonagricultural use at the request of the owner.⁵

A county commission may 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.⁶

The 2000 Legislature amended s. 193.461, F.S., with respect to agricultural lands that had been taken out of production due to a state or federal eradication or quarantine program.⁷ Section 193.461(7), F.S., allows lands to retain agricultural classification, provided that the lands are: 1) under a state or federal eradication or quarantine program, 2) are not in agricultural use, and 3) are not being diverted to a non-agricultural use. If such lands are nonincome-producing, they are assessed based on a one year assessment methodology, up to \$50 per acre.

Agricultural lands under eradication or quarantine programs that are converted to income-producing uses are not assessed based on the one year methodology. Rather, the property appraiser may use an income methodology approach which relies on a five year moving average of agricultural income. Thus, ad valorem revenues for local governments may be impacted depending on whether the agricultural lands are in eradication or quarantine programs, and whether they have been converted to income-producing uses.

Water Retention Programs

The Legislature encourages and supports the development of creative public-private partnerships and programs, including opportunities for water storage and quality improvement on private lands and water quality credit trading, to facilitate or further the restoration of the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the

³ Section 193.461(3)(b), F.S.

⁴ Section 193.461(5), F.S.

⁵ Section 193.461(4)(a), F.S.

⁶ Section 193.461(4)(b), F.S.

⁷ Chapter 2000-308, s. 3, Laws of Fla. (creating s. 193.461(7), F.S.).

St. Lucie River watershed.⁸ Since 2005, the South Florida Water Management District has been working with a coalition of agencies, environmental organizations, ranchers, and researchers to enhance opportunities for storing excess surface water on private and public lands. Over the years, these partnerships have made thousands of acre-feet of water retention and storage available throughout the greater Everglades system.⁹

Water retention systems serve to control storm water volume before it is discharged to surface waters, or it floods urban areas. The systems also act to minimize point source and non-point source pollution prior to its entry into streams, natural wetlands, and other receiving waters. These systems vary widely in their pollutant removal capabilities, but can effectively remove a number of contaminants with removal rates as high as 95 and 99 percent for some non-dissolved nutrients and pesticides, respectively.¹⁰

Eight Florida ranchers participated in a \$6 million pilot program run by the South Florida Water Management District called the “Florida Ranchlands Environmental Services Project.” The program, which ran from 2006 to 2011, paid ranchers to construct water retention areas on their properties that acted as natural phosphorous filters. In addition to construction costs, the program paid ranchers for annual maintenance and a participation fee for three years. In August 2013 the district created a \$3 million water farming pilot project that will pay citrus growers to build systems to store excess water on fallow citrus land before it can flow into estuaries.¹¹ The three-year project will provide vital information on the proposed concept of retaining storm water on citrus properties.

Currently, payments that agricultural land owners receive under water retention programs are considered income.

Sales and Use Tax

Chapter 212, F.S., contains the state’s statutory provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. The statutes currently provide for more than 200 different exemptions. Retail dealers of agricultural products accept the required exemption certificates “from all farmers who use the items as required by the exemption.”¹² Currently, there is no single document or certificate used to show status when buying tax exempt items.

The 2005 Legislature created a definition for “power farm equipment.” It also expanded existing provisions that only offered partial tax exemptions (3 percent) for farm equipment. It provided a total sales tax exemption on the sale, rental, lease, use, consumption, or storage for use in Florida

⁸ Section 373.4595(1)(n), F.S.

⁹ South Florida Water Management District, *SFWMD Taking Action to Store Water Headed to Lake Okeechobee, Coastal Estuaries*, <http://www.sfwmd.gov/portal/page/portal/xweb%20protecting%20and%20restoring/protecting%20and%20restoring%20ecosystems> (last visited Dec. 13, 2013).

¹⁰ University of Florida Institute of Food and Agricultural Sciences, *Detention/Retention for Citrus Stormwater Management*, <http://edis.ifas.ufl.edu/ae216>, (Last visited December 13, 2013).

¹¹ Kevin Bouffard, *Pilot Program Helps Ranchers...*, THE LEDGER, Sep. 14, 2013.

¹² Department of Revenue, *Senate Bill 312 Agency Analysis* (Nov. 19, 2013).

of power farm equipment used exclusively on a farm or in a forest in the agricultural production of crops or products.¹³ The exemption for power farm equipment does not apply to equipment used for transporting, processing, or storage of agricultural crops or products.

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., to affect the tax assessment of agricultural landowners who participate in water retention programs sponsored by the Department of Environmental Protection or a water management district. Flooded land would be considered agricultural land for property assessment purposes. Flooded lands in recognized water storage programs, or successor programs, would be assessed at a de minimis value, on a single year methodology.

Section 2 amends s. 212.02, F.S., to expand the definition of “agricultural production” to include the storage phase of agricultural production.

Section 3 amends s. 212.08, F.S., to provide exemptions from the sales and use tax imposed under ch. 212, F.S., on the following:

- Irrigation equipment, repairs to farm equipment, and replacement parts and accessories for irrigation and farm equipment.
- Trailers used in agricultural production and the transportation of farm products from the farm to the first point of sale.

Section 4 provides that this act shall take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill falls under subsection (b) of s. 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. By adding an exemption to the state sales tax, the bill has the effect of adding an exemption to the local option county sales tax. The bill may be exempt under insignificant fiscal impact, but no estimate is available at this time.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹³ Chapter 212, F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill will have an indeterminate impact on the ad valorem taxes on agricultural lands participating in a dispersed water storage program. Irrigation equipment and trailers used for agriculture will be exempt from sales and use taxes. The Revenue Estimating Impact Conference has not determined the fiscal impact of this bill.

B. Private Sector Impact:

Under the conditions described in the bill, participants in water retention programs may have reduced ad valorem tax liability for flooded lands. The proposed legislation allows agricultural producers to benefit from reduced tax liability for purchases of specified agricultural items, such as parts and repairs for irrigation equipment.

C. Government Sector Impact:

Purchasers of exempt farm equipment would no longer be required to pay state sales tax or local discretionary sales surtaxes.

The Florida Department of Agriculture believes the bill will have no fiscal impact on the department.¹⁴

The Department of Revenue may need to revise sales and use tax returns and amend existing rules.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.461, 212.02, and 212.08.

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 Community Affairs on January 8, 2014:

The CS classifies flooded lands as agricultural lands for property tax valuation purposes,

¹⁴ Department of Agriculture and Consumer Services, *Senate Bill 312 Agency Analysis* (November 4, 2013).

instead of classifying the use of such lands as nonincome-producing. Flooded lands in recognized water storage programs, or successor programs, would be assessed at a de minimis value, on a single year methodology, and this provision would not expire.

The CS does not create the legal definition of “qualified agricultural producer,” and does not authorize Department of Revenue to issue a certificate for agricultural sales and use tax exemptions. Power farm equipment and irrigation equipment, including replacement parts, would be exempt from sales and use taxes, without the need for a purchaser to be recognized as a qualified agricultural producer or obtain an exemption certificate from Department of Revenue.

B. Amendments:

None.