

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 312

INTRODUCER: 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>	Pre-meeting
3.	_____	_____	<u>AFT</u>	_____
4.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 312 provides property assessment limitations for land owners who participate in a water retention program sponsored by a water management district.

The bill creates a legal definition for “qualified agricultural producer,” and establishes criteria for issuance of an agricultural sales and use tax exemption certificate by the Department of Revenue. The bill consolidates tax exemption paperwork on purchases of certain farm items, fuel, and equipment for “qualified agricultural producers” who obtain the agricultural sales and use tax exemption certificate.

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

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.

¹ Fla. Const. Art. VII, s. 4.

² See s. 196.031, F.S.

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 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

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.).

⁸ Section 373.4595(1)(n), F.S.

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. The bill provides that flooded land that is assessed at a de minimis value would be considered nonincome-producing if payments to the landowner do not exceed expenses associated with program participation.

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 legal definition for “qualified agricultural producer.” This creates a cumbersome process that requires Florida’s farmers to provide tax exemption paperwork for each of the many individual purchases they make each year. The bill directs the Florida Department of Revenue to issue an agricultural sales and use tax exemption certificate to qualified agricultural producers. This single document would be used to show status when buying tax exempt items.

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).

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 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. This bill expands that exemption to include diesel fuel used in a tractor, a vehicle, or other equipment used on a farm; irrigation equipment; replacement parts for farm equipment and repairs to farm equipment; certain nets; gas or electricity used for agricultural purposes; and growth enhancers or performance enhancers used by a qualified agricultural producer for cattle.

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 a water management district. Flooded land would be considered nonincome-producing if payments to the landowner do not exceed expenses associated with program participation. This classification is repealed on December 31, 2020.

Section 2 amends s. 212.02, F.S., to revise the definition for “power farm equipment” and “agricultural production.” It provides a new definition for “qualified agricultural producer.”

Section 3 amends s. 212.0501, F.S., to provide that diesel fuel used in a tractor, a vehicle, or other equipment used by a qualified agricultural producer is exempt from the sales and use tax imposed under ch. 212, F.S. Currently, purchasers or lessees of liquefied petroleum gas or other fuel that is used to heat structures where started pullets or broilers are raised must sign an exclusive use certificate. The bill deletes this certification requirement.

Section 4 amends s. 212.08, F.S., to provide that a qualified agricultural producer is exempt from the sales and use tax imposed under ch. 212, F.S., on the following:

- Irrigation equipment, repairs to farm equipment, and replacement parts for farm equipment. A requirement that the purchaser, renter, or lessee sign an exclusive use certificate is deleted.
- Specified items used for agricultural applications, certain nets, gas or electricity used for agricultural purposes, and growth enhancers or performance enhancers used for cattle. A requirement that the purchaser or lessee sign an exclusive use certificate is deleted.
- Feeds for poultry, ostriches, and livestock.

Specified items used for application on home vegetable gardens are exempted from sales and use tax. This exemption is not allowed unless the purchaser or lessee signs an exclusive certificate.

Section 5 creates s. 212.0802, F.S., to provide criteria for qualified agricultural producer certification. It requires a qualified agricultural producer to apply for an agricultural sales and use tax exemption certificate from the Department of Revenue (DOR) which includes an exemption number. It requires the DOR to issue a wallet-sized card containing the information

¹³ Chapter 212, F.S.

provided on the tax exemption certificate. The DOR is authorized to adopt rules, establish an oversight board, direct staff, and charge annual fees of at least \$15 but not more than \$25 per year.

The bill provides criteria for DOR to determine eligibility for designation as a qualified agricultural producer. It provides that possession by a seller, lessor, or other dealer of a written exemption certification by the purchaser, renter, or lessee relieves the seller, lessor, or dealer from the responsibility of collecting tax on nontaxable amounts. It requires DOR to recover such tax from the purchaser if it determines that the purchaser was not entitled to the exemption.

Section 6 provides that this act shall take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Refer to Sections B and C.

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 qualified agricultural producers to benefit from reduced tax liability for purchases of specified agricultural items.

The Department of Revenue notes that farmers currently enjoying exemptions on farm items would be required to meet the criteria of being a qualified agricultural producer, pay an annual fee not more than \$25, and obtain certification by the Department of Revenue, in order to continue to qualify for sales and use tax exemptions under ch. 212, F.S.¹⁴

¹⁴ Department of Revenue, *supra* note 12, at 9.

C. Government Sector Impact:

The Florida Department of Agriculture believes the bill will have no fiscal impact on the department.¹⁵

The Florida Department of Revenue (DOR) estimates that the following funds would be required to administer the bill’s provisions (Salaries & Benefits, OPS, Expenses, Operating Capital Outlay, etc.).¹⁶

FISCAL IMPACT ON DOR	FY 13-14 \$/FTE	FY 14-15 \$/FTE	FY 15-16 \$/FTE	FY 16-17 \$/FTE
REVENUES: All revenue estimates will be provided by the Revenue Estimating Conference.				
EXPENDITURES:				
Recurring:	\$0	\$1,258,184	\$1,580,594	\$1,580,594
FTE		31		
Salaries		\$967,229	\$1,289,639	\$1,289,639
OPS				
Expense		\$222,891	\$222,891	\$222,891
HR Contract		\$10,664	\$10,664	\$10,664
Contracted Services	\$0	\$57,400	\$57,400	\$57,400
Non-Recurring:		\$394,518	\$108,681	\$0
OPS		\$163,021	\$108,681	\$0
Expense		\$177,097	\$0	\$0
OCO				
Contracted Services		\$54,400		
TOTAL:	\$0	\$1,652,702	\$1,689,275	\$1,580,594

According to the DOR, SB 312 will impact both currently registered and unregistered taxpayers seeking the new agricultural producer sales and use tax exemption certificate. The General Tax Administration (GTA), Account Management Section expects to process an estimated 20,000 new registration applications (Florida Business Tax Application, Form DR-1) of the estimated (200,000) new agricultural sales and use tax exemption applications received.

Documentation required by the proposed legislation used to determine eligibility must be reviewed, imaged, and validated before granting an exemption.

¹⁵ Department of Agriculture and Consumer Services, *Senate Bill 312 Agency Analysis* (November 4, 2013).

¹⁶ Department of Revenue, *supra* note 12.

The DOR has provided the following productivity statistics to clarify the estimated additional workload:

- A Revenue Specialist I is able to review an average of 10 registration applications (DR-1) per day.
- A Revenue Specialist II is able to review and process an average of 25 exemption applications (DR-5) per day.
- A Revenue Specialist III is needed to assist every five RSII positions with the more complex issues. For this proposed legislation, the request includes one additional RSIII due to the anticipated workload.
- Historically, DOR staff has personal communication with 92 percent of the exemption certificate applicants before an exemption certificate is processed. This high rate of interaction is mostly due to incomplete information on applications that must be documented before a certificate of exemption can be issued.

Staff must be hired and trained how to examine documentation, respond correctly to phone inquiries, and to process new agricultural exemption certificates. A minimum of three months is required to complete the hiring process and staff training before new exemption certificates may begin to be issued as of January 1, 2015.

DOR estimates that approximately 200,000 applicants will apply for the new agricultural producer exemption certificate (20,000 of these applicants must also submit a DR-1 application), and that the following staff will need to be hired:

- 25 Revenue Specialist IIs, 6 Revenue Specialist IIIs, and 10 temporary OPS staff at \$10 per hour for 15 months (RS I – to process the initial influx of new registration requests).
- An increased call volume of 184,000 calls (200,000 x 92%) will be handled by the staff assigned to process the new applications.

Exemptions Certificate Paper:

To meet the requirements for both a standard-sized and a wallet-sized certificate, a specific paper must be ordered that has the necessary perforation, weight and scoring pattern required to produce a wallet-sized certificate. The paper will cost \$45.28 per thousand or \$0.04528 per sheet. Approximately 300,000 sheets of paper would be ordered to generate annual certificates, including re-orders for lost or destroyed certificates, and new applications submitted throughout the year. This special paper will also be stocked in DOR Service Centers. The \$13,584 estimated cost would be absorbed within DOR's current budget.

Return and Revenue Processing:

An online system would be developed at Baca, Stein, White and Associates (BSWA) and be production ready no later than January 1, 2015, for an estimated cost of \$40,000. This system must allow for an online import capability, edits based on business rules, uploading of attachments, and provide a daily (or as specified) data export, along with PDF attachments.

The DOR anticipates that 70 percent of the initial exemption applications and annual renewals will be filed electronically and 30 percent of the applications and documentation will be submitted as paper documents:

E-Transaction Fees:

$\$0.32 \times 140,000$ (70% of transactions filed "e") = \$44,800

$\$0.09 \times 140,000$ (70% pay by ACH-debit) = \$12,600

Paper Documents:

$\$0.48 \times 60,000$ (30% filed on paper w/ check) = \$28,800

Total Recurring Impact: \$86,200

Revenue's Unified Tax System (SUNTAX):

In Fiscal Year 2014/2015, this bill would require approximately 120 contractor hours and 120 in-house hours to modify the SUNTAX system, costing \$14,400 in non-recurring funds. These hours would be utilized for:

- Configuration of a new consumer exemption category and the programming for tax exemption certificates (both full sized and wallet-sized);
- Configuration to accommodate a new business area to identify the fees as necessary for distribution purposes;
- Modification of distribution programs to process the new fee; and
- Development of business rules for system updates and related testing.

Tax Information Publication:

In Fiscal Year 2014/2015, this bill would require that a Tax Information Publication (TIP) be mailed to approximately 200,000 applicants for this tax exemption, costing \$60,134 in non-recurring funds. The TIP would be one page, printed duplex, in-house at a cost of \$5,934 plus Standard Postage of \$54,200. TIP would be mailed using standard postage (assuming implementation will be January 1, 2015).

If the TIP is only posted to the Revenue Law Library and the Internet, printing and mailing costs will not be incurred.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue recommends an effective date of January 1, 2015 to allow for implementation activities.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.461, 212.02, 212.0501, and 212.0802.

This bill creates s. 212.08 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
