

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 575 Agriculture

**SPONSOR(S):** Agriculture & Natural Resources Subcommittee; Albritton and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 312

| REFERENCE                                       | ACTION              | ANALYST   | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|---------------------|-----------|--|
| 1) Agriculture & Natural Resources Subcommittee | 10 Y, 0 N, As<br>CS | Filaroski | Blalock                                  |
| 2) Finance & Tax Subcommittee                   |                     |           |  |
| 3) State Affairs Committee                      |                     |           |  |

### SUMMARY ANALYSIS

The Florida Constitution authorizes land to be classified by law as "agricultural" and assessed "solely on the basis of its character and use" for ad valorem taxation purposes, as opposed to an assessment based on the "highest and best use," which is required for most property. Dispersed water storage programs are public-private partnerships between land owners and water management districts (WMDs) or the Department of Environmental Protection (DEP) created to store water on private lands for use in times of drought or to help reduce nutrient pollution by preventing nutrient-rich excess water from flowing into natural waterbodies.

The bill allows landowners who miss the March 1 deadline to apply for the agricultural classification of lands to provide the property appraiser evidence that the applicant was unable to apply in a timely manner or otherwise demonstrate extenuating circumstances. If the property appraiser finds the evidence sufficient, the classification may be granted. The bill also allows agricultural lands participating in a dispersed water storage program to retain an agricultural classification and requires those lands to be assessed as nonproductive agricultural lands. The bill specifies that, if the land is diverted to a nonagricultural use, it must be assessed as any other non-agricultural land.

This bill expands existing and creates new sales tax exemptions for items used in agricultural production as follows:

1. Expands the current tax exemption on the sale, rental, lease, use, or storage of power farm equipment used exclusively on a farm or in a forest in the agricultural production of crops or products to include the repair of and replacement parts and accessories for such equipment.
2. Expands the current definition of "agricultural production" to include the storage of raw products on the farm, the effect of which is to create a new tax exemption on the sale, rental, lease, use, storage, or repair of power farm equipment, including replacement parts and accessories, used exclusively on a farm or in a forest to store raw products on the farm.
3. Creates a new tax exemption on the sale, rental, lease, use, storage, or repair of irrigation equipment, including replacement parts and accessories, used exclusively on a farm or in a forest in the agricultural production of crops or products.
4. Creates a new tax exemption on the sale price below \$20,000 of a trailer weighing 12,000 pounds or less and purchased by a farmer for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm product to another.
5. Creates a new tax exemption for stakes used by a farmer to support plants during agricultural production.

Under current law, if the Department of Agriculture and Consumer Services (DACS) or a WMD and a private landowner enter into an agreement for water storage and water quality improvements on the landowner's property, a baseline condition of wetlands and surface water on the property must be established and included in the agreement before improvements are constructed. The bill provides that if DACS or a WMD and a private landowner enter into a best management practices agreement for water storage and water quality improvements on the landowner's property as part of the total maximum daily load program, a baseline that sets the extent of wetlands and surface water on the property may be developed and included in the agreement. The baseline, not the wetlands that might exist after the water storage or water quality project is complete, will be considered the extent of wetlands and other surface waters for purposes of regulation for the duration of the agreement and after its expiration.

The bill may have a significant negative fiscal impact on state and local governments, and a positive fiscal impact on the private sector, as a result of the sales tax exemption provisions (see Fiscal Analysis Section below). Depending upon the fiscal impact on counties and cities, the bill may implicate the local government mandates section of the Florida Constitution and require a 2/3 vote of the membership. However, the Revenue Estimating Conference has not determined the fiscal impact of the bill.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0575a.ANRS

**DATE:** 3/11/2014

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Greenbelt Classification

The Florida Constitution states that all property must be given a just valuation for ad valorem taxation purposes, as prescribed by general law.<sup>1</sup> The Florida Constitution also requires ad valorem taxation to be at a uniform rate, but provides that property “may be [taxed] at different rates but shall never exceed two mills on the dollar of assessed value.”<sup>2</sup> In addition, property owned by a municipality that is used for municipal or public purposes is exempt from ad valorem taxation.<sup>3</sup> In setting a just valuation on a piece of property for ad valorem taxation purposes, the property appraiser must consider the following:

- The present cash value of the property;
- The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property;
- The location of the property;
- The quantity or size of the property;
- The cost of said property and the present replacement value of any improvements therein;
- The condition of the property;
- The income from the property; and
- The net proceeds of the sale of the property.<sup>4</sup>

However, the Florida Constitution also authorizes the Legislature to enact a “greenbelt classification” by law, which provides that “agricultural land . . . may be classified by general law and assessed solely on the basis of character or use.”<sup>5</sup> Pursuant to this constitutional authority, the Florida Legislature enacted s. 193.461, F.S.,<sup>6</sup> which implements the constitutional provision and requires the local property appraiser, on an annual basis, to “classify for assessment purposes all lands within the county as either agricultural or nonagricultural.”<sup>7</sup> Agricultural lands are to be “only those lands that are used primarily for bona fide agricultural purposes.”<sup>8</sup> The term “bona fide agricultural purposes” means good faith commercial agricultural use of the land.<sup>9</sup> To determine whether the use of the land for agricultural purposes is bona fide, the following factors must be considered by the property appraiser:

- The length of time the land has been used for agricultural purposes;
- Whether the use has been continuous;
- The purchase price paid;
- Size (as it relates to agricultural use, though a minimum acreage may not be required);
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices;
- Whether the land is under lease; and

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<sup>1</sup> Art. VII, s. 4, Florida Constitution.

<sup>2</sup> Art. VII, s. 2, Florida Constitution.

<sup>3</sup> Art. VII, s. 3(a), Florida Constitution.

<sup>4</sup> s. 193.011, F.S.

<sup>5</sup> Art. VII, s. 4(a), Florida Constitution.

<sup>6</sup> Originally s. 193.201, F.S. (1959), ch. 59-226, s. 1, L.O.F.

<sup>7</sup> s. 193.461(1), F.S.

<sup>8</sup> s. 193.461(3)(b), F.S.

<sup>9</sup> *Id.* “Agricultural purposes” include, but are not limited to, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, pisciculture, aquaculture, sod farming, and “all forms of farm products . . . and farm production.” s. 193.461(5), F.S.

- Other factors that may become applicable.<sup>10</sup>

Additionally, lands may not be classified as agricultural in a given year unless an application is filed before March 1 of that year by the landowner.<sup>11</sup> Failure to make a timely application qualifies as a waiver of the classification for one year. However, an applicant that fails to file by March 1 but is qualified to receive an agricultural classification for his or her land may file a petition with the value adjustment board requesting that the classification be granted.<sup>12</sup> Following the initial classification of land as agricultural, the requirement for filing an annual application or statement for classification may be waived if recommended by the county property appraiser and approved by a majority vote of the relevant governing body.<sup>13</sup>

After property is classified as agricultural lands, the property's value is assessed based solely on its agricultural use.<sup>14</sup> This valuation is determined by the property appraiser using only the following factors:

- The quantity and size of the property;
- The condition of the property;
- The present market value of the property as agricultural land;
- The income produced by the property;
- The productivity of land in its present use;
- The economic merchantability of the agricultural product; and
- Such other agricultural factors that may be applicable.<sup>15</sup>

In 2000, the Legislature amended s. 193.461, F.S., to assist farmers whose lands were taken out of production by a state or federal citrus eradication or quarantine program.<sup>16</sup> The law was passed after the Department of Agriculture and Consumer Services (DACS) implemented an eradication and quarantine program in January 2000 to eliminate the citrus canker disease that was ravaging the Florida citrus crop.<sup>17</sup> The eradication policy mandated the removal of any infected trees and other citrus trees within a 1,900-foot radius of an infected tree in both residential areas and commercial groves.

Section 193.461, F.S., requires lands classified for assessment purposes as agricultural lands that are taken out of production by any state or federal eradication or quarantine program to continue to be classified as agricultural lands for the duration of such program or successor programs. Lands under these programs that are converted to fallow or otherwise non-income producing uses must continue to be classified as agricultural lands and be assessed at a de minimis value of no more than \$50 per acre, on a single year assessment methodology, unless the land is converted to other income-producing agricultural uses. The eradication program ended in January 2006 following a statement by the United States Department of Agriculture (USDA) that eradication was infeasible, which was accompanied by a subsequent withdrawal of funding by the USDA.<sup>18</sup> The individual citrus canker quarantine programs have also been eliminated.<sup>19</sup>

#### Dispersed Water Storage Programs

In an effort to increase water supplies and improve water quality, some water management districts (WMDs) have established dispersed water storage programs. These programs are typically public-private partnerships between an agricultural landowner and a WMD where the private landowner allows

<sup>10</sup> s. 193.461(3)(b)1, F.S.

<sup>11</sup> s. 193.461(3)(a), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> s. 193.461(6)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Ch. 00-308, s. 3, L.O.F.

<sup>17</sup> *See Eradication*, UF/IFAS EXTENSION, available at <http://www.crec.ifas.ufl.edu/extension/canker/eradication.shtml>.

<sup>18</sup> *Citrus Canker Fact Sheet*, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, available at <http://www.freshfromflorida.com/Divisions-Offices/Plant-Industry/Pests-Diseases/Citrus-Health-Response-Program/Citrus-Canker/Citrus-Canker-FAQs>.

<sup>19</sup> *Id.*

agricultural land to be used by the WMD to store water during wet periods. A common reason for establishing one of these programs is to set up a water retention system.

Water retention systems typically serve to control stormwater runoff before it is discharged to surface waters and to minimize point source and non-point source pollution prior to entry into receiving water bodies.<sup>20</sup> An example of such a program is the Florida Ranchlands Environmental Services Project sponsored by the South Florida Water Management District (SFWMD), which ran from 2006 to 2011.<sup>21</sup> This program, which involved the participation of eight ranchers, “paid ranchers to construct water retention areas on their properties that acted as natural phosphorous filters.”<sup>22</sup>

In 2013, the SFWMD also invested \$3 million in a 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.<sup>23</sup> In total, the SFWMD (where such programs are concentrated) has implemented eighteen dispersed water management projects on private lands, which are listed in the following table.<sup>24</sup>

| Project Name                             | Average Annual Retention/Storage (ac-ft/yr) | Project Area (acres) | Annual Payments to Landowner | Length of Agreement | Total Cost at End of Agreement |
|--|---|----------------------|------------------------------|---------------------|--------------------------------|
| West Waterhole Pasture                   | 5,000                                       | 2,370                | \$493,750                    | Year 8 of 8         | \$2,661,414                    |
| Rafter T Ranch                           | 1,145                                       | 5,172                | \$92,490                     | Year 7 of 9         | \$986,464                      |
| Syfrett Ranch West (Non-Operational)     | (140)                                       | 529                  | \$41,000                     | 3 Years             | \$183,500                      |
| Payne and Sons                           | 932   | 432                  | \$61,133                     | 3 Years             | \$298,489                      |
| Williamson Cattle Company                | 150   | 242                  | \$70,000                     | 3 Years             | \$275,000                      |
| Alderman-Deloney Ranch                   | 147   | 170                  | \$25,000                     | Year 3 of 10        | \$253,272                      |
| Buck Island Ranch                        | 1,573                                       | 1,048                | \$173,600                    | Year 3 of 10        | \$1,737,928                    |
| Dixie West                               | 315   | 1,495                | \$51,500                     | Year 2 of 10        | \$522,228                      |
| Dixie Ranch                              | 856   | 3,771                | \$146,500                    | Year 2 of 10        | \$1,482,015                    |
| Lost Oak Ranch                           | 374   | 1,832                | \$55,000                     | Year 1 of 10        | \$611,030                      |
| Triple A Ranch (Under Construction)      | 397   | 106                  | \$28,500                     | Year 1 of 10        | \$607,186                      |
| Willaway Cattle & Sod                    | 229   | 69                   | \$1,879                      | Year 1 of 10        | \$344,279                      |
| XL Ranch                                 | 887   | 3,227                | \$130,150                    | Year 3 of 10        | \$1,353,915                    |
| Caulkins Citrus (Under Construction)     | 6,780                                       | 413                  | \$480,830                    | Year 1 of 3         | \$1,263,636                    |
| Nicodemus Slough (Under Construction)    | 34,000                                      | 15,906               | \$2,968,328                  | Year 1 of 8         | \$28,646,622                   |
| Harbour Ridge                            | 667   | 178                  | \$0                          | 2 Years             | \$89,000                       |
| Indiantown Citrus Growers Phase I and II | 3,550                                       | 492                  | \$0                          | 2 Years             | \$267,853                      |
| Basinger Grove (Non-Operational)         | (7,500)                                     | 15,000               | \$0                          | 3 Years             | \$0                            |
| <b>TOTAL</b>                             | <b>57,002</b>                               | <b>52,452</b>        | <b>\$4,819,660</b>           |                     | <b>\$41,583,831</b>            |

### Sales Tax Exemptions

Chapter 212, F.S., contains the 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 sales or rentals of most tangible personal property,<sup>25</sup> admissions,<sup>26</sup> storage,<sup>27</sup> rentals of transient accommodations,<sup>28</sup> rentals of commercial real

<sup>20</sup> Kevin Bouffard, *Pilot Program Helps Ranchers Build Water Retention Areas on Their Property*, THE LEDGER (Sept. 14, 2013), available at <http://www.theledger.com/article/20130914/NEWS/130919452?template=printpicart>.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Of these projects, two are non-operational due to agreements ending and no conversion to other programs and three are in construction and not yet operational. See *SFWMD Dispersed Water Management Projects on Private Lands*, on file with the State Affairs Committee.

<sup>25</sup> s. 212.05 F.S.

estate,<sup>29</sup> and a limited number of services. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>30</sup> The Florida Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales and use taxes.

Section 212.055, F.S., authorizes Florida counties and municipalities to charge specifically enumerated discretionary sales surtaxes, also referred to as local option taxes, which provides potential revenue sources for county and municipal governments and school districts. The local discretionary sales surtaxes apply to all transactions that are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by Chapter 212, F.S., and communications services as defined for purposes of Chapter 202, F.S.<sup>31</sup> Discretionary sales surtaxes must be collected when the transaction occurs in, or delivery is into, a county that imposes the surtax, and the sale is subject to the state's sales and use tax.<sup>32</sup> For tangible personal property, the surtax only applies to the first \$5,000 of any single taxable item.<sup>33</sup> The following eight different types of local discretionary sales surtaxes are currently authorized by law:<sup>34</sup>

- Charter County Transportation System;
- Emergency Fire Rescue Services;
- Local Government Infrastructure;
- Small County;
- Indigent Care and Trauma Center;
- County Public Hospital;
- School Capital Outlay; and
- Voter-Approved Indigent Care.

The local discretionary sales surtax rate varies from county to county, depending on the particular levies authorized in that jurisdiction.

Section 212.054, F.S., provides for the distribution of the proceeds from local discretionary sales surtaxes. DOR is charged with administering, collecting, and enforcing these surtaxes,<sup>35</sup> which must be enacted by an ordinance adopted by the governing body of the county levying the surtax.<sup>36</sup> No initial levy or rate increase or decrease may take effect on a date other than January 1, and no levy may terminate on a day other than December 31.<sup>37</sup>

The Legislature has authorized a number of exemptions to sales and use taxes throughout Chapter 212. One of these exemptions allows for a sales tax exemption on the "sale, rental, lease, use, consumption, or storage for use . . . of power farm equipment used exclusively on a farm or in a forest in the agricultural production of crops or products."<sup>38</sup> "Agricultural production" is defined as "the production of plants and animals useful to humans, including the preparation, planting, cultivating, or harvesting of these products."<sup>39</sup> Activities considered "agricultural production" under the statute include forestry, dairy production, and beekeeping.<sup>40</sup> Accordingly, all power farm equipment purchased to be used in these activities is currently exempt from the state sales tax, which also exempts this equipment from local discretionary sales surtaxes.

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<sup>26</sup> s. 212.04, F.S.

<sup>27</sup> s. 212.06, F.S.

<sup>28</sup> s. 212.03, F.S.

<sup>29</sup> s. 212.031, F.S.

<sup>30</sup> s. 212.06(3)(a), F.S.

<sup>31</sup> s. 212.054(2)(a), F.S.

<sup>32</sup> 2013 Florida Tax Handbook, pg. 211.

<sup>33</sup> s. 212.054(2)(b)1., F.S.

<sup>34</sup> s. 212.055, F.S.

<sup>35</sup> s. 212.054(4)(a), F.S.

<sup>36</sup> s. 125.66(2)(a), F.S.

<sup>37</sup> s. 212.054(5), F.S.

<sup>38</sup> s. 212.08(3), F.S.

<sup>39</sup> s. 212.02(32), F.S.

<sup>40</sup> *Id.*

Current law does not define the term “trailer” for purposes of sales taxes, nor does it provide a sales tax exemption for trailers. “Trailer” is defined twice in Title XXIII of the Florida Statutes (relating to motor vehicles) as “[a]ny vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle”<sup>41</sup> and as “any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing vehicle.”<sup>42</sup> Additionally, Merriam-Webster’s Dictionary defines “trailer” as “a long platform or box with wheels that is pulled behind a truck or car and used to transport things” and “a vehicle that can be pulled by a truck or car and that can be parked and used as an office, vacation home, etc.”<sup>43</sup>

### Water Storage or Water Quality Improvement Projects on Agricultural Lands

If an agreement is entered into between DACS or a WMD and a private landowner for the purpose of developing a water storage or water quality improvement project, s. 373.4591, F.S., *requires* a baseline condition determining the extent of wetlands and other surface waters to be established and documented in the agreement before improvements are constructed.<sup>44</sup> The baseline, not the wetlands that might exist once the water storage or water quality project is complete, is considered the extent of wetlands and other surface waters for the purpose of regulation for the duration of the agreement and after its expiration.<sup>45</sup>

If a waterbody or segment of a waterbody is designated as impaired, the Clean Water Act (CWA) requires the state to set a total maximum daily load (TMDL),<sup>46</sup> which establishes the maximum amount of a given pollutant the waterbody can accept while still meeting water quality standards associated with its designated use.<sup>47</sup> Section 403.067(7), F.S., establishes the requirements for implementing a TMDL and provides for the development of a basin management action plan (BMAP). A BMAP is comprehensive set of strategies for restoring impaired waters by reducing pollutant loadings to meet the allowable loadings established in a TMDL. Section 403.067(7), F.S., also authorizes DACS to develop and adopt suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by DEP for agricultural pollutant sources to meet a specific TMDL for an impaired waterbody.<sup>48</sup> Best management practices can include, among other things, projects that hold back water for storage purposes and pollution reduction purposes, which may result in an increased area of wetlands or surface waters on private agricultural property.

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<sup>41</sup> s. 316.003(58), F.S.

<sup>42</sup> s. 320.01(4), F.S.

<sup>43</sup> Merriam-Webster’s Dictionary.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> CWA s. 402. Section 403.067, F.S., authorizes DEP to establish TMDLs in Florida.

<sup>47</sup> *Id.*

<sup>48</sup> s. 403.067(7)(c)2., F.S.

## Effect of Proposed Changes

### Greenbelt Classification and Dispersed Water Storage Programs

The bill allows landowners who do not file an application for agricultural classification by the annual March 1 deadline to provide the property appraiser evidence that the landowner was unable to apply in a timely manner or otherwise demonstrate extenuating circumstances. The evidence must be provided to the property appraiser within twenty-five (25) days after the landowner receives the notice of proposed property taxes, and before the landowner files a petition with the value adjustment board. If the property appraiser finds the evidence sufficient, the property appraiser may grant the classification. If the property appraiser determines that the applicant failed to produce sufficient evidence, the applicant may file a petition with the value adjustment board as provided under current law, and the value adjustment board may determine whether the agricultural classification should be granted for the current year.

The bill also requires lands already classified as agricultural that participate in a dispersed water storage program, pursuant to a contract with DEP or a WMD, to continue to be classified as agricultural as long as the lands are included in the program or a successor program. The bill also requires the lands to be assessed as nonproductive agricultural lands. Finally, the bill specifies that any land participating in a dispersed water storage program that is diverted to a nonagricultural use must be assessed under s. 193.011, F.S., which lists the factors that must be considered by a property appraiser when valuing nonagricultural property for ad valorem tax purposes.

### Sales Tax Exemptions

The bill amends ss. 212.02, 212.08(3), and 212.08(5) F.S., to expand existing sales tax exemptions and create new exemptions for items used in agricultural production as follows:

1. Expands the current tax exemption on the sale, rental, lease, use, or storage of power farm equipment used exclusively on a farm or in a forest in the agricultural production of crops or products to include the repair of and replacement parts and accessories for such equipment.
2. Expands the current definition of "agricultural production" to include the storage of raw products on the farm, the effect of which is to create a new tax exemption on the sale, rental, lease, use, storage, or repair of power farm equipment, including replacement parts and accessories, used exclusively on a farm or in a forest to store these raw products on the farm.
3. Creates a new tax exemption on the sale, rental, lease, use, storage, or repair of irrigation equipment, including replacement parts and accessories, used exclusively on a farm or in a forest in the agricultural production of crops or products.
4. Creates a new tax exemption on the sale price below \$20,000 of a trailer weighing 12,000 pounds or less and purchased by a farmer for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm product to another. The bill specifies that this exemption is not forfeited by using a trailer to transport the farmer's farm equipment, and that this exemption does not apply to the lease or rental of a trailer.
5. Creates a new tax exemption for stakes used by a farmer to support plants during agricultural production. These stakes are used primarily by tomato and pepper growers.

By adding exemptions to the state sales tax, the bill has the effect of adding exemptions to the local discretionary sales surtaxes authorized by law.

## Water Storage or Water Quality Improvement Projects on Agricultural Lands

If the Department of Agriculture and Consumer Services (DACCS) or a WMD and a private landowner enter into a best management practices agreement for water storage and water quality improvements on the landowner's property as part of the total maximum daily load program established in s. 403.067(7)(c), F.S., the bill allows the development of a baseline that sets the extent of wetlands and surface water on the property and allows the baseline to be included in the agreement before improvements are constructed. The baseline may be established at the option and expense of the private landowner. The baseline, not the wetlands that might exist once the water storage or water quality project is complete, will be considered the extent of wetlands and other surface waters for the purpose of regulation for the duration of the agreement and after its expiration.

### B. SECTION DIRECTORY:

Section 1. Amends s. 193.461, F.S., relating to the classification of agricultural lands for ad valorem tax purposes.

Section 2. Amends s. 212.02, F.S., to include the "storage of raw products on the farm" within the definition of "agricultural production."

Section 3. Amends s. 212.08, F.S., relating to sales tax exemptions for farm equipment used in agricultural production and transport.

Section 4. Amends s. 373.4591, F.S., relating to improvements on private agricultural lands.

Section 5. Provides an effective date of July 1, 2014.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill appears to have an indeterminate negative fiscal impact on state government revenues resulting from the expansion of sales tax exemptions. However, the Revenue Estimating Conference has not determined the bill's fiscal impact on the state.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

By adding exemptions to the state sales tax, the bill has the effect of adding exemptions to local option county sales taxes. Therefore, the bill appears to have an indeterminate negative fiscal impact on local government revenues. However, the Revenue Estimating Conference has not determined the bill's fiscal impact on local governments.

The bill's revisions to the greenbelt statute may also result in a negative fiscal impact on local government revenues by requiring property appraisers to maintain the agricultural classification for lands participating in a dispersed water storage program and requiring property appraisers to assess such lands as nonproductive agricultural lands. However, the Revenue Estimating Conference has not determined the bill's fiscal impact on local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill appears to have a direct positive fiscal impact on the private sector by reducing the amount of sales tax that certain agricultural producers must pay for specified agricultural products or services. The bill may also result in a direct positive fiscal impact on owners of agricultural lands that participate in dispersed water storage programs by requiring those lands to be assessed as nonproductive agricultural lands. However, the Revenue Estimating Conference has not determined the bill's fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county mandate provision of Art. VII, s. 18, of the Florida Constitution requiring 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 may apply because this bill expands exemptions to the state sales tax, which has the effect of expanding corresponding exemptions to local option sales taxes. However, the bill may be exempt if its fiscal impact is insignificant. The Revenue Estimating Conference has not determined the magnitude of the bill's fiscal impact on local governments.

2. Other:

With respect to the classification of land as "agricultural" for taxation purposes under Art. VII, s. 4 of the Florida Constitution and s. 193.461, F.S., courts have found that "the provisions governing such a classification should be strictly construed."<sup>49</sup> Furthermore, in defining words or phrases that grant exemptions to taxation, "the authority [of the Legislature] is not unlimited and must be exercised in a reasonable manner."<sup>50</sup> The Florida Supreme Court has stated that "the Legislature [is] not empower[ed] . . . to depart from the normal and ordinary meaning of the words chosen by the framers and adopters of the constitution." Accordingly, providing in statute that agricultural land participating in a dispersed water storage program must maintain its agricultural classification may implicate the provisions of Art. VII, s. 4 of the Florida Constitution in that it is unclear whether lands participating in a dispersed water storage program would be considered "agricultural lands" if the lands are not otherwise being used for a bona fide agricultural purpose. However, Florida courts have not ruled on this specific question.

Finally, the bill may implicate the constitutional duties of the property appraiser. The Florida Supreme Court has held that the State cannot usurp the duties of property appraisers or materially interfere with their discretion in discharging their duties.<sup>51</sup> Since it is the duty of property appraisers "to determine the fair value of all properties within the county boundaries,"<sup>52</sup> the State, including the Legislature and the Department of Revenue, may only "establish standard measures of valuation" to be used by the property appraisers.<sup>53</sup> However, the bill requires that land participating in a dispersed

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<sup>49</sup> St. Petersburg Kennel Club, Inc. v. Smith, 662 So. 2d 1270, 1271 (Fla. 2d DCA 1995).

<sup>50</sup> Department of Revenue v. Florida Boaters Association, Inc., 409 So. 2d 17, 19 (Fla. 1982).

<sup>51</sup> Burns v. Butscher, 187 So. 2d 594, 596 (Fla. 1966).

<sup>52</sup> Spooner v. Askew, 345 So. 2d 1055, 1058 (Fla. 1976).

<sup>53</sup> District School Bd. of Lee Co. v. Askew, 278 So. 2d 272, 275 (Fla. 1973).

water storage program be assessed as nonproductive agricultural land.<sup>54</sup> It is unclear whether a reviewing court would consider this requirement a prescribed valuation rather than a measure of valuation to be used by the property appraiser. However, Florida courts have not ruled on this specific question.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 4, 2014, the Agriculture & Natural Resources Subcommittee reported HB 575 favorably as a committee substitute after adopting a strike-all amendment. The amendment:

1. Revises the process agricultural landowners must follow if they fail to meet the March 1 application deadline for renewal of an agricultural classification by requiring the landowner to file an application with the property appraiser within twenty-five (25) days after receiving a notice of proposed property taxes.
2. Clarifies that the sales and use tax exemption for irrigation equipment also applies to replacement parts and accessories for the irrigation equipment.
3. Limits the sales tax exemption for trailers used in agricultural production to trailers that weigh 12,000 pounds or less and only on the first \$20,000 of the purchase price.
4. Creates a sales tax exemption for stakes used by farmers to support plants during agricultural production.
5. Authorizes the establishment of a baseline wetland determination if the property owner enters into an agreement with DACS to implement certain best management practices.

This analysis is drafted to the CS as passed by the Agriculture & Natural Resources Subcommittee.

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<sup>54</sup> *But see* s. 193.461(7), F.S. (“[Lands in an eradication or quarantine program] shall be assessed at a de minimus value of no more than \$50 per acre . . .”).