

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 Agriculture

BILL: SB 624
 INTRODUCER: Senator Simpson
 SUBJECT: Fair Associations
 DATE: February 17, 2014 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	AFT	_____
4.	_____	_____	AP	_____

I. Summary:

SB 624 provides an exemption from or prohibits the assessment of fees and taxes for fair associations, as defined in s. 616.001, F.S., as follows:

- A tax, special assessment, or fee by a county related to stormwater management facilities.
- An impact or mobility fee by a county, municipality, or special district, retroactive to July 9, 2009, further requiring that any such fees collected between the retroactive date and effective date of this bill must be refunded.
- A special assessment by a municipality related to stormwater facilities even if the fair’s property is benefitted.
- An ad valorem tax on personal or real property used predominately for fair purposes.
- A special assessment by a water control district of a maintenance tax related to stormwater facilities even if the fair’s property is benefitted.
- Any fee or assessment by a local government to maintain a stormwater management facility.

Additionally, the bill makes legislative findings and declares that this bill fulfills an important state interest.

II. Present Situation:

A “fair association” or “association” is defined as an association not for profit incorporated under Ch. 616, F.S. for the purpose of conducting and operating public fairs or expositions,¹ which is further defined as a project, activity, event, or program, and use by a fair association, including, but not limited to, the annual public fair, which serves the purposes specified in s. 616.08, F.S. and benefits and develops the educational, agricultural, horticultural, livestock, charitable,

¹ Section 616.001(11), F.S.

historical, civic, cultural, scientific, and other resources of this state, or any county, municipality, or other community in this state.²

There are approximately 50 fair and livestock shows that have events scheduled from October through April,³ which events cannot be conducted without first obtaining a permit pursuant to rules adopted by the Department of Agriculture and Consumer Services.⁴ Forty nine fair associations receive support and guidance from the Florida Federation of Fairs and Livestock while a few small fairs have not joined the Federation.⁵

The Florida Stormwater Association (FSA) serves professionals in stormwater management and finance. It reports that in 2011, of the 67 counties and 405 cities in the state, approximately 154 local governments had established stormwater utilities pursuant to Ch. 403, F.S., or their home rule powers. FSA surveys indicate that revenue generated from stormwater utilities represents a significant source of funds to address stormwater pollution and flooding problems but it still falls far short of being able to address long-term, capital needs.⁶

Florida statutes provide that all real and personal property in this state shall be subject to taxation unless expressly exempted.⁷ For determination of an exemption, “Exempt use of property” or “use of property for exempt purposes” means predominant or exclusive use of property owned by an exempt entity for educational, literary, scientific, religious, charitable, or governmental purposes⁸ as those terms are defined in Ch. 196, F.S. There is no specific exemption for fair associations.

III. Effect of Proposed Changes:

Section 1 creates s. 157.37, F.S., to prohibit a county from levying a tax, special assessment, or fee related to stormwater management facilities against land owned by a fair association as defined in s. 616.001, F.S.

Sections 2 and 3 amend s. 163.31801, F.S., to prohibit a county, municipality, or special district from imposing an impact or mobility fee on a fair association as defined in s. 616.001, F.S., and applies this prohibition retroactively to any fee assessed between July 9, 2009, and July 1, 2014; it further requires that any such fees collected during this time period must be refunded to the fair association by October 1, 2014.

Section 4 amends s. 170.01, F.S., to prohibit a municipality from levying a special assessment related to stormwater facilities against real property owned by a fair association as defined in s. 616.001, F.S., even if such real property is benefitted or increases in value due to the stormwater facilities.

² Section 616.001(12), F.S.

³ See <http://www.freshfromflorida.com/Divisions-Offices/Marketing-and-Development/Consumer-Services/Recreation/Fairs-and-Livestock-Shows-in-Florida>. (Site last visited Jan 29, 2014).

⁴ Sections 616.15 and 616.165, F.S.

⁵ Email from Lisa Hinton, Executive Director, Florida Federation of Fairs (Feb. 5, 2014) (On file with the Senate Agriculture Committee).

⁶ See <http://www.florida-stormwater.org/>. (Site last visited Feb 5, 2014).

⁷ Section 196.001, F.S.

⁸ Section 196.012(1), F.S.

Section 5 creates s. 196.1988, F.S., to exempt personal or real property owned by a fair association from ad valorem tax by defining it as property within the purview of s. 3(a), Art. VII of the State Constitution⁹ if such property is used predominately for fair purposes as described in the definition of “Public fair or exposition.”¹⁰ Any portion of such property used for nonexempt purposes may be valued and placed on the tax rolls.

Section 6 amends s. 298.305, F.S., to prohibit the board of supervisors of a water control district from levying a special assessment of a maintenance tax authorized by s. 298.54, F.S.¹¹ related to stormwater facilities against real property owned by a fair association as defined in s. 616.001, F.S., even if such real property is benefitted or increases in value due to the proposed work or improvement.

Section 7 amends s. 298.54, F.S., to state that real property owned by a fair association is exempt from a maintenance tax that the board of supervisors of a water control district is authorized to levy under this section.

Section 8 amends s. 403.0893, F.S., to exempt a fair association from any fee or assessment by a county or municipality to plan, construct, operate, use, or maintain a stormwater management system.

Section 9 sets forth legislative findings in support of the Legislature’s determination and declaration that this bill fulfills an important state interest.

Section 10 provides that the bill shall take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill reduces the authority of cities and counties to raise revenue by creating an exemption from ad valorem taxes, impact or mobility fees, and storm water related assessments and fees on property owned by fair associations. Accordingly, the bill may require a 2/3rds vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ Fla.Const art VII, s. 3(a) exempts municipal property used for municipal or public purposes from ad valorem taxation.

¹⁰ Section 616.001(12), F.S.

¹¹ Section 298.54, F.S., authorizes an annual levy on each parcel within the district to maintain and preserve ditches, drains, or other improvements apportioned upon the basis of the net assessments of benefits.

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

The bill creates an exemption from stormwater management fees and special assessments, impact or mobility fees, and ad valorem taxes that would otherwise be due from fair associations. An estimate of the extent of revenue reduction incurred by local governments will not be available until the Revenue Estimating Conference (REC) has analyzed the bill. At the time this analysis was published, REC had not yet considered this bill.

B. Private Sector Impact:

Fair associations would benefit by being exempt from ad valorem taxes, impact or mobility fees, and storm water related fees on property owned by the fair association to an extent unknown until the Revenue Estimating Conference has analyzed the bill.

C. Government Sector Impact:

The bill creates an exemption from stormwater management fees and special assessments, impact or mobility fees, and ad valorem taxes that would otherwise be due from fair associations. An estimate of the extent of revenue reduction incurred by local governments will not be available until the Revenue Estimating Conference (REC) has analyzed the bill. At the time this analysis was published, REC had not yet considered this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.31801, 170.01, 298.305, 298.54, and 403.0893.

This bill creates the following sections of the Florida Statutes: 157.37 and 196.1988.

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.
