

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 142

INTRODUCER: Senator Dean

SUBJECT: Nonresidential Farm Buildings

DATE: January 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Favorable
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

I. Summary:

SB 142 exempts nonresidential farm buildings, farm fences, and farm signs 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

A nonresidential farm building is a temporary or permanent structure on a farm, or on land used primarily for agricultural purposes, that is not intended to be used as a residential dwelling.¹ Examples include barns, greenhouses, shade houses, farm offices, storage buildings, and poultry houses. Section 604.50, F.S., exempts nonresidential farm buildings,² farm fences, and farm signs from the Florida Building Code,³ any county or municipal code, and any county or municipal fee.⁴ The legislative history of the exemption reaches back to 1998 when nonresidential farm buildings were exempted from having to follow building code provisions.⁵ In 2011, legislation exempted nonresidential farm buildings from any county or municipal fees.⁶ Currently, these buildings are not exempt from assessments.

¹ Section 604.50(2)(d), F.S.

² To qualify for the exemption, the nonresidential farm buildings must be located on lands used for bona fide agricultural purposes, as defined in s. 193.461(3)(b), F.S.

³ See also s. 553.73(10)(c), F.S.

⁴ Section 604.50(1), F.S. However, this exemption does not extend to any code provisions implementing floodplain management regulations.

⁵ Chapter 98-396, Laws of Fla.

⁶ Chapter 2011-7, Laws of Fla.

Special Districts

Special districts are local units of special purpose government, within limited geographical areas, which are utilized to manage, own, operate, maintain, and finance basic capital infrastructure, facilities, and services. Special districts have existed in Florida since 1845 when the Legislature authorized five commissioners to drain the “Alachua Savannah” also known as Paynes Prairie. The project was financed by special assessments made on landowners based on the number of acres owned and the benefit derived. Since that time, special districts have been useful to local governments in providing a broad range of government services. All special districts must comply with the requirements of the Uniform Special District Accountability Act of 1989 which was enacted by the Legislature to reform and consolidate laws relating to special districts. The Act provides for the definitions, creation, operation, financial report, taxation and non-ad valorem assessments, elections and dissolution of most special districts.

Special districts serve a limited purpose, function as an administrative unit separate and apart from the county or city in which they may be located, and are often referred to as a local unit of special purpose. Special districts may be created by general law (an act of the Legislature), by special act (a law enacted by the Legislature at the request of a local government and affecting only that local government), by local ordinance, or by rule of the Governor and Cabinet.

Some of the functions that special districts serve include community development districts, community redevelopment districts, downtown development districts, drainage and water control districts, economic development districts, fire control and rescue districts, mosquito control districts, and soil and water conservation districts. The Special District Information Program (SDIP) within the Department of Economic Opportunity serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function.⁷ There are 1,642 special districts, including 636 dependent and 1,006 independent special districts.

Dependent Special Districts

A dependent district meets at least one of the following criteria:

- The special district governing body members are the same as the governing body members of the county or city that created the district;
- The special district governing board members are appointed by the governing body of the county or city that created the district;
- During the terms of membership, the governing board members of the special district are subject to removal at will by the governing body of the county or city that created the district;
- The special district budget must be approved by an affirmative vote of the governing body of the county or city that created the district; or
- The special district budget can be vetoed by the governing body of the county or city that created the district.

The ordinance creating a dependent special district must provide the following:

- A statement referencing the district’s dependent status, including a statement that explains why the special district is the best way to provide the service being provided;

⁷ Information relating to special districts and their functions can be found in the SDIP online publication “Florida Special District Handbook Online” which can be found at <http://www.floridaspecialdistricts.org/handbook/>.

- The purpose, powers, functions, authority, and duties of the district;
- District boundaries;
- The membership, organization, compensation, and administrative duties of the special district governing board;
- Applicable financial disclosure, noticing, and reporting requirements;
- The method by which the special district will be financed; and
- A declaration that the creation of the special district is consistent with the approved local government comprehensive plan.

Independent Special Districts

An independent special district does not have any of the characteristics of a dependent district, may encompass more than one county unless the district lies wholly within the boundaries of one city, and generally is created by an act of the Legislature. However, counties and cities may create community development districts of less than 1,000 acres,⁸ public hospital districts,⁹ county children's services districts,¹⁰ and county health and mental health care districts.¹¹ Two or more counties may create regional jail districts,¹² and any combination of counties or cities, or both, may create regional water supply authorities.¹³ Regional transportation authorities may be created by any combination of contiguous counties, cities, or other political subdivisions.¹⁴ Finally, the Governor and the Cabinet, sitting as the Florida Land and Water Adjudicatory Commission, have the authority to create community development districts.¹⁵

With the exception of a community development district, the charter creating an independent special district must contain the following information:

- The purpose of the special district;
- The powers, functions and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
- Method for establishing the district and amending the district charter;
- The membership, organization, compensation, and administrative duties of the governing board and its members;
- Applicable financial disclosure, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Method for financing the district;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;

⁸ Chapter 190.005(2), F.S.

⁹ Chapter 155.04 and 155.05, F.S.

¹⁰ Section 125.901, F.S.

¹¹ Section 154.331, F.S.

¹² Section 950.001, F.S.

¹³ Section 373.713, F.S.

¹⁴ Section 163.567, F.S.

¹⁵ Section 190.005(1), F.S.

- Planning requirements; and
- District boundaries.

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 depends on the context of requirements established in Florida case law.¹⁶

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.¹⁷

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 or service provided; and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.¹⁸

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.¹⁹ Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,²⁰ fire protection,²¹ fire and rescue services,²² and stormwater management services.²³

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.

¹⁶ See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at 9-15 (2013).

¹⁷ For example, s. 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.

¹⁸ See *City of Boca Raton v. State*, 595 So 2d 25 (Fla. 1992).

¹⁹ *Whisnant v. Stringfellow*, 50 So. 2d 885 (Fla. 1951).

²⁰ *Harris v. Wilson*, 693 So. 2d 945 (Fla 1997).

²¹ *South Trail Fire Control Dist., Sarasota County v. State*, 273 So. 2d380 (Fla. 1973).

²² *Lake County v. Water Oak Mgmt Corp.*, 695 So. 2d 667 (Fla. 1997).

²³ *Sarasota County v. Sarasota Church of Christ*, 667 So. 2d 180 (Fla. 1995).

Generally, a special assessment, whether imposed for capital projects or services, is collected on an annual ad valorem tax bill. Under such statutory collection procedure, the special assessment is characterized as a “non-ad valorem assessment.”²⁴

Assessments by Independent Fire Control Districts

Chapter 2013-183, Laws of Fla.,²⁵ amended s. 191.009, F.S., to authorize independent special fire control districts to levy non-ad valorem assessments for emergency medical and emergency transport services. The provision of such services is recognized, in law, as constituting a benefit to real property. The legislation also provided that if a district levies a non-ad valorem assessment for either service, then the district must cease charging an ad valorem tax for the service. Additionally, the legislation provided that a district can levy non-ad valorem assessments on lands within the district without limitation to only being able to impose assessments to benefited real property.

III. Effect of Proposed Changes:

Section 1 amends s. 604.50, F.S., to exempt nonresidential farm buildings, farm fences, and farm signs from county or municipal assessments, including assessments by dependent special districts. The bill would provide this exemption in addition to, and not replacing, the presently existing exemption from county or municipal fees. Fees arising from floodplain management regulations would still apply.

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill reduces the authority of counties and municipalities to raise revenues because it would eliminate their ability to collect assessments on 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.²⁶ 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.

²⁴ See s. 197.3632(1)(d), F.S.

²⁵ CS/CS/SB 1410 (2013).

²⁶ As of January 2014, the total state population is estimated to be 19,507,369. University of Florida, Bureau of Economic and Business Research, *Florida Estimates of Population*, available at <http://www.bebr.ufl.edu/data/state/Florida> (last visited Jan. 12, 2015).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The bill reduces revenues to counties and municipalities by providing an exemption from assessments for qualified agricultural buildings.

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.

C. Government Sector Impact:

The bill will eliminate the ability of counties and municipalities to collect assessments on qualified agricultural buildings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue has made recommendations on how to clarify whether the intent of the bill is to provide an exemption from local ad valorem taxes and non-ad valorem assessments or fees.²⁷ Additionally, it is unclear that a levying authority would continue to provide services to a property if the levying authority did not assess the fees that pay for those services.²⁸

VIII. Statutes Affected:

This bill substantially amends section 604.50 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.

²⁷ Florida Dep't of Revenue, *Legislative Bill Analysis SB 142*, at 5 (2015).

²⁸ *Id.*

B. Amendments:

None.

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