

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 Finance and Tax

BILL: SB 142

INTRODUCER: Senator Dean

SUBJECT: Nonresidential Farm Buildings

DATE: March 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

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.

The Revenue Estimating Conference has not determined the fiscal impact of the bill. Staff estimates that the bill will reduce local government revenues by at least \$6.6 million annually.

The bill is effective on July 1, 2015.

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.²

¹ Section 604.50(2)(d), F.S.

² *Id.*

Section 604.50, F.S., exempts nonresidential farm buildings,³ farm fences, and farm signs from the Florida Building Code,⁴ any county or municipal code, and any county or municipal fee.⁵ Currently, these structures are not exempt from assessments.

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.⁶ Special districts may be created by general law, by special act, by local ordinance, or by rule of the Governor and Cabinet.⁷ The Uniform Special District Accountability Act of 1989,⁸ provides requirements for the creation, operation, and dissolution of most special districts.

Some types of special districts 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 maintains a list of special districts categorized by function.⁹ There are 1,634 active special districts, including 633 dependent and 1,001 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.¹⁰

³ 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.

⁴ See also s. 553.73(10)(c), F.S.

⁵ Section 604.50(1), F.S. However, this exemption does not extend to any code provisions implementing floodplain management regulations.

⁶ See generally s. 189.012(6), F.S.

⁷ See *Id.*

⁸ Sections 189.01 through 189.082, F.S.

⁹ Information relating to special districts and their functions can be found in the SDIP online publication "Florida Special District Handbook Online" available at <http://www.floridaspecialdistricts.org/handbook/>

¹⁰ Section 189.012(2), F.S.

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.¹¹

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 requirements established in Florida case law.¹²

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.¹³

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.¹⁴

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.¹⁵ Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,¹⁶ fire protection,¹⁷ fire and rescue services,¹⁸ and stormwater management services.¹⁹

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.

¹¹ See generally ss. 189.012(3) and 189.031, F.S.

¹² See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at 9-15 (2013).

¹³ 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.

¹⁴ See *City of Boca Raton v. State*, 595 So. 2d 25, 29 (Fla. 1992).

¹⁵ *Whisnant v. Stringfellow*, 50 So. 2d 885 (Fla. 1951) (citing *Crowder v. Phillips*, 146 Fla. 428 (Fla. 1941)).

¹⁶ *Harris v. Wilson*, 693 So. 2d 945 (Fla. 1997).

¹⁷ *South Trail Fire Control Dist., Sarasota County v. State*, 273 So. 2d 380 (Fla. 1973).

¹⁸ *Lake County v. Water Oak Mgmt Corp.*, 695 So. 2d 667 (Fla. 1997).

¹⁹ *Sarasota County v. Sarasota Church of Christ*, 667 So. 2d 180 (Fla. 1995).

Special assessments may be collected on an annual ad valorem tax bill. Under such statutory collection procedure, the special assessment is characterized as a “non-ad valorem assessment.”²⁰

Assessments by Independent Fire Control Districts

Chapter 2013-183, Laws of Fla.,²¹ 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 demonstrating a special benefit to the 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 provides this exemption in addition to, and not replacing, the presently existing exemption from county or municipal fees. Fees arising from floodplain management regulations 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 eliminates 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. 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.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁰ See s. 197.3632(1)(d), F.S.

²¹ CS/CS/SB 1410 (2013).

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

The REC has not determined the fiscal impact of the bill. Staff estimates that the bill will reduce local government revenues by at least \$6.6 million annually.

B. Private Sector Impact:

Owners of nonresidential farm buildings 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.²² 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.²³

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.

B. Amendments:

None.

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

²² Florida Dep't of Revenue, *Legislative Bill Analysis SB 142*, at 5 (2015).

²³ *Id.*