

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 Fiscal Policy

BILL: CS/SB 1664

INTRODUCER: Fiscal Policy Committee and Senator Stargel

SUBJECT: Special Assessments on Agricultural Lands

DATE: February 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.	Babin	Diez-Arguelles	FT	Favorable
3.	Babin	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1664 prohibits counties and municipalities from levying or collecting special assessments for fire protection services on agricultural lands, unless the agricultural lands contain a residential dwelling, or a nonresidential farm building with a just value in excess of \$25,000. Special assessments that are levied because the land includes a residential dwelling or nonresidential farm building must be based solely on the special benefit that accrues to the dwelling, including the curtilage, or the farm building.

The bill excludes “agricultural pole barns” from imposition of the special assessment if 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

The bill is effective November 1, 2017.

The Revenue Estimating Conference (REC) has not determined the impact of CS/SB 1664; however, the REC determined that the original bill would reduce local non-ad valorem revenues by \$6.9 million in Fiscal Year 2016-2017, with a \$6.9 million recurring reduction.

II. Present Situation:

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. For land to be classified as agricultural, it must be used "primarily for bona fide agricultural purposes."¹ The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land.² In determining whether the use of the land for agricultural purposes is bona fide, the property appraiser may take the following factors into consideration:

- The length of time the land has been used as agricultural.
- Whether the use has been continuous.
- The purchase price paid.
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- Other factors as may become applicable.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, including algaculture; sod farming; and all forms of farm products and farm production.⁴

Property appraisers are required to reclassify lands as nonagricultural when they are diverted from an agricultural to a nonagricultural use or no longer utilized for agricultural purposes.⁵

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.⁶

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.,

¹ Section 193.461(3)(b), F.S.

² *Id.*

³ *Id.*

⁴ Section 193.461(5), F.S.

⁵ Section 193.461(4), F.S.

⁶ See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, pgs. 9-16 (Dec. 2015), available at <http://www.edr.state.fl.us/Content/local-government/reports/lghih15.pdf> (last visited Feb. 20, 2016).

authorizes the levy of special assessments for county government. Chapter 170, F.S., authorizes the levy of special assessments by municipal governments. Section 125.271, F.S., authorizes the levy of special assessments by county emergency medical services. Special districts derive their authority to levy special assessments through general law or the special act creating the district.⁷

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.⁸

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.⁹ Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,¹⁰ fire protection,¹¹ fire and rescue services,¹² and stormwater management services.¹³

Once an identified service or capital facility satisfies the special benefit test, the assessed amount is required to be fairly apportioned among the benefited properties in a manner consistent with the logical relationship embodied in the special benefit requirement.

Special assessments may be collected on an annual ad valorem tax bill.¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 125.01, F.S., to prohibit a county from levying or collecting special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461, F.S., unless the agricultural lands contain a residential dwelling, or a nonresidential farm building with a just value in excess of \$25,000.

The bill requires special assessments that are levied to be based solely on the special benefit that accrues to the dwelling, including the curtilage, or the nonresidential farm building.

The bill excludes “agricultural pole barns” from imposition of the special assessment and defines agricultural pole barns as nonresidential farm buildings in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

Section 2 amends s. 170.01, F.S., to prohibit a municipality from levying or collecting special assessments for the provision of fire protection services on lands classified as agricultural lands

⁷ 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.

⁸ *City of Boca Raton v. State*, 595 So.2d 25, 29 (Fla. 1992).

⁹ *Whisnant v. Stringfellow*, 50 So.2d 885 (Fla. 1951) (citing *Crowder v. Phillips*, 146 Fla. 440 (Fla. 1941)).

¹⁰ *Harris v. Wilson*, 693 So.2d 945 (Fla 1997).

¹¹ *South Trail Fire Control Dist., Sarasota County v. State*, 273 So.2d 380 (Fla. 1973).

¹² *Lake County v. Water Oak Mgmt. Corp.*, 695 So.2d 667 (Fla. 1997).

¹³ *Sarasota County v. Sarasota Church of Christ, Inc.*, 667 So.2d 180 (Fla. 1995).

¹⁴ See s. 197.3632(1)(d), F.S.

under s. 193.461, F.S., unless the agricultural lands contain a residential dwelling, or a nonresidential farm building with a just value in excess of \$25,000.

The bill requires special assessments that are levied to be based solely on the special benefit that accrues to the dwelling, including the curtilage, or the nonresidential farm building.

The bill excludes “agricultural pole barns” from imposition of a special assessment and defines agricultural pole barns as nonresidential farm buildings in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

Section 3 provides that the bill is effective November 1, 2017.

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 levy or collect special assessments for the provision of fire protection services on agricultural lands. 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, which for Fiscal Year 2016-2017 is \$2 million or less.^{15, 16} Because the bill is estimated to reduce county and municipal revenues by more than an insignificant amount, the bill may require a two-thirds vote of the membership.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not determined the impact of CS/SB 1664; however, the REC determined that the original bill would reduce local

¹⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 24, 2016).

¹⁶ Based on the Demographic Estimating Conference’s population adopted on December 1, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 24, 2016).

non-ad valorem revenues by \$6.9 million in Fiscal Year 2016-2017, with a \$6.9 million recurring reduction.¹⁷

B. Private Sector Impact:

Owners of certain agricultural lands will benefit to the extent that they will not have to pay a special assessment for fire protection services that may have otherwise been levied by a county or a municipality.

C. Government Sector Impact:

The bill will eliminate the ability of counties and municipalities to collect special assessments for the provision of fire protection services on certain portions of agricultural lands.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.01 and 170.01 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Fiscal Policy on February 24, 2016:

The CS allows counties and municipalities to continue to levy special assessments for fire protection services on portions of agricultural lands that contain a residential dwelling, or a nonresidential farm building with a value in excess of \$25,000. However, the special assessment cannot be levied on agricultural pole barns if 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress. The CS extends the effective date from July 1, 2016, to November 1, 2017.

B. Amendments:

None.

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

¹⁷ Office of Economic and Demographic Research, Revenue Estimating Conference, *SB 1664 (HB 773)* (Jan. 29, 2016), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page436-439.pdf> (last visited Feb. 24, 2016).