

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1664

INTRODUCER: Senator Stargel

SUBJECT: Special Assessments on Agricultural Lands

DATE: January 25, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	<b>Pre-meeting</b>
2.			FT	
3.			FP	

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**I. Summary:**

SB 1664 prohibits counties and municipalities 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.

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

- The length of time the land has been so used.
- 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, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices.
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.

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

<sup>2</sup> *Id.*

- Such other factors as may become applicable.<sup>3</sup>

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.<sup>4</sup>

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.<sup>5</sup>

### **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.<sup>6</sup>

#### ***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.<sup>7</sup>

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.<sup>8</sup>

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.<sup>9</sup> Many assessed services and improvements have been upheld as

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<sup>3</sup> *Id.*

<sup>4</sup> Section 193.461(5), F.S.

<sup>5</sup> Section 193.461(4), F.S.

<sup>6</sup> See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at pgs. 9-16 (December 2015) available at <http://www.edr.state.fl.us/Content/local-government/reports/lgfih15.pdf> (last visited: Jan. 20, 2015).

<sup>7</sup> 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.

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

<sup>9</sup> *Whisnant v. Stringfellow*, 50 So.2d 885 (Fla. 1951) (citing *Crowder v. Phillips*, 146 Fla. 428 (Fla. 1941)).

providing the requisite special benefit. Such services and improvements include: garbage disposal,<sup>10</sup> fire protection,<sup>11</sup> fire and rescue services,<sup>12</sup> and stormwater management services.<sup>13</sup>

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.

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.”<sup>14</sup>

#### *Assessments by Independent Fire Control Districts*

Chapter 2013-183, Laws of Fla.,<sup>15</sup> 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.<sup>16</sup> 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.<sup>17</sup> 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. 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.

**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 under s. 193.461, F.S.

**Section 3** provides an effective date of July 1, 2016.

### **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 certain agricultural lands. Article VII, section 18(b) of the Florida

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

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

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

<sup>13</sup> *Sarasota County v. Sarasota Church of Christ*, 667 So.2d 180 (Fla. 1995).

<sup>14</sup> See s. 197.3632(1)(d), F.S.

<sup>15</sup> CS/CS/SB 1410 (2013).

<sup>16</sup> Section 191.009(2)(b)2., F.S.

<sup>17</sup> Section 191.009(2)(b)1., F.S.

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.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**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 which 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 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 Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

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