

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/HB 773	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	State Affairs Committee; Albritton and others	114 Y's	0 N's
<b>COMPANION BILLS:</b>	CS/SB 1664	<b>GOVERNOR'S ACTION:</b>	Approved

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**SUMMARY ANALYSIS**

CS/HB 773 passed the House and Senate on March 4, 2016.

A special assessment is a compulsory assessment that confers a specific benefit upon the land burdened by the assessment and is reasonably apportioned among the properties that receive the special benefit. Special assessments are not taxes. Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities.

Florida's "greenbelt law" allows properties classified as a bona fide agricultural operation to be taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, ad valorem tax assessments for qualifying lands are lower than tax assessments on lands used for other purposes.

The bill amends ss. 125.01 and 170.01, F.S., to prohibit counties and municipalities from levying a special assessment for the provision of fire protection on lands classified as agricultural under Florida's greenbelt law. However, the bill authorizes counties and municipalities to levy special assessments for fire protection services on lands classified as agricultural if the land contains a residential dwelling or nonresidential farm building, except an agricultural pole barn, provided the nonresidential farm building's value exceeds \$10,000. The special assessment for fire protection services must be based solely on the special benefit accruing to the portion of the property consisting of the residential dwelling and curtilage, and qualifying nonresidential farm buildings. The bill defines "agricultural pole barn" as a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

The Revenue Estimating Impact Conference estimated that this bill will have no impact on state revenue. The bill will likely have a significant negative fiscal impact on local governments, but the Revenue Estimating Conference has not reviewed the committee substitute.

The bill was approved by the Governor on March 24, 2016, ch. 2016-89, L.O.F., and will become effective on November 1, 2017.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Agricultural Land Classification

Section 193.461, F.S., also known as Florida's "greenbelt law" allows properties classified as bona fide agricultural operations to be taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, ad valorem tax assessments for qualifying lands are lower than tax assessments on lands used for other purposes.

##### Revenue Sources Based on Home Rule Authority

Florida 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 compliance with the requirements established in Florida case law.<sup>1</sup>

##### Special Assessments

While similar, legally imposed special assessments are not taxes. The Florida Supreme Court explained:

Taxes and special assessments are distinguishable in that, while both are mandatory, there is no requirement that taxes provide any specific benefit to the property; instead, they may be levied throughout the particular taxing unit for the general benefit of residents and property. On the other hand, special assessments must confer a specific benefit upon the land burdened by the assessment.<sup>2</sup>

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 by county government. Chapter 170, F.S., authorizes the levy of special assessments by municipal governments. Special districts derive authority to levy special assessments through general law or special act creating the district.<sup>3</sup>

Case law establishes two requirements for the imposition of a valid special assessment:

- 1) 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>4</sup>

To determine whether a special assessment confers a special benefit on property, local governments must evaluate whether there is a "logical relationship" between the services provided and the benefit to real property.<sup>5</sup> Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,<sup>6</sup> fire protection,<sup>7</sup> fire and rescue services,<sup>8</sup> and stormwater management services.<sup>9</sup>

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<sup>1</sup> See Office of Economic and Demographic Research, Local Government Financial Information Handbook, at 9-15 (2013).

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

<sup>3</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>4</sup> City of Boca Raton, at 29.

<sup>5</sup> Whisnant v. Stringfellow, 50 So. 2d 885, 885 (Fla. 1951).

<sup>6</sup> Harris v. Wilson, 693 So. 2d 945 (Fla 1997).

<sup>7</sup> South Trail Fire Control Dist., Sarasota County v. State, 273 So. 2d 380 (Fla. 1973).

<sup>8</sup> Lake County v. Water Oak Mgmt Corp., 695 So. 2d 667 (Fla. 1997).

<sup>9</sup> Sarasota County v. Sarasota Church of Christ, 667 So. 2d 180 (Fla. 1995).

Once an identified service or capital facility satisfies the special benefit test, the local government must fairly apportion the assessment among the benefited properties in a manner consistent with the logical relationship embodied in the special benefit requirement.<sup>10</sup> An apportionment is considered reasonable unless it “so transcend[s] the limits of equality and reason” that it becomes extortion and confiscation of the property assessed.<sup>11</sup> “As long as the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on other tracts,” any method of apportioning the special benefits is valid and need not be mathematically precise.<sup>12</sup> Courts have accepted several apportionment methods.<sup>13</sup>

Generally, a special assessment 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.”<sup>14</sup>

#### Assessments by Independent Fire Control Districts

An independent special fire control district may levy non-ad valorem assessments for district facilities, fire suppression services, fire protection services, fire prevention services, emergency rescue services, first response medical aid, emergency medical services, and emergency transport services.<sup>15</sup> The provision of such services is recognized as constituting a benefit to real property.<sup>16</sup> If a district levies a non-ad valorem assessment for emergency medical and emergency transport service, then the district must cease charging an ad valorem tax for the service.<sup>17</sup>

#### **Effect of the Bill**

The bill amends ss. 125.01 and 170.01, F.S., to prohibit counties and municipalities from levying a special assessment for the provision of fire protection services on lands classified as agricultural under Florida’s greenbelt law. However, the bill authorizes counties and municipalities to levy special assessments for fire protection services on lands classified as agricultural if the lands contains a residential dwelling or nonresidential farm building, except an agricultural pole barn, provided the nonresidential farm building’s value exceeds \$10,000. The special assessment for fire protection services must be based solely on the special benefit accruing to the portion of the property consisting of the residential dwelling and curtilage, and qualifying nonresidential farm buildings. The bill defines “agricultural pole barn” as a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

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<sup>10</sup> City of Boca Raton, at 29.

<sup>11</sup> Atlantic Coast Line R.R. v. City of Winter Haven, 151 So. 321, 324 (Fla.1933).

<sup>12</sup> City of Boca Raton, at 31.

<sup>13</sup> See Atlantic Coast Line R.R., at 323 (accepting front foot rule); Meyer v. City of Oakland Park, 219 So.2d 417, 419 (Fla.1969) (accepting area method); City of Naples v. Moon, 269 So. 2d 355, 358 (Fla.1972) (accepting market value method).

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

<sup>15</sup> Section 191.009(2)(a) and (b), F.S.

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

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

1. Revenues:

On January 29, 2016, the Revenue Estimating Impact Conference estimated that this bill will have a negative \$6.9 million annual impact on local governments. However, the bill was amended by the State Affairs Committee to limit, rather than prohibit, counties and municipalities from levying special assessments for fire protection on agricultural lands. This change may reduce the fiscal impact on local governments, but the Revenue Estimating Conference has not reviewed the committee substitute.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some owners of lands classified as agricultural may experience a reduction of special assessments because the bill limits when counties and municipalities may levy special assessments for fire protection services on agricultural lands.

D. FISCAL COMMENTS:

None.