

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 149 Aquaculture Land Valuation

SPONSOR(S): Ways & Means Committee, Tuck

TIED BILLS: IDEN./SIM. **BILLS:** SB 404

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|----------------------------|------------------|---------|---------------------------------------|
| 1) Ways & Means Committee | 13 Y, 1 N, As CS | Davis | Aldridge |
| 2) State Affairs Committee | 19 Y, 2 N | Smith | Williamson |

SUMMARY ANALYSIS

Florida law allows for properties used for bona fide agricultural purposes to be taxed based on the properties' agricultural use. "Agricultural purposes" includes horticulture; floriculture; viticulture; forestry; sod, dairy, livestock, poultry, and bee farming; pisciculture; aquaculture; algaculture; and all forms of farm products and farm production. Generally, ad valorem tax assessments for properties classified as agricultural are lower than those for nonagricultural properties. When assessing property used for bona fide agricultural purposes, the property appraiser must consider the use factors specified in statute, including the income produced by the property.

The bill provides that land used in the production of aquaculture products shall be assessed based solely on its agricultural use. The bill also provides that, for purposes of the income methodology approach to assessment, structures and equipment on the property and used for producing aquaculture products are considered a part of the average yield per acre and carry no separately contributory, or taxable, value. When utilizing the income methodology approach under this section, the property appraiser shall rely on 5-year moving average data, notwithstanding any provision relating to annual assessment found in statutes.

The bill further provides that once a request for assessment of land used in aquaculture production is approved, the property must be assessed under the same method of assessment for 10 years, unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited financial statements, but may not require an annual application for agricultural assessment. If a proper application for agricultural assessment is not made, the property shall be assessed based on its just, or market, value.

The Revenue Estimating Conference estimated that in fiscal year 2022-23, the bill would have no cash impact and a -\$7.5 million recurring impact on local government revenues (-\$2.7 million school taxes; -\$4.7 million non-school taxes).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 193.461, F.S., allows properties used for bona fide agricultural purposes to be taxed according to the use value of the agricultural operation, rather than the development value.¹ “Agricultural purposes” includes horticulture; floriculture; viticulture; sod, forestry, dairy, livestock, poultry, and bee farming; pisciculture; aquaculture;² algaculture; and all forms of farm products and farm production.³ Generally, tax assessments for lands used for qualifying agricultural purposes are lower than tax assessments for other land uses.

When assessing land that has been granted the agricultural classification, the property appraiser considers only the following factors, which are related to agricultural use:

- The quantity and size of the property;
- The condition of the property;
- The present market value of the property as agricultural land;
- The income produced by the property;
- The productivity of land in its present use;
- The economic merchantability of the agricultural product; and
- Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.⁴

For purposes of the income methodology approach to assessment of agricultural-use property, certain structures that are physically attached to the land are considered a part of the average yields per acre and have no separately assessable contributory, or taxable, value. These structures include the following:

- Irrigation systems, including pumps and motors;
- Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms;
- Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the Department of Agriculture and Consumer Services; and
- Screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements.⁵

Under current law, structures and equipment located on aquaculture-use property are not considered a part of the average yields per acre and do have a separately assessable contributory, or taxable, value.⁶

Effect of Proposed Changes

The bill creates section 193.4613, F.S., and provides that aquaculture-use land shall be assessed based solely on its agricultural use, consistent with s. 193.461(6)(a), F.S. The bill also provides that, for purposes of the income methodology approach to assessment, structures and equipment on the

¹ S. 193.461, F.S.

² “Aquaculture” means the cultivation of aquatic organisms. “Aquaculture products” means aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions. Such products do not include organisms harvested from the wild for depuration, wet storage, or relay for purification. S. 597.0015, F.S.

³ S. 193.461(5), F.S.

⁴ S. 193.461(6)(a), F.S.

⁵ S. 193.461(6)(c), F.S.

⁶ See generally s. 193.461, F.S.

property and used for producing aquaculture products are considered a part of the average yield per acre and carry no separately contributory, or taxable, value. The bill also provides that when utilizing the income methodology approach, the property appraiser shall rely on 5-year moving average data, notwithstanding any provision relating to annual assessment found in s. 192.042, F.S.

This bill further provides that once a request for assessment under s. 193.4613, F.S. is approved, the property must be assessed under the same method of assessment, as provided in s. 193.4613, F.S., for 10 years unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited financial statements, but may not require an annual application for agricultural assessment. If a proper application for agricultural assessment is not made, the property shall be assessed based on its just, or market, value, pursuant to s. 193.011, F.S.

B. SECTION DIRECTORY:

Section 1: Creates s. 193.4613, F.S., providing for the assessment of land used in the production of aquaculture products.

Section 2: Provides that this act shall apply to assessments made on or after January 1, 2023.

Section 3: Provides an effective date of January 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On November 5, 2021, the Revenue Estimating Conference estimated that in fiscal year 2022-23, the bill would have no cash impact and a -\$7.5 million recurring impact on local government revenues (-\$2.7 million school taxes; -\$4.7 million non-school taxes).⁷

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Agricultural properties used for the production of aquaculture products will realize a lower value assessment than would otherwise occur, resulting in lower ad valorem tax payments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁷ Revenue Estimating Conference, *2022 Regular Session Revenue Estimating Conference Impact Conference Results*, <http://edr.state.fl.us/content/conferences/revenueimpact/2022%20Session%20Conference%20Table.pdf> (last visited Feb. 8, 2022).

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of article VII, section 18 of the Florida Constitution may apply because this bill may reduce local authority to raise revenue; however, an exemption may apply if the bill has an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 31, 2022, the Ways & Means Committee adopted a strike-all amendment and reported the bill favorably as amended. The amendment creates s. 193.4613, F.S., providing the methodology for the assessment of aquaculture property. The methodology is substantially the same as in the bill as filed. The amendment further provides that approval of assessment under this section is valid for 10 years unless the ownership or use of the property changes, and the property appraiser may not require an annual application, but may require the annual submission of audited financial statements.

This analysis is drafted to the bill as amended by the Ways & Means Committee.