

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: CS/SJR 1560

INTRODUCER: Finance and Tax Committee and Senator Collins

SUBJECT: Ad Valorem Taxation Exemptions

DATE: February 21, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Burse</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Shuler</u>	<u>Khan</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 1560 proposes an amendment to the Florida Constitution to permit the legislature to provide ad valorem tax relief for tangible personal property on agricultural land, used on such property in the production of agricultural products or for agritourism activities, and owned by the landowner or leaseholder of the land.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2024.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2025.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Property tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.⁴

The Florida Constitution prohibits the state from levying ad valorem taxes,⁵ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁶

Ad Valorem Taxation of Tangible Personal Property

Article VII, section 1, also grants exclusive authority to local governments to levy ad valorem taxes on tangible personal property (“TPP”).⁷ Anyone who owns TPP on January 1 and has a proprietorship, partnership, corporation; leases, lends, or rents property; or is a self-employed agent or contractor, must file a TPP return to the property appraiser by April 1 each year.⁸ A single return must be filed for each site in the county where the owner of tangible personal property transacts business.⁹

The Florida Constitution includes the following exemptions and authorization for exemptions for TPP:

- Section 1 specifies that motor vehicles, boats, airplanes, trailers, trailer coaches, and mobile homes are subject to license taxes, but may not be subject to ad valorem taxes.
- Under section 3, household goods and personal effects are granted an exemption of at least \$1,000.
- Local governments are authorized under section 3 to grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, which may apply to TPP.

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ Sections 197.162 and 197.322, F.S.; *see also* FLA. DEP’T OF REVENUE, *Florida Property Tax Calendar* (Dec. 2016), available at <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Feb. 17, 2024).

⁵ FLA. CONST. art. VII, s. 1(a)

⁶ FLA. CONST. art. VII, s. 4.

⁷ *See also* FLA. CONST. art. VII, s. 9(a).

⁸ FLA. DEP’T OF REVENUE, *Tangible Personal Property*, https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited Feb. 12, 2024).

⁹ Section 196.183, F.S.

- Also exempt under section 3 is \$25,000 of the assessed value of tangible personal property¹⁰, and the assessed value of solar or renewable energy devices may be exempt pursuant to general law¹¹.
- Under section 4, tangible personal property “held for sale as stock in trade” may be exempted from taxation.¹²

For purposes of ad valorem property taxation, agricultural equipment that is located on property classified as agricultural under s. 193.461, F.S., and is obsolete and no longer usable for its intended purpose is deemed to have a market value no greater than its value for salvage.¹³

Agricultural Land Valuation

The Florida Constitution provides that agricultural land may be classified by general law and assessed solely on the basis of character of use.¹⁴ Property appraisers annually classify, for assessment purposes, all lands within a county as either agricultural or nonagricultural.¹⁵ Only lands that are used primarily for “bona fide agricultural purposes” shall be classified agricultural.¹⁶ Accordingly, properties classified as bona fide agricultural operations are allowed to be taxed according to the “use” value of the agricultural operation, rather than the development value. Generally, tax assessments for qualifying lands are lower than tax assessments for other uses.

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, reforestation, and other accepted agricultural practices.
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- Such other factors as may become applicable.¹⁷

When the land is classified as agricultural, the property appraiser shall consider the following use factors only:

- The quantity and size of the property;

¹⁰ Section 196.183, F.S., specifies the conditions for the general exemption of \$25,000 of the assessed value of tangible personal property.

¹¹ Section 196.182, F.S., specifies the conditions for exemption of renewable energy source devices.

¹² This exemption for inventory is restated at section 196.185, F.S., and inventory is defined at section 192.001(11)(c), F.S.

¹³ Section 193.4615, F.S.

¹⁴ FLA. CONST. art. VII, s. 4(a).

¹⁵ Section 193.461(1), F.S.

¹⁶ Section 193.461(3)(b), F.S.

¹⁷ *Id.*

- 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.
- 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.¹⁸

Agritourism Activity

Current law provides legislative intent to promote agritourism as a way to support agricultural production by providing a stream of revenue and by educating the general public about the agricultural industry.¹⁹ Local governments may not adopt or enforce a local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on agricultural land.²⁰

An “agritourism activity” is defined as any agricultural related activity that is consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows the general public to view or enjoy its activities for recreational, entertainment, or educational purposes. These activities include farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. An agritourism activity does not include the building of new or additional structures or facilities that are intended primarily to house, shelter, transport, or otherwise accommodate the general public. An activity is deemed to be an agritourism activity regardless of whether the participant paid to participate in the activity.²¹

In order to promote and perpetuate agriculture throughout the state, farm operations are encouraged to engage in agritourism. An agricultural classification may not be denied or revoked solely due to the conduct of agritourism activity on a bona fide farm or the construction, alteration, or maintenance of a nonresidential farm building, structure, or facility on a bona fide farm which is used to conduct agritourism activities.²²

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to permit the legislature to provide ad valorem tax relief for tangible personal property on agricultural land, used on such property in the production of agricultural products or for agritourism activities, and owned by the landowner or leaseholder of the land.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2024.

¹⁸ Section 193.461(6)(a), F.S.

¹⁹ Section 570.85(1), F.S.

²⁰ *Id.*

²¹ Section 570.86(1), F.S.

²² Section 570.87, F.S.

The joint resolution also provides the ballot statement, which will appear on the November 2024 ballot if adopted by the Legislature, as follows:

AUTHORIZING LEGISLATURE TO EXEMPT TANGIBLE PERSONAL PROPERTY ON AGRICULTURAL LAND FROM TAXATION.—Proposing an amendment to the State Constitution to authorize the Legislature, beginning with the 2026 tax roll, to exempt tangible personal property located on land classified as agricultural, used on such property in the production of agricultural products or for agritourism activities, and owned by the landowner or leaseholder of the land from ad valorem taxation.

If approved by at least 60 percent of the electors, the proposed amendment applies beginning with the 2026 tax roll.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election²³ held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.²⁴

²³ Section 97.021(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

²⁴ Section 101.161(1), F.S.

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet reviewed this bill.

B. Private Sector Impact:

If approved by 60 percent of voters in November 2024, beginning with the 2026 tax roll, landowners with tangible personal property on agricultural land will be exempt from ad valorem taxes. This will result in an indeterminate positive fiscal impact as landowners take advantage of ad valorem tax savings.

C. Government Sector Impact:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the 6th week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State pays for publication costs to advertise all constitutional amendments in both English and Spanish,²⁵ typically paid from non-recurring General Revenue funds.²⁶ Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement.

²⁵ Pursuant to Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)

²⁶ See, e.g., Ch. 2022-156, Specific Appropriation 3137, Laws of Fla.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution amends section 3, Article VII of the Florida Constitution.

This resolution also creates a new section in Article XII of the Florida Constitution.

Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Finance and Tax on February 20, 2024:

The CS revises the exemption to apply to tangible personal property used on the agricultural land in the production of agricultural products or for agritourism activities.

B. Amendments:

None.