

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1659 Location of Equipment Owned by Amusement Business Owner
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Fabricio and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	10 Y, 4 N, As CS	Larkin	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Department of Agriculture and Consumer Services regulates public fairs and expositions, and the safety standards required for amusement rides. However, temporary amusement rides and other carnival equipment move from place to place for fairs, carnivals, circuses, festivals, or other events. Although there are state regulations in place for the operation of such equipment, there are not state regulations regarding its' storage.

The bill prevents counties or municipalities from charging amusement business owners to use private agricultural land, with five acres or more, for placing, parking, or storing such equipment when certain circumstances exist.

The bill provides an effective date of July 1, 2024.

The bill does not appear to have a fiscal impact on state government and may have an insignificant indeterminate fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Agricultural Lands

Agricultural lands are those used primarily for bona fide agricultural purposes such as horticulture, viticulture, forestry, and farming.¹ This means that in order to be considered agricultural land the land must be used for a good faith commercial agricultural purpose. Florida law requires the owner to file an application each year requesting such classification with the local property appraiser.

Lands classified as agricultural enjoy certain benefits and protections, such as a preemption of local government restrictions of farming on those lands² and limits on nuisance complaints related to farming activities.³

Comprehensive Plans and Land Use Regulation

The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development. A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.

The land use element of the plan designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.⁴ The housing element of the plan sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.⁵

Local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection, or sign regulations or any other regulations controlling the development of land.⁶

Zoning

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.⁷ Common regulations on buildings within the zoning map districts include density,⁸ height and bulk of buildings, setbacks, and parking requirements.⁹ Zoning

¹ S. 193.461, F.S.

² S. 163.3162, F.S.

³ See s. 823.14, F.S.

⁴ S. 163.3177(6)(a), F.S.

⁵ S. 163.3177(6)(f), F.S.

⁶ See ss. 163.3164 and 163.3213, F.S. Pursuant to s. 163.3213, F.S., substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.

⁷ Indian River County, *General Zoning Questions*, available at https://indianriver.gov/services/community_development/faq.php#collapse1250b1 (last visited Jan. 27, 2024).

⁸ "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. See s. 163.3164(12), F.S.

⁹ *Supra* note 13.

regulations will also include acceptable uses of property for other categories of land, such as agricultural or industrial.

Storage of Carnival Equipment

The Florida Department of Agriculture and Consumer Services regulates public fairs and expositions¹⁰ and the safety standards required for amusement rides.¹¹ Temporary amusement rides and other carnival equipment move from place to place for fairs, carnivals, circuses, festivals, or other events. Florida law defines an amusement ride and temporary amusement ride:

- An amusement ride is defined as “any building, structure, or mechanical device or combination thereof through which a patron moves, walks, or is carried or conveyed on, along, around, over, or through a fixed or restricted course or within a defined area for the purpose of giving its patrons amusement, pleasure, thrills, or excitement.”¹²
- A temporary amusement ride is defined as “an amusement ride that is regularly relocated, with or without disassembly.”¹³

Although there are state regulations in place for the operation of such equipment, there are not state regulations regarding the storage.

However, a couple of Florida cities have created zoning ordinances regarding the storage of carnival or show business equipment. In Gibsonton, near Tampa in Hillsborough County, there is a special zoning designation, called the Residential Show Business zone, which allows property owners to store “elephants, livestock, circus equipment and trailers in their backyards or front lawns.”¹⁴ In Riverview, near Tampa in Hillsborough County, many amusement business owners lived in a subdivision called Tropical Acres and the residents wanted to legally store their equipment, such as, food trucks, gaming booths, and other carnival equipment, as a nonconforming use.¹⁵ Hillsborough County granted an exception to Tropical Acres residents who have been storing their carnival equipment on their properties since 2011 to continue storing such equipment, but new properties in the area are not permitted to do so.¹⁶

Effect of the Bill

The bill provides that if a county or municipality has a policy, ordinance, or other measure that addresses lands classified as agricultural lands that are five acres or larger, a county or a municipality cannot have a policy, ordinance, or other measure that requires a monetary exaction¹⁷ from any amusement business owner whose equipment is placed, parked, or stored on the agricultural land for 6 months or longer.

¹⁰ “Public fair or exposition” means a project, activity, event, or program, and use by a fair association, including, but not limited to, the annual public fair, which serves the purposes specified in s. 616.08 and benefits and develops the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and other resources of this state, or any county, municipality, or other community in this state. S. 616.001(12), F.S.

¹¹ S. 616.242, F.S.

¹² S. 616.242(3)(a), F.S.

¹³ S. 616.242(3)(t), F.S.

¹⁴ Stephen Flanagan Jackson, “Gibsonton Residents Want County Action.” *The Observer News* (Feb. 21, 2019), www.observernews.net/2019/02/21/gibsonton-resident-want-county-action/ (last visited Jan. 27, 2024).

¹⁵ D’Ann White, “Show Business Zoning Proposed for Tropical Acres.” *Patch* (Mar. 1, 2013), <https://patch.com/florida/bloomingdale/show-business-zoning-proposed-for-tropical-acres> (last visited Jan. 27, 2024).

¹⁶ Chris Taylor, “Carnival Equipment OK to Keep at Tropical Acres Homes” *Patch* (May 7, 2013), <https://patch.com/florida/bloomingdale/carnival-equipment-ok-to-keep-at-tropical-acres-homes> (last visited Jan 27, 2024).

¹⁷ The bill does not define money exactions. However, “exactions are payments made by a developer to local governments for the right to proceed with a project. Exactions can include development fees, the dedication of public land, the construction or maintenance of public infrastructure, or the provision of public services.” Person, et al., “Who Pays for Development Fees and Exactions?”, Public Policy Institute of California (June 22, 2017) www.ppic.org/publication/who-pays-for-development-fees-and-exactions/#:~:text=Exactions%20are%20payments%20made%20by,the%20provision%20of%20public%20services (last visited Jan. 28, 2023). A prohibited exaction is defined in s. 70.45(d), F.S. A money exaction is a broad phrase which may capture fees, taxes, or other conceivable revenue streams for local governments.

Under the bill, the prohibition would only apply if:

- The agricultural land is fully fenced along the perimeter, and
- The equipment that is placed, parked, or stored on the agricultural land is at least 100 feet from the perimeter fencing.

The bill defines the following terms:

- "Agricultural lands" as those parcels classified by the property appraiser as agricultural lands under s.193.46, F.S.
- "Amusement business owner" as a provider of services affiliated with a circus or carnival such as rides, food, beverages, and games who travels around the United States on a seasonal or temporary basis to provide such services to state, district, and county fairs as defined in s. 616.001, F.S. or who supports events sponsored by not-for-profit organizations for fundraising.

As written, the bill prevents counties or municipalities from charging amusement business owners to use agricultural land with five acres or more for placing, parking, or storing their equipment when certain circumstances exist.

B. SECTION DIRECTORY:

Section 1: Creates a prohibition on regulating certain agricultural lands.

Section 2: Provides an effective date.

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:

Local governments would not be able to charge amusement business owners for storing their equipment on certain agricultural land.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may benefit amusement business owners that live in areas where local governments charge a fee for such storage of equipment on certain agricultural land.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the authority of a county or municipality to raise revenue by charging amusement owners money for storing equipment on agricultural land; however, this may be an insignificant impact due to the amount of agricultural lands that fall into the particular category.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

As written, the bill would be placed in Florida Chapter law. The bill may need an amendment to place the language in the Florida Statutes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute makes a grammatical change.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.