

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2334

SPONSOR: Senator Mitchell

SUBJECT: Property Taxes - Pollution Control Devices

DATE: April 13, 2000                      REVISED: 04/17/00                      \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>AG</u>	_____
3.	_____	_____	<u>FR</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill provides that certain compost or litter facilities constructed for use in connection with a poultry or dairy operation shall not be valued for ad valorem taxation in excess of salvage value.

This bill amends section 193.621 of the Florida Statutes.

**II. Present Situation:**

Article VII, section 4 requires that: “By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation....” Four exemptions to the just valuation requirement are listed in the constitution: agricultural land; land producing high water recharge to Florida’s aquifers or land used exclusively for non-commercial recreational purposes; homestead; and property used as “stock in trade’ and livestock.

Section 193.621, F.S., provides that certain “facilities” constructed for the purpose of reducing industrial air or water pollution are to be valued at not greater than the market value as salvage. “Facility or facilities” are defined to include:

any device, fixture, equipment, or machinery used primarily for the control or abatement of pollution or contaminants from manufacturing or industrial plants or installations, but shall not include any public or private domestic sewerage system or treatment works.

A taxpayer who wishes to take advantage of the section is required to submit a return giving a brief description of the facility. The property appraiser may ask the Department of Environmental Protection for a recommendation as to whether the facility is eligible to be assessed under the section. If the property appraiser requests this recommendation, he must notify the taxpayer of such request.

The Department of Environmental Protection, the federal Natural Resource Conservation Service, the Suwanee River Water Management District, the Florida Department of Agriculture and Consumer Services, landowners, and other interested groups have been working cooperatively to abate and reduce nitrate contamination of the Suwanee River and surrounding areas. As a means of nitrate abatement, poultry and dairy farmers not having sufficient land to accommodate litter or waste disposal are constructing litter and compost facilities to hold waste. These facilities are actual physical structures costing from \$30,000 to \$80,000 each. Construction costs are shared by the federal government, state government and the landowner.

### III. Effect of Proposed Changes:

The bill amends the definition of “facility” or “facilities” in s. 193.621, F.S, to include “other improvements to land which is located thereon or attached thereto” for the control or abatement of pollutants or contaminants from any compost or litter facility constructed or used in connection with poultry raising or dairy operations.

The effective date of the bill is July 1, 2000.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

In recent years, the constitutionality of s. 193.621, F.S., has been challenged by several property appraisers and the Fifth Circuit Court found the statute unconstitutional. In the 1998 decision in *Florida Power Corporation v. Ronald J. Schultz*, Case No. 97-3383-CA, the court found that the statute unconstitutionally violate the restrictions of Article VII, Section 4, Florida Constitution requiring assessment of property at just value:

...by improperly classifying property and limiting the market value of that property to its salvage value. While the market value of the pollution control property may be its value as salvage, the statute cannot specify a class of property or create a criteria which does not result in the just value of all the Plaintiff's property. *Id.* At p. 9.

In contrast, in a similar case in St. Lucie County, between Florida Power & Light and the property appraiser for St. Lucie County, Florida Power & Light successfully argued that s. 193.621, F.S., was constitutional. Neither of these cases were appealed. However, it would appear that constitutionality of s. 193.621, F.S., is an unsettled question that may create more litigation in the future.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The effect of the bill may be to reduce ad valorem taxes assessed on dairy and poultry farmers but the extent of this benefit is unknown.

C. Government Sector Impact:

The Department of Revenue indicates the bill would have an operational impact on the department but the extent of this impact was not quantified.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Comprehensive Planning, Local & Military Affairs:

Amends the title to include certain pollution-control devices used in a “dairy operation” as qualifying to be assessed at a value no greater than salvage value, in addition to similar facilities associated with poultry operations.