

II. Present Situation:

Assessment of Agricultural Property

Pursuant to section 4, Art. VII, of the State Constitution, all agricultural land is assessed solely on the basis of its character or use.¹ For property to be classified as agricultural land, it must be used “primarily for bona fide agricultural purposes”.² Section 193.461(5), F.S., defines “agricultural purposes” to include, but is not limited to:

- Horticulture;
- Floriculture;
- Viticulture;
- Forestry;
- Dairy;
- Livestock;
- Poultry;
- Bee;
- Pisciculture, when the land is used principally for the production of tropical fish;
- Aquaculture;
- Sod farming; and
- All forms of farm products and farm production.³

Once property is qualified to receive agricultural classification, the property appraiser shall assess the land solely on its agricultural use utilizing the criteria provided in s. 193.461(6), F.S.⁴ For purposes of the income methodology approach to the assessment of property used for agricultural purposes, irrigation systems, pumps, or motors physically attached to the land shall be considered part of the average yields per acre and shall have no separately assessable contributory value”.⁵

Agricultural Land Offered for Sale

Section 193.461, F.S., also provides specific events that require a property appraiser to reclassify agricultural land as nonagricultural.⁶ A sale at three or more times the agricultural assessment creates a presumption that the land is not being used primarily for bona fide agricultural purposes.⁷ This presumption is rebuttable by a showing of special circumstances by the landowner demonstrating that the land will continue to be used in bona fide agriculture.⁸

In January 2008, a Final Judgment was issued by the Circuit Court of the 8th Judicial Circuit in and for Bradford County, Florida, that denied an agricultural classification for certain properties that had been transferred to a wholly-owned real estate company at an assigned value greater

¹ Art. VII, s. 4(a), of the Florida Constitution.

² Section 193.461(3)(b), F.S.

³ Section 193.461(5), F.S.

⁴ See ss. 193.461(6)(a)-(c), F.S.

⁵ Section 193.461(6)(c)1., F.S.

⁶ See ss. 193.461(3)(b)1.-7. and (4), F.S.

⁷ Section 193.461(4)(c), F.S.

⁸ *Id.*

than three times the appraised value.⁹ The trial judge found that the land was used before and after the transfer for a bona fide commercial agricultural purpose (a timber operation). But the judge held that, because of the transfer to a real estate company, the primary purpose was the marketing of the land and that the agricultural use was secondary, and that the property appraiser was correct in denying the agricultural classification. The First District Court of Appeal affirmed the Circuit Court's decision with a Per Curiam Opinion filed November 18, 2009.¹⁰ Agricultural classifications have been denied for these parcels for other tax years, and parcels owned by the same development company in Nassau County have lost their agricultural classification, and there are outstanding challenges to these denials.

Advisory Council for Citrus Research Marketing Order¹¹

The Florida Citrus Production Research Advisory Council (FCPRAC) has been performing research functions pursuant to a Florida Citrus Production Research Order since 1991. The FCPRAC receives funds generated from a box tax to help researchers solve industry production problems. Funds are awarded as competitive grants selected from proposals submitted by the research community to the FCPRAC each year. The citrus industry formed the Citrus Research and Development Foundation, Inc., in 2009 pursuant to s. 1004.28, F.S., as a direct-support organization of the University of Florida to assume responsibility for managing research projects aimed at solving diseases that threaten the citrus industry, the goal being to improve the overall research effort's efficiency as a single, focused corporation allied with the University of Florida.

Change in Self-Imposed Assessment on Citrus Fruit

The FCPRAC has operated since 1991 under the Florida Citrus Production Research Order. This order was approved in referendums in 1991, 1997, and 2004. The order enacted regulations allowing growers to tax themselves up to one cent per standard-packed box of citrus fruit grown and placed in the primary channel of trade in this state. The box assessment has to be submitted to referendum of the growers every six years and, in 2009, the growers voted to increase the industry's self-imposed tax to a maximum of three cents per box. The department, after receiving the recommendations of the respective advisory council, has authority to fix the rate of assessment on agricultural commodities up to the amount permitted by statute for the purpose of raising funds to cover necessary expenses to administer and enforce the order.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., to:

- Make technical, non-substantive changes to portions of the existing language;
- Provide that offering land for sale that has an agricultural classification may not be grounds to deny an agricultural classification if the land continues to be used primarily for agricultural purposes; and
- State that agricultural improvements, structures, or equipment on agricultural land used as a natural conservation or best management practices shall be assessed by the methodology described in s. 193.461(6)(c)1., F.S.

⁹ *Rayland L.L.C. v. Alvarez (as property appraiser of Bradford County Fla.)*, No. 04-2005-CA-649 (Fla. 8th Cir. 2008).

¹⁰ *Rayland v. Alvarez*, 23 So.3d 1187 (Fla. 1st DCA 2009).

¹¹ See s. 573.112, F.S.

¹² Section 573.118, F.S.

Section 2 amends s. 193.461, F.S., to declare that the foregoing amendment regarding agricultural land offered for sale is intended to be remedial and clarifying and applies retroactively to all parcels for which a final court order has not been entered.

Section 3 amends s. 573.112, F.S., to provide that the Citrus Research and Development Foundation, Inc., a direct-support organization of the University of Florida, shall serve as the advisory council for a citrus research marketing order to provide the department with advice on administering the order. It directs that the foundation's board of directors shall be composed of 13 members, including 10 citrus growers, 2 representatives of the university's Institute of Food and Agricultural Sciences, and 1 member appointed by the Commissioner of Agriculture.

Section 4 amends s. 573.118, F.S., to:

- Make technical, non-substantive changes to portions of the existing language,
- Provide that the assessments collected on agricultural commodities be deposited into the appropriate trust fund rather than the General Inspection trust fund, and
- Change the assessment of one cent per standard box of citrus fruit, to an amount not to exceed the rate established in the marketing order.

Section 5 amends s. 581.031, F.S., to delete redundant language; and remove language that limits research projects to citrus diseases.

Section 6 provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Art. VII, State Constitution, provides that except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.

Because this bill does not qualify for one of the exemptions provided in s. 18, Art. VII, State Constitution, and reduces the authority municipalities or counties have to raise revenues in the aggregate, the bill does fall under the mandate provisions of s. 18, Art. VII, State Constitution, and may require a two-thirds vote of the membership of each house of the Legislature. Therefore, in an abundance of caution, the Legislature should consider passing this bill by a two-thirds vote.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that the provision of this bill that states that offering property for sale does not constitute a primary use of land and may not be the basis for denying its agricultural classification has a negative but indeterminate impact on local government revenue.

The Revenue Estimating Conference also determined that the increase in the assessment levied on citrus fruit will increase state trust fund revenues by \$3.5 million annually.

The Revenue Estimating Conference has not determined the impact of assessing agricultural improvements, structures, or equipment on agricultural land used as a natural conservation or best management practices by the methodology described in s. 193.461(6)(c)1., F.S.

B. Private Sector Impact:

Owners of property formerly classified as agricultural but being offered for sale may be able to retain their agricultural assessments under this bill, and owners of agricultural improvements, structures, or equipment on agricultural land used as a natural conservation or best management practices may be subject to lower property taxes.

If the department fixes the rate of assessment at the maximum rate established in the marketing order, it is estimated that the increase from one cent to three cents in the assessment cap would impact the citrus growers by approximately \$3,500,000 per year.¹³

C. Government Sector Impact:

This bill will have a negative but indeterminate impact on local tax revenue, and a positive impact on revenue available to DACS to defray the costs incurred in the formulation, issuance, administration, and enforcement of citrus marketing orders

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹³ Memorandum to Senate Committee on Agriculture from Craig Meyers, Florida Department of Agriculture and Consumer Services, *Deputy Commissioner* (March 2010).

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 17, 2010:

- States that agricultural improvements, structures, or equipment on agricultural land used as a natural resource conservation practice or to implement state-adopted best management practices, shall be assessed by the methodology described in s. 193.461(6)(c)1., F.S.
- Deletes sections three through five of the CS relating to permits and uniform agreements for application of pesticides to state waters.
- Corrects the cross reference to the advisory council in s. 581.031, F.S., to read: the Citrus Research and Development Foundation, Inc.

CS by Agriculture on March 9, 2010:

The CS provides authority for the DEP, in consultation and agreement with DACS and FWCC, to develop and implement a general permit program that will allow applications of pesticides to state waters for aquatic weed control and mosquito control purposes.

The CS also directs DEP to enter into agreements with DACS and FWCC to ensure uniform regulation of pesticides to waters of the state.

- B. **Amendments:**

None.