

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 569 Agritourism

SPONSOR(S): Local Government Affairs Subcommittee; Combee and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 594

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Gregory	Blalock
2) Local Government Affairs Subcommittee	12 Y, 0 N, As CS	Darden	Miller
3) State Affairs Committee		Gregory	Camechis

SUMMARY ANALYSIS

An “agritourism activity” is any agricultural related activity consistent with a bona fide farm or ranch or in a working forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions. In order to continue farming, operators of small and medium-sized farms must at times find ways to diversify and expand their incomes, either through new enterprises on the farm or off-farm employment. Agritourism is one of the many methods farmers use to diversify and increase their income.

In 2013, the Florida Legislature passed SB 1106, which prohibited local governments from adopting any ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land under Florida’s greenbelt law. However, some local governments continue to enforce such laws that were adopted prior to the passage of SB 1106 in 2013.

The bill prohibits local governments from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under Florida’s greenbelt law.

The bill may have an indeterminate negative fiscal impact on local governments by prohibiting them from enforcing local ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land classified as agricultural under Florida’s greenbelt law.

Article VII, section 18(b) of the Florida Constitution may apply because counties and municipalities may be unable to collect certain fees or fines pertaining to such regulations; however, it is likely the insignificant fiscal impact exemption applies, since very few jurisdictions have existing ordinances that would be unenforceable under this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

An “agritourism activity” is any agricultural related activity consistent with a bona fide farm or ranch or in a working forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions.¹ In order to continue farming, operators of small and medium-sized farms find ways to diversify and expand their incomes, either through new enterprises on the farm or off-farm employment.² Agritourism is one of the many methods farmers use to diversify and expand their income.

Agritourism has an extensive history in the United States. Farm-related recreation and tourism can be traced back to the late 1800s, when families visited farming relatives in an attempt to escape from the city’s summer heat. Visiting the country became even more popular with the widespread use of the automobile in the 1920s. Rural recreation gained interest again in the 1930s and 1940s by people seeking an escape from the stresses of the Great Depression and World War II. These demands for rural recreation led to widespread interest in horseback riding, farm petting zoos, and farm nostalgia during the 1960s and 1970s. Farm vacations, bed and breakfasts, and commercial farm tours were popularized in the 1980s and 1990s.³

Today, agritourism may include farm tours or farm stays, fishing, hunting, festivals, historical recreations, workshops or educational activities, wildlife study, horseback riding, cannery tours, cooking classes, wine tastings, barn dances, and harvest-your-own activities. The use of these resources can have a positive effect on both the agricultural enterprise and the surrounding community. Not only does this tourism have the potential to add value to the operations themselves, but it also creates awareness about the importance of agriculture.⁴

Many states, including Florida, have adopted legislation to promote agritourism. In 2007, the Florida Legislature passed HB 1427 authorizing the Department of Agriculture and Consumer Services to provide marketing advice, technical expertise, promotional support, and product development related to agritourism to assist the following entities in their agritourism initiatives:

- Enterprise Florida, Inc.;
- Convention and visitor bureaus;
- Tourist development councils;
- Economic development organizations; and
- Local governments.⁵

In addition, the bill provided that conducting agritourism activities on a bona fide farm or on lands classified as agricultural pursuant to s. 193.461, F.S., would not result in the property owner having his or her agricultural land classification limited, restricted, or divested.⁶ Section 193.461, F.S., also known as Florida’s “greenbelt law,” allows properties classified as a bona fide agricultural operation 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.

¹ S. 570.86(1), F.S.

² Wendy Francesconi and Taylor Stein, *Expanding Florida's Farming Business to Incorporate Tourism*, University of Florida Institute of Food and Agricultural Sciences available at: <http://edis.ifas.ufl.edu/fr242> (last visited March 6, 2015).

³ Considering an Agritainment Enterprise in Tennessee (Agricultural Extension Service, The University of Tennessee, PB 1648) available at: http://trace.tennessee.edu/utk_agexmkt/12/ (last visited March 6, 2015).

⁴ Analysis of SB 2754 (2007).

⁵ Ch. 2007-244, Laws of Fla., codified as s. 570.85, F.S.

⁶ S. 570.87(1), F.S.

In 2013, the Florida Legislature passed SB 1106, which provided the intent of the Legislature to eliminate duplication of regulatory authority over agritourism.⁷ The bill prohibited a local government from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land under Florida's greenbelt law.⁸ The bill also provided limited liability protection for landowners conducting agritourism activities on their property.⁹

However, while local governments may not adopt laws that limit agritourism activities on land classified as agricultural land under Florida's greenbelt law, some local governments continue to enforce such laws that were adopted prior to the passage of SB 1106 in 2013.

Effect of Proposed Changes

The bill amends s. 570.85, F.S., to prohibit local governments from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under Florida's greenbelt law.

B. SECTION DIRECTORY:

Section 1. Amending s. 570.85, F.S., relating to regulation of agritourism activities.

Section 2. Providing an effective date of July 1, 2015.

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:

The bill may have an indeterminate negative fiscal impact on local governments by prohibiting them from enforcing local ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land classified as agricultural under Florida's greenbelt law. Thus, counties and municipalities may be unable to collect certain fees or fines pertaining to such regulations.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill encourages agritourism by lessening the regulations on agricultural land owners who engage in agritourism activities.

D. FISCAL COMMENTS:

⁷ Ch. 2013-179, Laws of Fla., codified as s. 570.86, F.S.

⁸ S. 570.85, F.S.

⁹ S. 570.88, F.S.

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill reduces the authority of counties and municipalities to raise revenues by prohibiting them from enforcing ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land classified as agricultural under Florida's greenbelt law. Thus, counties and municipalities may be unable to collect certain fees or fines pertaining to such regulations. Article VII, section 18(b) of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. An insignificant fiscal impact means an amount not greater than the average statewide population for the applicable fiscal year times ten cents.¹⁰ A fiscal estimate is not available for this bill. If it is determined that this bill has more than an insignificant fiscal impact, the bill will require a two-thirds vote of the membership of each house of the Legislature for passage.

2. Other:

While the Florida Constitution grants local governments broad regulatory authority under home rule powers, such ordinances must yield to state statutes.¹¹ Legislation limiting the regulatory powers of counties and municipalities has been previously found to be within the powers of the Legislature.¹²

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 10, 2015, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment conforms the bill to its Senate companion, clarifying the bill prevents the enforcement of local ordinances.

This analysis is drawn to the bill as amended.

¹⁰ The total state population is estimated to be 19,507,369. University of Florida, Bureau of Economic and Business Research, Florida Estimates of Population, available at <http://www.bebr.ufl.edu/data/state/Florida> (last visited February 2, 2015).

¹¹ Fla. Const. art. VIII, s 2(b); Masone v. City of Aventura, 147 So.3d 492, 494 (Fla. 2014).

¹² See Cross Key Waterways v. Askew, 351 So. 2d 1062, 1065 (Fla. 1st DCA1977) (power exercised by counties and municipalities is a delegation of state power); *compare* Phantom of Clearwater, Inc. v. Pinellas County, 894 So. 2d 1011, 1018-1019 (Fla. 2d DCA 2005) (state preemption must be stated with clear language of intent).