

COMMISSION  
Kathy Castor  
Pat Frank  
Ken Hagan  
Jim Norman  
Jan K. Platt  
Thomas Scott  
Ronda Storms




Administrative Offices,  
Legal & Water Management Division  
The Roger P. Stewart Environmental Center  
1900 - 9th Ave. • Tampa, FL 33605  
Ph: (813) 272-5960 • Fax (813) 272-5157

Air Management Fax 272-5605  
Waste Management Fax 276-2256  
Wetlands Management Fax 272-7144  
1410 N. 21st Street • Tampa, FL 33605

Executive Director  
Richard D. Garrity, Ph.D.

## MEMORANDUM

Date: April 16, 2003  
To: Paula Harvey, Director Planning and Zoning Division  
From: Commissioner Jan Platt, Chairman EPC   
Subject: EPC Special Meeting regarding pending legislation

---

I would like to request a special meeting of the Environmental Protection Commission be convened during the regularly scheduled Land Use Meeting dated April 22, 2003.

The EPC staff would like to receive guidance from the EPC regarding pending legislation that is time sensitive. It is my understanding that EPC staff have already contacted you to schedule a brief discussion during the Land Use Meeting. I have attached the EPC agenda item, and the EPC staff will distribute it to the Commissioners.

JP/rt  
Enclosures  
cc: Richard Garrity, Executive Director EPC



**SPECIAL MEETING OF THE  
ENVIRONMENTAL PROTECTION COMMISSION**

**APRIL 22, 2003**

**AGENDA ITEM SUMMARY SHEET**

**Subject;** Special Meeting of the Environmental Protection Commission to provide staff guidance on the EPC position regarding Florida Legislative bills SB 1660 and HB 1075 regarding the Agricultural Lands and Practices Act.

**Background:**

**Agricultural Lands & Practices Act**

**SB 1660 by Argenziano, Alexander, Dockery, Peaden, Lynn, Webster, Bennett, Fasano, and Posey.** (see also HB 1075 by Poppell,)

These bills are designed to amend Ch.163, F.S., and the existing Ch.823, F.S., Right to Farm Act. The existing Right to Farm Act mainly limits nuisance suits against established farms, but it also prohibits duplicative regulations by local governments where existing Best Management Practices (BMP's) are in place. The proposed bills expand existing legislation by going beyond duplicative regulation of BMP's and seek to prohibit county regulation of farm activity where such activity is regulated by an existing state, regional, or federal regulatory programs. More specifically, the bills state:

"a county may not exercise any of its powers to adopt any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm or farm operation, or deprive any owner or operator of a full and complete use of lands and farm practices for production of any farm product on land that is an integral part of a farm operation or that is classified as agricultural land, ... if such activity is regulated through best-management practices *or by an existing state, regional, or federal regulatory program.*"

As drafted, these bills could be read to immediately prohibit *county permitting* decisions that would in any way deprive one of the "full and complete use" of a farm. It is very clear that the EPC will be seriously impacted in the future when it attempts to amend its Act or rules.

An amended version of SB 1660 dated 3/27/03 also calls for compensation of farm owners whose lands have been rezoned or reclassified by a county, as opposed to just getting their written consent to redesignate or rezone their land. The EPC staff recommendation is that the EPC oppose the bills as drafted.

**Board Action Recommended;** Issue the attached letter from the Chairman to the appropriate Legislators providing EPC's position on SB 1660 and HB 1075.

COMMISSION  
Kathy Castor  
Pat Frank  
Ken Hagan  
Jim Norman  
Jan K. Platt  
Thomas Scott  
Ronda Storms



Administrative Offices,  
Legal & Water Management Division  
The Roger P. Stewart Environmental Center  
1900 - 9th Ave. • Tampa, FL 33605  
Ph. (813) 272-5960 • Fax (813) 272-5157

Air Management Fax 272-5605  
Waste Management Fax 276-2256  
Wetlands Management Fax 272-7144  
1410 N. 21st Street • Tampa, FL 33605

Executive Director  
Richard D. Garrity, Ph.D.

April 22, 2003

## LEGISLATOR

**Subject: SB 1660/HB 1075 Agricultural Lands and Practices Act**

Dear

The Environmental Protection Commission (EPC) would like to ask your support to **strongly oppose** SB 1660 and HB 1075 regarding the Agricultural Lands and Practices Act. These bills are designed to amend Chapter 163, F.S., and the existing Chapter 823, F.S., Right to Farm Act (RFA). The original RFA is mainly designed to minimize nuisance suits against farmers and to avoid duplicative local government regulation of adopted *best management practices* (BMPs). These new bills prohibit county governments from adopting *ordinances, policies, or rules* that regulate or limit a farm activity or deprive an owner or operator of the full use of their land, if the activity is regulated by an existing state, regional, or federal regulatory program. These bills are not only limited to regulations duplicative of farming BMPs. EPC permitting authority may be *immediately* impacted and the EPC would be *seriously* impacted in the future when it attempts to amend its Act or rules.

As drafted, the bills could be read to immediately prohibit *county permitting* decisions that would in any way deprive one of the "full and complete use" of a farm. One area of confusion is how to interpret the bill's "or deprive" clause. It appears that the "or deprive" clause is an additional prohibition against *any* county government action, not just a prohibition regarding duplicative rules or ordinances. It is unclear whether the bill's intent is that *any* county government action, including permitting, may not deprive farm interests of the use of their land, or whether the bill only applies to ordinances, rules, etc. No matter how they are interpreted, the bills are a major departure from current county environmental protections.

EPC staff recommends that the proposed bills should be very strongly opposed.

Sincerely,

Jan Platt, Chairman  
Hillsborough County  
Environmental Protection Commission

Item 11.a. Page 3

[www.epchc.org](http://www.epchc.org)

E-Mail: [epcinfo@epchc.org](mailto:epcinfo@epchc.org)

AN AFFIRMATIVE ACTION - EQUAL OPPORTUNITY EMPLOYER



Printed on recycled paper

By the Committee on Agriculture; and Senators Argenziano, Alexander, Dockery, Peadar, Lynn, Webster, Bennett, Fasano, Posey, Smith and Bullard

303-2059-03

1 A bill to be entitled  
2 An act relating to the use of farm lands;  
3 creating s. 163.3162, F.S.; providing a short  
4 title; providing legislative findings and  
5 purpose with respect to agricultural activities  
6 conducted on land in urban areas; defining the  
7 terms "farm," "farm operation," and "farm  
8 product" for purposes of the act; prohibiting a  
9 county from adopting any ordinance, resolution,  
10 regulation, rule, or policy to prohibit or  
11 otherwise limit a bona fide farm or farm  
12 operation on certain land that is an integral  
13 part of a farm operation or that is classified  
14 as agricultural land; prohibiting a county from  
15 changing the land use classification or zoning  
16 designation of such agricultural land unless  
17 the affected landowner is compensated for the  
18 loss in value; providing an effective date.  
19  
20 Be It Enacted by the Legislature of the State of Florida:  
21  
22 Section 1. Section 163.3162, Florida Statutes, is  
23 created to read:  
24 163.3162 Agricultural Lands and Practices Act.--  
25 (1) SHORT TITLE.--This section may be cited as the  
26 "Agricultural Lands and Practices Act."  
27 (2) LEGISLATIVE FINDINGS AND PURPOSE.--The Legislature  
28 finds that agricultural production is a major contributor to  
29 the economy of the state; that agricultural lands constitute  
30 unique and irreplaceable resources of statewide importance;  
31 that the continuation of agricultural activities preserves the

1 landscape and environmental resources of the state,  
2 contributes to the increase of tourism, and furthers the  
3 economic self-sufficiency of the people of the state; and that  
4 the encouragement, development, and improvement of agriculture  
5 will result in a general benefit to the health, safety, and  
6 welfare of the people of the state. The Legislature further  
7 finds that agricultural activities conducted on farm land in  
8 urban areas are potentially subject to restrictions imposed by  
9 counties which are duplicative, overbearing, and unnecessary  
10 to protect the public from perceived harm. It is the purpose  
11 of this act to protect reasonable agricultural activities  
12 conducted on farm lands from duplicative regulation.

13 (3) DEFINITIONS.--As used in this section, the term:

14 (a) "Farm" is as defined in s. 823.14.

15 (b) "Farm operation" is as defined in s. 823.14.

16 (c) "Farm product" means any plant, as defined in s.  
17 581.011, or animal useful to humans and includes, but is not  
18 limited to, any product derived therefrom.

19 (4) DUPLICATION OF REGULATION.--Except as otherwise  
20 provided in this section and s. 487.051(2), and  
21 notwithstanding any other law, including any provision of  
22 chapter 125 or this chapter, a county may not exercise any of  
23 its powers to adopt any ordinance, resolution, regulation,  
24 rule, or policy to prohibit, restrict, regulate, or otherwise  
25 limit an activity of a bona fide farm or farm operation, or  
26 deprive any owner or operator of a full and complete use of  
27 lands and farm practices for production of any farm product on  
28 land that is an integral part of a farm operation or that is  
29 classified as agricultural land pursuant to s. 193.461, if  
30 such activity is regulated through best-management practices  
31

1 or by an existing state, regional, or federal regulatory  
2 program.

3 (5) COMPENSATION REQUIRED.--A county may not change an  
4 existing agricultural land use classification or zoning  
5 designation or lower the current residential density  
6 designation of land that is classified as agricultural land  
7 pursuant to s. 193.461 unless the property owner is  
8 compensated for the subsequent loss of value by the county.

9 Section 2. This act shall take effect July 1, 2003.

10

11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
12 COMMITTEE SUBSTITUTE FOR  
13 Senate Bill 1660

13

14 The Committee Substitute for Senate Bill 1660 is different  
15 from Senate Bill 1660 in that it:

- 16 1. Provides that counties cannot change agricultural land  
17 use classification or zoning designation unless the  
18 affected landowner is compensated for loss of value,  
19 instead of requiring consent of the landowner, and  
20  
21 2. Substitutes "county," wherever it appears, for "local  
22 government" making the act not applicable to  
23 municipalities.  
24  
25  
26  
27  
28  
29  
30  
31