



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 80 of the 131st G.A.

**Date:** May 29, 2015

**Status:** As Passed by the House

**Sponsor:** Rep. Burkley

**Local Impact Statement Procedure Required:** Yes

**Contents:** Defines agritourism, establishes immunity in a civil action for agritourism providers, and allows application of current agricultural use valuation to agritourism land for property tax purposes

### State Fiscal Highlights

- State reimbursements to local governments for property tax rollbacks may decline, a savings for the GRF, as a result of valuing land used for agritourism according to the current agricultural use valuation (CAUV) method.

### Local Fiscal Highlights

- Real property tax revenues of school districts and other units of local government may decline because the bill allows land used for agritourism to be valued using the CAUV method instead of at its highest and best use valuation.
- The bill establishes a civil immunity for agritourism providers. This might reduce the filing of civil actions in local courts or cause cases that are filed to be handled more promptly. Either outcome could result in savings from a decrease in judicial dockets and the workload of court personnel. Overall, the probable impact on courts will not be significant, and consequently, any savings would be no more than minimal.

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## Detailed Fiscal Analysis

### Overview

The bill defines "agritourism" as agriculturally related educational, entertainment, historical, cultural, or recreational activities, including you-pick operations or farm markets, that take place on a farm and that the public can participate in. Most significantly from a fiscal standpoint, the bill allows the application of the current agricultural use valuation (CAUV) method on agritourism land for calculating property taxes, resulting in a potential revenue loss to school districts and other political subdivisions. The bill also defines the circumstances under which an agritourism business operator is immune from civil liability in cases where a participant is injured during an agritourism activity. This could reduce the volume of civil cases or cause the cases to be handled more quickly, in either case reducing costs incurred by courts for handling this type of litigation.

In addition to the changes in CAUV and civil immunity, the bill prohibits boards of county commissioners and township trustees from preventing agritourism business through zoning, but does allow local regulation pertaining to size of structure, size of parking areas, setback building lines, and egress or ingress if necessary to protect public health and safety. The bill adds that an applicable zoning authority does not have the power to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which the buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture. There does not appear to be any fiscal effect related to these zoning provisions of the bill. The fiscal effects regarding the CAUV and civil immunity provisions applying to agritourism operators are described in more detail below.

### Current agricultural use valuation for land used for agritourism

The bill adds agritourism to the uses of land which qualify to be valued for real property tax purposes using the CAUV method. To qualify, the land used for agritourism must be contiguous to or part of a parcel of land used only for agriculture, at least ten acres, and the land must be under common ownership. Land values figured for tax purposes according to CAUV averaged 62% lower statewide in 2013 than if the same land had been valued at its highest and best potential use. The reduction in value ranged to 85% at the countywide average level,<sup>1</sup> with larger reductions for some individual parcels within counties. Generally, the reduction in value is larger in more populous counties.

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<sup>1</sup> In Stark County.

The Department of Taxation calculates CAUV land values each year for use in counties with property reappraisals or updates. The calculations use historical acreage planted, per-acre yields, prices, and production costs for corn, soybeans, and wheat to derive net income from the three crops, for thousands of different soil types and characteristics including slope, erosion, and drainage. The calculated net income is then capitalized to represent the value of the land, by dividing the net income by an interest rate that represents the cost of debt and equity capital. If the calculated values fall below minimums determined for cropland, pasture, and woodland, the minimum values are used.

Allowing land used for agritourism to be valued using the CAUV method will result in loss of tax revenue to school districts and other units of local government. About two-thirds of real property tax revenue is paid to school districts and about one-third to other units of local government. Real property classified as agricultural, as well as residential property, is subject to a 10% tax rollback, except that the rollback does not apply to new or replacement levies approved after September 29, 2013, under a provision of Am. Sub. H.B. 59 of the 130th General Assembly. The state reimburses local governments for the rollback. A reduction in the amount of taxes due to local governments would reduce the amount of reimbursements from the state, a savings for the GRF.

### **Immunity for agritourism providers**

The bill gives agritourism providers immunity from civil liability for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in the activity. This most likely would have two likely effects, either (1) reducing the number of civil actions alleging damages, or (2) leading to quicker adjudication of such cases than currently would be the norm. Either outcome would potentially yield some minimal savings for the courts involved by decreasing judicial dockets and reducing workload for personnel. If the number of civil actions filed were curtailed, then the courts would incur a loss in court cost and filing fee revenue. However, the savings realized by those courts in terms of their personal and related administrative costs associated with the processing of cases would likely offset any possible loss of court cost and filing fee revenues.